

PROFILI COSTITUZIONALI DEL PATRIMONIO CULTURALE

Chiara Carnabuci

Raffaele Chiarelli,
*Profili costituzionali del
patrimonio culturale*, Torino,
Giappichelli Editore, 2010,
pp. VIII, 488 (Collana di
Studi di Diritto Pubblico diretta
da Raffaele Chiarelli; 05).
ISBN 978-88-348-0977-8

The volume, written and edited by Professor Chiarelli and published within a series of Public Law journals directed by himself for Giappichelli Editore, was presented in October at the Università degli studi Guglielmo Marconi. This publication aims to investigate the constitutional perspectives of the cultural heritage from several points of view. Actually, as pointed out by Professor Giuseppe Guarino, among other guests of honor, the text frequently refers to the thought of other scholars, mentioning not only the contemporary jurists but also quoting those of the past: Aristotle and Plato. Therefore, Professor Chiarelli, from his critical point of view speaks first of all about culture in general for afterwards focusing on its more concrete aspect, that is the cultural heritage. The human being without culture does not exist and the culture without the human being either. If the culture is the outcome of the individual, the culture includes everything that has helped to build its identity.

In the process of formulating an identity, territory is fundamental: identity and individuality are defined by the boundaries of the territory. So the environment, natural and human, the interpersonal relationships, traditions and symbols, are all important categories in building up an identity. Nevertheless these categories by themselves are not yet sufficient, because it is always necessary to combine them in a project, which is the essence of being together. *All these factors are not stones, but sponges that absorb and expel.* Starting from this, a beautiful definition of the human being as *forced mediators for the stream of consciousness* follows: everything flows within an open system, that currently is not configured in legal structures as we are still at the identity structures levels. Freedom is essential for culture. The constitutional freedom includes individuals independence, which, to be concretely expressed, needs education.

Who is highly educated largely contributes to raise the cultural level; therefore culture needs both formal and substantial freedom. This volume, as Professor Claudio Rossano affirms, is an *ode to freedom*, the freedom to create culture as well as to enjoy it. Since it deals with concepts related to the human being, is almost an anthropological text. Such text refers to the systematic assets of culture: from an anthropological point of view, the volume analyses the contrasts and relationships between different cultures

and with this purpose, Chiarelli certifies the dignity of all cultures and the dignity of each individual. No civilization should oppress the others: to enhance the culture of humankind, all cultures have to feel free to express themselves on mutual respect. The culture and also education must be available to everyone: on this topic the matter of principles and values have been set out, since an imposed culture corresponds to a decrease of the overall cultural freedom, the freedom to create knowledge and to enjoy it. Culture should therefore be protected globally as a common good and the artistic and historical heritage must be managed by virtue of its universality, transcending from different ideologies and governments.

This volume is a demanding read, as Professor Massimo Stipo affirms, not only due to the large size but for the very weighty amount of cultural concepts and aspects. Professor Stipo as Prof. Rossano consider this book *a celebration of culture, freedom and human dignity as mutually inseparable factors*. In this light, the art. 9 of the Italian Constitution which as program-constitution and not balance-constitution declares: *“The Republic promotes the development of culture and scientific and technical research, protecting the landscape and the historical and artistic heritage of the Nation”*, maybe not properly mediated by constituents is examined in depth in the book. What comes out is a new article with not only a promotional but also a orientative function.

The author, at the end of his analysis, criticizes two excesses: the immoderate liberalism with its extreme monetization of the cultural heritage as well as the culture of the State, which is in contrast with pluralism. Culture should not have any restrictions and should not be left to itself: it must be protected. Without exaggerating we can say that culture also affects the human freedom, dignity and identity.