
3-9-2021

Law and Intangible Cultural Heritage in the City by Sara Gwendolyn Ross

Halyna Chumak

Follow this and additional works at: <https://digitalcommons.osgoode.yorku.ca/ohlj>



Part of the [Law Commons](#)

Book Review

Citation Information

Chumak, Halyna. "Law and Intangible Cultural Heritage in the City by Sara Gwendolyn Ross." *Osgoode Hall Law Journal* 58.1 (2021) : 203-208.

<https://digitalcommons.osgoode.yorku.ca/ohlj/vol58/iss1/6>

This Book Review is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

Law and Intangible Cultural Heritage in the City by Sara Gwendolyn Ross

Abstract

In *Law and Intangible Cultural Heritage in the City*, Sara Gwendolyn Ross, a Killam Postdoctoral Laureate and Social Science and Humanities Research Council (SSHRC) Postdoctoral Fellow at the Peter A. Allard School of Law, illuminates urban spaces with intangible cultural value that is often overlooked and unprotected. The spaces to which Ross refers “are found on street corners, in neighbourhood haunts, in parks, in faded basement pubs, up creaky sets of stairs in live-work lofts overlooking the street, behind the doors of a repurposed factory space, in crisp and bright coffeeshops, loud music halls, pulsing nightclubs, shiny supper clubs.” She argues that these sites and their associated activities merit more attention, as “they are often the planes within which inequality in the city...plays out for most urban inhabitants.”

Book Review

***Law and Intangible Cultural Heritage in the City* by Sara Gwendolyn Ross¹**HALYNA CHUMAK²

In *Law and Intangible Cultural Heritage in the City*, Sara Gwendolyn Ross, a Killam Postdoctoral Laureate and Social Science and Humanities Research Council (SSHRC) Postdoctoral Fellow at the Peter A. Allard School of Law, illuminates urban spaces with intangible cultural value that is often overlooked and unprotected. The spaces to which Ross refers “are found on street corners, in neighbourhood haunts, in parks, in faded basement pubs, up creaky sets of stairs in live-work lofts overlooking the street, behind the doors of a repurposed factory space, in crisp and bright coffeeshops, loud music halls, pulsing nightclubs, shiny supper clubs.”³ She argues that these sites and their associated activities merit more attention, as “they are often the planes within which inequality in the city...plays out for most urban inhabitants.”⁴

Adopting the methodology of Urban Legal Anthropology, Ross explores “the intersection of law, space, culture, and community” in Toronto with respect to music venues recently affected by urban redevelopment.⁵ She contends that the notion of “intangible cultural heritage” is largely disregarded by policies and legislation at the federal, provincial, and municipal levels,⁶ reinforcing unequal valuations of culture and promoting inequitable displacement. Ross asserts that

-
1. (Routledge, 2020).
 2. JD Candidate (2021), Osgoode Hall Law School.
 3. Ross, *supra* note 1 at 1.
 4. *Ibid* at 12.
 5. *Ibid* at 58.
 6. *Ibid* at 27.

municipal legal frameworks and complexes must be subjected to a “deep process of revision” to ensure that redevelopment is equitable, particularly as cities continue to compete globally for economic prosperity.⁷

Ross’ inquiry is informed by the theoretical lens she develops in her substantive first chapter. As an entry point, she draws on the work of sociologists John R. Logan and Harvey L. Molotch, who reposition the Marxian “exchange-value” and “use-value” of place, to render these concepts useful in the urban development context. “Exchange-value” is understood as the “the utilisation of property to generate profit,” whereas “use-value” consists of the “values individuals assign to property that do not enter into the commodity exchange.”⁸ As Ross recognises throughout her study, exchange-value and use-value may intersect and coexist within the same urban space. These categories of value are also linked with the systemically unequal valuation of culture and cultural capital.⁹ Having imagined a plane of intercrossing and competing values superimposed onto physical space, Ross introduces and aligns “intangible cultural heritage”—her study’s focus—with use-value.¹⁰ She posits that intangible cultural heritage and use-value are “interconnected” and may be generated within the same space, “regardless of the exchange-value the space may or may not carry.”¹¹

While the author’s discussion of the theory underlying her work is thoughtful and nuanced, she resists defining “intangible cultural heritage” until the second half of her first chapter, which is a choice that may challenge readers to parse Ross’ point of view. The monograph’s introduction indicates that “intangible cultural heritage” will be “distinguished from tangible (built and visible) heritage” at a later point,¹² but a provisional definition is withheld. At the same time, Ross refers to “intangible cultural heritage” throughout her introduction and a substantial portion of her theoretical exposition. Thus, when she registers a connection between intangible cultural heritage and use-value early on, readers may find themselves inferring the grounds on which the association is

7. *Ibid* at 33.

8. *Ibid* at 7, citing Ray Hutchinson, Book Review of *Urban Fortunes: The Political Economy of Place* by John R Logan & Harvey L Molotch, (1988) 94 Am J Soc 459 at 459.

9. I reserve definitions of “culture” and “cultural capital” to avoid privileging one denotation over another within the strictures of a short review. Ross acknowledges that these terms have been interpreted in many ways by many parties, and she expends much effort in drawing out their complexities. To offer cursory definitions when the author herself resists this impulse—with the aim of challenging hegemonic narratives—seems inappropriate.

10. Ross, *supra* note 1 at 8.

11. *Ibid*.

12. *Ibid* at 2.

made. One might suggest that the term's meaning is intuitive, or definable in opposition to the author's descriptions of "tangible cultural heritage," but Ross herself acknowledges that the notion of intangible cultural heritage "is relatively new in terms of popular understandings of 'heritage.'"¹³ Moreover, once Ross provides her definition, it becomes apparent that there are multiple definitions and descriptions in circulation.

Ross primes her reader by representing intangible culture as "an activity that occurs within a space or particular use that is made of a space," before advancing the more expansive definition put forth in the 2003 UNESCO *Intangible Cultural Heritage Convention*.¹⁴ Article 2(1) of the *Convention* defines "intangible cultural heritage" as:

the practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artefacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.¹⁵

Ross then elaborates on this definition and the *Convention's* references to "safeguarding" intangible cultural heritage by considering how other scholars have situated and interpreted these terms. "Intangible cultural heritage" effectively excludes "activity, actions, and experiences" that are "only utilitarian," but includes the products of communities that are not "ethnically or regionally based"; it should also be defined by a given culture's "bearers."¹⁶

Once the reader has a sense of what "intangible cultural heritage" means to Ross, the link between this category and use-value becomes clearer: Individuals assign values (which do not enter into the commodity exchange) to space by engaging in activities that constitute or create intangible cultural heritage within the space. Central to Ross' study, this conceptual configuration of space ripples through the monograph from beginning to end.

For the remainder of her first chapter, Ross gradually incorporates the contributions of various scholars, crafting a constellation of theories and

13. *Ibid* at 27.

14. *Ibid* at 28.

15. *Ibid*, citing *Convention on the Safeguarding of the Intangible Cultural Heritage*, 2368 UNTS 3 (entered into force 17 October 2003) [*Convention*].

16. *Ibid* at 29.

socio-legal considerations. One coordinate includes Latina/o Critical Legal Theory (“LatCrit”) scholar Tara Yosso’s approach to the calculation of cultural capital in the city, as it displaces the traditional focus on white middle- and upper-class cultural preferences inherent in sociologist Pierre Bourdieu’s iteration of the same project.¹⁷ Yosso’s influence bears heavily on Ross’ study. It empowers her focus on sources of (*sub*)cultural capital in the city and informs her “methodology, research, and assessment of countercultural and transgressive cultural communities and spaces.”¹⁸ Ross also reflects on the law’s role in regulating city space to facilitate the removal of the “undesirable,” to the detriment of cultural diversity and wealth. In so doing, she recognises the legacies of legal scholars like Nicholas Blomley and Mariana Valverde, to whom much work in this field is indebted.¹⁹ Ross ultimately asserts that municipal legal frameworks and complexes must be subjected to a “deep process of revision” to ensure that city redevelopment is respectful of alternative iterations of culture.²⁰ Borrowing from Boaventura de Sousa Santos, she proposes the adoption of a *buen vivir* perspective, whereby current approaches towards redevelopment are decolonised to foster inclusion and plurality.²¹

Ross’ first chapter merits much unpacking for several reasons. It sets out the themes and lexicon that the author invokes throughout the work, but it is also the most challenging to read. Ross introduces and juxtaposes numerous theories, concepts, terms, and tools, in a style of presentation that often feels circuitous, rather than linear. It is, however, difficult to fault Ross for a reading experience that some may or may not have, as her undertaking in this section is recognisably complex. She strives to integrate a substantial amount of material without sacrificing nuance, and her effort does not go unnoticed.

Ross’ second chapter traces the methodologies underpinning her study. Her primary goal is to show how the “often-invisible governance of culture in the city” may be scrutinised “to unearth situations of lower value attribution and inequitable marginalising treatment of particular iterations of culture and spaces of culture in the city over others.”²² Yet, she also seeks to demonstrate the value of this kind of project—one that marries theory, methodology, and research—as a mechanism for activism.²³ To achieve these ends, Ross applies an ethnographic

17. *Ibid* at 12-15.

18. *Ibid* at 14.

19. *Ibid* at 22.

20. *Ibid* at 33.

21. *Ibid* at 33-39.

22. *Ibid* at 54.

23. *Ibid*.

lens to several Toronto music venues recently affected by city redevelopment but which “display a variety of iterations of (sub)cultural community wealth, use-value, and intangible cultural heritage.”²⁴ The chosen case studies are urban core-based and include Brunswick House, Silver Dollar Room, Comfort Zone, The Government, and The Matador.²⁵ While it may not be novel, Ross’ openness to relying on virtual communities—Facebook groups, for example—as legitimate sources of data is worth noting. As she rightly acknowledges, “[o]bservations (and, often, complaints) about how specific demographics...tend to constantly have their face in their phones...necessitates a shift in spaces for participant observation and ethnographic methodology.”²⁶

Ross’ subsequent chapters address Toronto’s efforts to become a “Music City” while condoning redevelopment projects that threaten the existence of local music venues—and, by extension, the communities and intangible cultural heritages that depend on them. She describes how “creative city” visions are implemented to allow cities to compete globally, so as to capitalise on the economic prosperity spurred by tourism and migration.²⁷ In turn, she argues that Toronto’s “Music City” agenda “demonstrates the disconnect between promoting culture...for the sake of culture, community cultural wealth, and its use-value versus promoting culture strategically for its profit potential and exchange-value.”²⁸ Shifting to her case studies, Ross compares and distinguishes the sites selected, in terms of location, communities implicated, redevelopment trajectories, as well as the degrees to which proposed development was contested. The essence of her argument is that city development mechanisms must be adjusted to protect different versions of intangible cultural heritage more equitably and effectively. Protecting tangible cultural heritage is not enough. As Ross highlights with respect to Brunswick House, listing a building as a heritage property, without providing for the protection of its intangible cultural heritage, does not guarantee that the intangible will be preserved or considered.²⁹ Within the existing municipal framework, a storied, 141-year-old music and dance venue might one day find itself converted into a drugstore,³⁰ with a “keg barrel bar” for a checkout counter.³¹ Ross concludes her study by exploring the counter-hegemonic use

24. *Ibid* at 64.

25. *Ibid* at 64-65.

26. *Ibid* at 65.

27. *Ibid* at 75.

28. *Ibid* at 91.

29. *Ibid* at 163.

30. *Ibid* at 160.

31. *Ibid* at 163.

of legal tools to protect spaces of high use-value, advocating for more effective, inclusive consultation practices, and urging a “revamping of provincial [heritage] legislation and cultural policies.”³²

While Ross’ case studies are compelling and easy to follow, they are also memorable for her implicit preservation of the sites’ intangible cultural heritages by way of ink on paper. Writing about Silver Dollar Room, Ross details the experience of walking into and through the venue—from encountering the “familiar circular sign written in slanted cursive letters,” to climbing the stairs and seeing “booker and promoter Dan Burke, perched on a stool...collecting cover,” to jostling past “patrons clustered around the bar in the main room.”³³ Ross breathes life into spaces that have since been shuttered or demolished, vividly reviving their intangible culture, regardless of whether readers have traversed the “speckled terrazzo tile floors.”³⁴

Considered in its entirety, *Law and Intangible Cultural Heritage in the City* is a worthy read, meeting the goals Ross sets forth at the outset. The work’s theory-heavy first chapter may frustrate some readers, but I would still recommend the book and prompt the discouraged to continue reading. While the monograph would primarily interest socio-legal readers, *Law and Intangible Cultural Heritage in the City* presents an account of Toronto’s music history that would engage a broader audience as well.

32. *Ibid* at 237.

33. *Ibid* at 136-37.

34. *Ibid*.