

# CULTURAL PROPERTY AS STRATEGY

## The Carnival of Binche, the Creation of Cultural Heritage and Cultural Property

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The concept of cultural property is often discussed in the sphere of international policy with a critical dimension of neglected rights of local actors. This paper deals with local strategies of labelling a tradition as cultural property of a specific community by reconstructing the historical dimension of a local property regime. Cultural property is thus analysed as a cultural technique at its own right that produces powerful local hierarchies and that refers to both material and symbolic dimensions. The carnival of Binche with its long history of metacultural operations shows how tradition is used as a local resource in a reflexive society and how local actors integrate new legal instruments into their understanding and management of a traditional practice.<sup>1</sup>

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In August 1992, a former citizen of the small Belgian city of Binche<sup>2</sup> wrote a furious letter to the mayor of Binche. Attached to that letter she sent an advert of the Camping Touring Club of Belgium which promoted its annual carnival prom on August 15. The motto of this prom was “everybody is welcome” and to rouse even more interest, the advert announced a very special attraction: the presence of authentic “Gilles de Binche” – the most famous carnival group in Belgium. This announcement incensed the letter’s author: “For years, I’ve been living on the Rue Bossart in Binche, my children were born in Binche and we are outraged to see such a false advert. Attached you will find the ad in Dutch if you are going to file an action.”<sup>3</sup> The letter met with open ears: within only one week Martine Antoine, the secretary of the local carnival association in Binche, prepared a re-

ply and thanked for the efforts to save the carnival’s good reputation.

Even before an international jury proclaimed the carnival of Binche a Unesco “Masterpiece of the Oral and Intangible Heritage of Humanity” in 2003, the citizens of Binche thus relished their annual lenten celebration as an extraordinary carnival. Unesco’s international jury pointed to the carnival’s historical longevity as well as to the continuity of its performative dimensions. Furthermore the examining NGOs – the “Conseil International pour la Musique Traditionnelle” and the “Conseil International de la Philosophie et des Sciences Humaines” – underlined traditional techniques and handcraft as well as the refusal of any commercial exploitation of the carnival. The carnival itself culminates in three central days before Shrove Tuesday. Organized in different “so-

ciétés” local actors show their extensive and colourful fantasy costumes on Shrove Sunday. Monday before Shrove Tuesday is organized by the local youth: Accompanied by the sound of hand organs, children and young people are dancing from bar to bar where masses of confetti serve as gaudy projectiles. It is only on Shrove Tuesday that Binche’s carnivalists transform into the most traditional figure: the so-called “Gille”. Stuffed with straw, the Gilles carry costumes that are decorated with felt – stars, lions and crowns embellish the disguise. Long before sunrise, the carnivalesque choreography starts with the “ramassage” when every Gille is picked up at home. Following the rule that no Gille shall move without a drummer the streets are filled with groups of Gilles that are accompanied by several drummers who perform their repertoire of “airs de Gille”. The performance is structured by different traditional elements: at about 10 a.m. the Gilles carry their wax mask, for the first and only time of the day. Every “société” moves towards Binche’s central square in order to dance the “rondeau”. After a short break during lunch the “sociétés” build a long parade, bands with drummers and brass cause an infernal hubbub – some of the Gilles wear huge hats composed of countless ostrich feathers. Another parade is organized in the evening and an impressive display of fireworks marks one of the carnival’s visual highlights (cf. Revelard 2002).

Already in 1985, the registered association “Carnaval de Binche” had protected the terms “Carnaval de Binche” and “Gille de Binche” combined with a graphic label as a figurative mark at the patent office for the Benelux in Brussels (see ill. 1). Thanks to this legal instrument, the association was able to fight effectively against misuse.<sup>4</sup>

The citizen’s letter from 1992 motivated the president of the carnival association to contact the patent agent Michel van Malderen in Brussels for information on how one should best react to avoid misuses of the protected label in the future. In his detailed answer, the lawyer recommended to register every possible misuse of the label in a systematic way. He pointed out, however, that it would be difficult to provide evidence and thus legal argumentation of possible economic losses arising from the label’s misuse. The patent agent finished his letter with a recommendation: to contact the responsible persons and insist on a counterpresentation. According to a personal communication, the guilty Touring Club admitted its mistake: The special attraction would not be real Gilles from Binche but Gilles from the city of Manage.<sup>5</sup>

The Binche case shows how a yearly ritual has been turned into a resource and how a community reclaims both the interpretation and the exclusive usage rights of this resource (cf. Coombe 1998). The

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Ill. 1: Extract of the Trade Mark Register of the Benelux showing the figurative mark combining the two terms “Gille de Binche” and “Carnaval de Binche” with graphic illustrations of two traditional masks used during the carnival. (Bureau Benelux des Marques, No 425209.)

community brands its local cultural property, here the Carnival of Binche. In the course of an extensive history of institutionalization and bureaucratization, the community has installed a legal person – the carnival association – that introduced specific legal measures to protect the carnival against imitation and economic exploitation. These moves point to the paradigmatic shift in handling culture that prompted George Yúdice to ask “how culture as an expedient gained legitimacy and displaced or absorbed other understandings of culture” (Yúdice 2003: 1). Yúdice sees in culture a means to solve economic and political problems; culture is rendered comparable to natural resources and their exploitability. In a globalized world, a notion of culture as a powerful resource suggests far-ranging consequences, especially when economic and political goals clash with the results achieved.

The analysis of processes of valuation and valorization of a local cultural practice, as the distinction has been drawn by Barbara Kirshenblatt-Gimblett (2006: 193), aids in reconstructing the history of both mental and material dimensions of cultural property as a discursive practice and strategy: Which actors labelled reifications of their tradition as cultural property? What specific community did they associate this tradition with and which circumstances did they consider? How did the negotiation concerning the limits and possibilities of access to the local resource unfold? Which local actors reclaimed user rights for the local cultural resource? In order to answer these questions, I follow a definition of cultural property as a cultural practice that regulates the relationship between single actors or groups of actors and objects, cultural performances or local knowledge (cf. Hann 1998; Huber 2005: 43). In its awareness of property as a discursively shaped process, this definition adds an anthropological and historical perspective to contemporary discourses about authorship and cultural property of knowledge, cultural practices and folklore. Defining cultural property as a cultural practice underlines the dynamic dimensions of the concept of property and allows readings of the phenomenon that focus on concrete actors who create their own (reflexive) in-

terpretation and use of cultural property.

There is a difference between local practices claiming cultural property and legal or scientific concepts of cultural heritage or cultural property (Tschofen 2007: 21). Even before cultural property took shape as a powerful concept of national and international policy, local actors in Binche worked on strategies to mark local traditions as being uniquely their own, a property of their local community. An analysis of cultural property formations thus has to reflect two dimensions: cultural property as a concept or paradigm in political or academic contexts and cultural property as a discursive strategy and practice.

Using this Belgian case, local forerunners of heritage processes can be analysed to show the emergence of strategies of protection which helped to build a context within which the globally enacted cultural property regime acts today (cf. Tschofen 2007; Bendix 2007; Brown 2005). Activities of international organizations such as Unesco or WIPO (World Intellectual Property Organization) have raised the protection of cultural property to a new level (cf. Kirshenblatt-Gimblett 2006; Hafstein 2004a: 301; Brown 1998). But in reflexive societies one can find ambitions to mark local characteristics as a resource at least since the “invention of traditions” in the nineteenth century (Hobsbawm & Ranger 1983; Noyes 2007). The search for exotic experience and thus the use of tradition as a resource did not begin with the emergence of a global economy, as claimed by Yúdice (2003). However, international efforts to protect cultural property point to new processes of negotiation, for instance regarding who might use local culture or traditional knowledge in which way.

The Binchois successfully stopped a touring club from advertising the Gilles of Binche. This local strategy excludes actors who do not belong to the local community. Usage rights have been exclusively reserved by and for members of the community who decide about the (economically motivated) use of the carnival as symbolized by the logo. But even within the community itself, with its differentiated layers of participants and hierarchies, the carnivalists regulate the access to the local resource. The various strategies of local actors who pretend to speak

for the entire community point to the progressive thicket of legally shored up rights surrounding a local performance.

### **Extra-Community Boundaries. The Creation of a Local Cultural Resource**

In July 1948, the newspaper *Le Binchois* published a comment by an outraged citizen using the alias “un vieux Binchois”. Its author denounced the export of the Binche style carnival. He wrote of two young girls who had incorrectly worn and thus contaminated the Gilles’ costumes. The Gilles of La Louvière, an industrial city directly neighbouring Binche, had participated in an international parade in Aix-les-Bains (France) in June. Despite the city council’s work against what the writer termed “Ersatz” versions of the Binche carnival, he felt such economically motivated transgressions were lamentable (*Le Binchois*, July 24, 1948).

A few days later, another printed comment underlined the request for vigilance: “What was the only, the real, the unique Gille of Binche if this obsession of copying it did not stop?” To the author all imitations of the Gilles of Binche were a problem, whether in international parades far from Binche or in the direct neighbourhood: “As those masquerades will be seen by people who have never seen the real Gilles before and thus draw harmful conclusions, they are quite fatal for our reputation and our honour.” Imitations of the Gilles all over Belgium constituted to this writer a trivialization of “the most beautiful folklore of the country” (*Le Binchois*, July 31, 1948).

Such articles illustrate the emergence of a local discourse about imitation and original. The metaphor of the medieval city walls that surround almost the entire city of Binche was often used to characterize the spirit of the carnival. Claiming that the carnival only has its “original” sense and “authentic” spirit inside the walls produces singularity and speaks for the exclusive rights of local actors to make use of the local resource. On a linguistic level, this claim was underscored in the emergence of the term “Le Carnaval de Binche” and “Gille de Binche”. The specification “de Binche” produced polarization, much as Konrad Köstlin (1978: 11) pointed to in an analysis

of carnivals in German-speaking areas: Carnival is claimed to be characteristic for a local community. In historian Hillel Schwartz’s terms, such discussions about the “culture of the copy” (1996) point to the ambivalence felt in the face of growing numbers and uses of reproductions and the anxiety of losing a sense of uniqueness. Societies that are fundamentally dependent on copies, says Schwartz, tend to idolize the symbolic power of originals.

The Binchois became aware of the symbolic and economic value of their carnival around the middle of the nineteenth century. The growing national and international reputation of the Binche carnival eventually made the carnival so attractive that it influenced carnivals in the region of the Wallonie, in parts of northern France and even in Dutch-speaking areas of Belgium where local groups founded a carnival in the “Binche style” with similar costumes and similar performances (cf. Revelard 2002; Tauschek 2007). While in Binche local actors fixed rules, standardized the appearance of the Gille and therefore formed new bureaucratic institutions tending to their event, actors in cities and villages around Binche handled the cultural practice much more creatively. Finally this interplay of fixation in Binche and creativity around Binche provided the basis for local actors in Binche to claim that they were the real and only bearers of the “authentic” tradition.

A central incident fixed this discursive pattern, giving it scientific legitimacy. This was a book by the local philologist and founder of the International Masks and Carnival Museum in Binche, Samuël Glotz. In his 1949 publication Glotz characterizes the carnival as the authentic and meaningful folklore of a closely knit local population that cares for the continuity of the local tradition. He stigmatizes imitations of the Binche carnival for mere economic purposes and far away from the “original” context. Thus he introduces the term “Gille-Ersatz” that is still used in Binche and that was also used in the 1948 article of the “vieux Binchois”. With this book and later articles Glotz produced a monolithic and powerful interpretation of the carnival which was used as a means to scientifically legitimate the pro-

tection of the carnival. This discursive formation was one reason for the emergence of legal arguments to this end. In the carnival's organization, the idea to protect the carnival had been growing for quite practical reasons.

Already in the 1940s the mayor of Binche, Charles Delière, had guaranteed the supply of masks by closing a contract with the French company that produced them to do so exclusively for the Binche carnival. In the 1970s, the French company closed and stopped the production of the mask. This new and problematic situation led to long discussions among the members of the Binche city council. In order to guarantee the supply of masks, the city council decided to buy 5,000 masks for the last time in May 1974. By dint of this acquisition there should be enough masks for the next five years when a new solution was supposed to be found. A local craftsman accepted the task to find a way to produce wax masks traditionally (see ill. 2).

In that context of loss, Binche citizen Adelson Garin published an article with the explicit demand: "Let's protect our mask of the Gille!" (*T'avau Binche*, June 8, 1974). For fear any company could start producing masks in the Binche style and selling them to anyone Garin developed the idea to introduce a legal instrument for the protection of the mask:

During a session of the city council we presented the idea, the city of Binche should apply for a kind of patent for the mask that is then owned by the city. The mask therefore would be described in its composition and its production in a detailed way. Through this formality – which is very urgent – we would have the guarantee that our mask is protected against imitation and any kind of debasement. Our idea seems to have surprised some members of the city council but very quickly everybody was convinced. [...] It's high time to do something to protect the property of Binche, its folkloristic heritage and its soul (Garin 1975: 6–7).

Garin's call to protect the mask legally shows the complexity of an emerging property regime which would eventually be used as a strategy to produce



Ill. 2: Wax masks of the Gilles. (Photo: M. Tauschek)

hierarchies of access and inclusion. First, Garin's article refers to the powerful imagination of loss if just one element of the carnival were to disappear. If some members of the city council had been skeptical of the idea of legal protection, Garin's narrative about loss and preservation was a driving force for devising conserving measures (cf. Aspraki 2007: 37). Second, Garin points to the local anxiety about possible imitations. Both dimensions finally led to Garin's proposition to work on the legal protection of the carnival as local cultural property that is naturalized by characterizing the spirit of the carnival as emerging out of the citizens' souls.

Garin's idea to mark a tradition as local cultural property must be seen in a wider context characterized by transformations that affected many spheres of everyday life. In Binche, the local textile industry closed down in the 1960s. Coal mining around Binche also stopped gradually. These economic transformations led to a very high unemployment rate and intensified or even created an atmosphere of loss (cf. Jeggle & Korff 1974; Noyes 2003; Korff 1980).

Since the middle of the nineteenth century it was the municipality – the mayor and the city council and thus political actors – that claimed the right of interpretation and utilization of the carnival; it was

the municipality that also developed tourist marketing around the carnival. In order to enhance the carnival's attractiveness, the city council founded a commission in 1883 which was to suggest enhancements of the local tradition. Costumes were to be decorated more uniformly, and the city was to install electric illumination so that visitors could stay longer in the evening. Finally and, given later developments, paradoxically, the commission provided remuneration for carnival groups from outside Binche, as they would render the local parade more colourful and thus more attractive for tourists (cf. Revelard 2002: 87).

In 1985 local actors created the association "Défense, Maintien et Mise en Valeur des Traditions binchoises" – "Defense, preservation and valorization of the Binche traditions" – as a legal person. The association was to monitor carnival actors' adherence to the rules, a goal which was rendered more precise during a general assembly in December 1990: The association was also to care for the protection of the labels through suitable legal instruments.

Why this extension of the association's bylaws? They represent the logical continuation of Garin's ideas with regard to claiming tradition: the trademarked terms "Gilles de Binche" and "Carnaval de Binche" and the graphic label with the image of the wax masks that are carried on Shrove Tuesday morning. The former president of the association, Jean-Pierre Jaumot, explained that the costume itself could not be protected by a trademark as it was already used for years around Binche and in the entire Wallonie (cf. Hafstein 2004a: 301). Thus the proof of authorship could not be furnished. Jaumot sees the two labels as a kind of moral pressure. Initially, the association did not intend to take legal action. From Jaumot's point of view, the trademark was rather a symbol than a concrete measure to fight imitations. But the letter quoted at the beginning of this article shows quite the opposite. In that particular case, the carnival association even contacted a lawyer to discuss possible legal actions. Jaumot held a press conference to explain the new trademark, and in his speech, Jaumot referred to Samuël Glotz's role in fashioning a local understanding of

the carnival as historic, authentic and meaningful. In a press release the trademark for the carnival was characterized as a premiere in folklore and as a premiere in Belgium.

It was the introduction of the figurative mark that motivated Samuël Glotz to publish an article celebrating this important step of legal appreciation of the carnival's value. Glotz argued that now one of the most important elements of the carnival, the mask, was protected once and for all:

The mask is a compulsory attribute of the traditional carnival figures. That's quite well-known. The disappearance of the mask in comparable traditional cases refers to a fatal evolution that has to be stopped within the realms of possibility (Glotz 1986: 30).

One can prove the authenticity of a work of art, of wine, cheese and other such products so as to control distribution, says Glotz. Hence, from his perspective, it is of utmost importance to legally protect popular culture goods, such as the carnival. Accordingly, Glotz criticized the lack of Belgian laws protecting folklore: "The law is not interested in this field that has been completely ignored. The law is made for a cultural elite. It neglects the protection of our ancient customs" (Glotz 1986: 31). Glotz thus demanded that popular culture be treated like elite culture. The comparison with legally protected goods like wine or cheese shows that the practice of authentication was introduced from an economically defined sphere into the field of traditional culture. In his article from 1986 Glotz already mentioned the efforts of Unesco to protect local popular culture internationally: "Even if UNESCO is working on the international protection of popular cultural goods we were defenseless before getting the trademark: A community doesn't seem to be the owner of its tradition, of its popular heritage" (Glotz 1986: 32). The trademark in Binche was one satisfying step in the right direction. Glotz demanded a more extensive shift in policy towards the protection of local cultural goods, preferably on an international level.

While locals interpreted the trademarked logo as

a global first, recent works on cultural property show that such local movements have to be contextualized within an international discourse about intellectual property and folklore (cf. Hafstein 2004b, 2007; Brown 1998). In the case of Binche, the historical moments to safeguard and protect presented thus far, show a process that is all but linear or top-down. International agendas, too, have their origin and can be shaped by national traditions and discourses. Glotz for example had popularized his conservative understanding of folklore already in the 1940s: he postulated that folklore had to be protected in much the same way as material monuments. As Glotz received and commented on Unesco's efforts to protect folklore in the 1980s one can see how international discourses diffuse in concrete contexts. Glotz was certainly aware of the international rhetoric and it flowed into his local activities – he corresponded internationally with others working in museums of popular cultural manifestations. But his arguments and efforts demonstrate the idiosyncracies of the process of constituting heritage in a particular locale, resulting from the intertwining of local circumstance and history and the local reception of broader international discourses (cf. Kirshenblatt-Gimblett 2006: 182).

Local efforts to mark the carnival as an extraordinary local patrimony are built on practices of hierarchizing already established and traditionalized which rated and interpreted the Binche carnival as more valuable than the festivities in the surrounding area. Communities around Binche, however, experienced their own carnival celebrations as just as authentic and historically rooted; the strategy on the part of the Binchois to mark their superiority was registered by the other communities precisely as that – a strategy, not a fact. Claiming the carnival of Binche as local property finally spurred creative reactions, for instance in Binche's neighboring city La Louvière (cf. Hafstein 2004a): One carnival association – “Les Commerçants” – kept cool about the Binche trademark and introduced a plastic mask that was entirely identical to the wax mask in Binche (see ill. 3), another carnival association – “Les Indépendants” – avoided the trademark by introduc-

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Ill. 3: La Louvière, plastic mask, Société Les Commerçants (www.laetare.be, accessed 12.08.2008).

ing a different production of the mask (see ill. 4). Fixation in Binche thus fuelled creativity outside of Binche where innovative carnivalists did not stop celebrating carnival in their way.<sup>7</sup>

The trademark with its legal context marks a new field and signals a new level in the interpretation of the carnival (cf. Noyes 2006: 36). Before the trade-

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Ill. 4: La Louvière, Société Les Indépendants (www.laetare.be, accessed 12.08.2008).

mark was introduced, property rights and rights of usage were negotiated in different discursive practices. In the history of the carnival, discursive strategies of exclusion and inclusion existed already, albeit without legal argumentation. Those strategies always led to creative transformative processes outside of Binche. Yet the statement: fixation in Binche versus creativity outside of Binche is a simplification of a very complex process that is anything but linear. Elements and rules that today are performed as authentic and historic cultural practices began as innovations – revealed by an analysis of both the material and the immaterial elements of the carnival. And even elements adopted in the festive practice outside Binche have been traditionalized and thus marked as a cultural property of the local community there (cf. Duquesne 1991). With growing reflexivity, the Binche community began to seek legal instruments to curtail outside access to the local resource.

The carnival's history demonstrates increasing claims for the exclusivity of the local carnival variant. In the eyes of locals, the trademarked terms and the label became a kind of *pars pro toto* for the entire carnival. The reaction of the carnival association to a request from a TV and film production company

points in this direction also: in a short advertising spot, a person disguised as a Gille was to be shown shopping in a supermarket. The costumes did not come from Binche but were borrowed from another Walloon community. The secretary of the carnival association reacted within a day, strictly forbidding any commercial use of either the Gilles or the carnival itself. Even an inquiry by the French-German TV channel ARTE had been refused some time earlier, with the same arguments.<sup>8</sup>

The interdiction of the figure's use actually does not correspond to the trademark which only covers the linguistic terms, the logo and the production of the wax mask, but not the entire figure of the Gille. The example points to how locals interpret the trademark, how they use it on a local level, and how it is employed as a means of distinction. The trademark produced a new power relationship between local and non-local actors insofar as the carnival association now was recognized by non-local actors as the owner of the material dimensions of the carnival with the power to decide about any use of those elements. This new relationship resulted from a willful interpretation of intellectual property law and the new, legally shaped context. Discursively, a former argument built on a more or less moral responsibility toward the maintenance of tradition was transformed into a legal argument. In both cases, however, fighting against misuse and copying serves to enhance cultural respect.

Peter Shand (2002), analysing the usage of traditional motives of the Maori, has argued that law is often used to demand respect in an ethnic context. The Binche context is politically and historically different, as ethnic or postcolonial dimensions are irrelevant, yet the concrete interpretations of intellectual property law as a strategy are strikingly similar.

### Intra-Community Usage Rights

Access limitation to the carnival and its reifications can be found not only in an extra-community context but also within the community itself. An intra-community discussion about the adherence to the trademark can be reconstructed from a record of the carnival association from May 1997. Etienne Desart,



Ill. 5: Pin, mask of a Gille. (Photo: M. Tauschek)



a citizen of Binche and owner of a comic shop, had produced 20,000 pins (see ill. 5) and watches with a picture of the Gilles' mask at his own expense. The carnival association demanded 500 euro for the right to use the label.

Usage rights change when one single user benefits from a common resource (cf. Noack 2003). Usage rights within the so-called commons entail the right to use and the right of modification of the good as well as the right to draw benefits. The latter had been claimed by Etienne Desart who wanted to sell the pins. However the community sanctioned this economic activity of a single local actor. At first the association even wanted to forbid selling the pins – but this position was later abandoned. The trademark is thus used differently inside the community. Actors who are part of the community can use the trademark and the label in a highly regulated way whereas outside actors have no access to the resource: symbolic valorization and economic valuation are strictly reserved for local actors.

The internal regulation of usage rights shows a divergence in the economic exploitation of the carnival: The carnival association acts as a superior institution; it claims the rights of interpretation in the realm of symbolic usage of the carnival in order to keep the performance traditional and authentic. Yet there are many local actors who try to transform symbolic value into economic capital. It is not only Etienne Desart but also the local brewery, “La Binchoise”, that use the label; the local chocolatier sells little chocolate masks. In contrast to natural resources, material overexploitation of the carnival is not possible. In fact the carnival association is fighting against symbolic overexploitation by using the good reputation of the carnival for economic purposes.

But local actors, too, have found creative solutions to get access to the tradition. The owner of the official carnival homepage [www.carnavaldebinche.be](http://www.carnavaldebinche.be) – himself not a member of the carnival association – registered the name of this domain before anyone else in the carnival association reflected on that possibility. In an online boutique he sells merchandise related to the carnival. The Binchois criticized

this avenue of making personal profit by using the reputation of the carnival; the carnival association asked the shop-keeper to stop selling products in the online boutique. Alas, he just linked up a new website where he continued his business. Instead of the protected mask, he used motifs from the Gilles' costumes (see ill. 6 and 7). He thus avoided legal constraints very creatively – his personal profit from the carnival could not be stopped by any legal means.

Tradition is the central argument in Binche for the untiring struggle against imitation and economic exploitation. The carnival had never been linked to the local economy – so goes the local position; the community always celebrated the carnival without monetary interest. This point of view produced a discursive dichotomy: there was culture serving higher purposes, and there was culture that served economic ends – and the latter is condemned. This line of reasoning is used to achieve the distinctiveness of local performance. Barbara Kirshenblatt-Gimblett employs the terms “valuation” and “valorization” for this dichotomy (2006: 193). Valorization is non-economic and Binche's leading local actors prefer this mode. Valuation rests on the insight that cultural goods, knowledge, artefacts, and heritage can be transformed for economic benefit.

Even the German *Folklorismusdebatte* can be read under this heading. In his reflections on “Volkskultur aus zweiter Hand” – “second-hand popular culture” – Hans Moser kicked off a discussion about original and imitated or invented folk culture in 1962, years before Hobsbawm and Ranger (1983)

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Ill. 6: The printed lions on the T-shirts, sold in the online boutique, have the identical design as the lions on the traditional costumes of the Gilles ([www.ukc.be/index.php?menu=3&cat=9](http://www.ukc.be/index.php?menu=3&cat=9), accessed 18.08.2008).



Ill. 7: Traditional costumes of the Gilles decorated with lions, crowns and stars that are stamped out of felt and appliquéed on the costumes. (Photo: M. Tauschek)

published their reflections on invented traditions. Moser's statements were an important starting point for further reflection on the production of knowledge in the field of folklore studies, even if Moser's initial thoughts were criticized by many authors (cf. Bausinger 1966; Köstlin 1970; Welz 1996). Moser worked out criteria in order to separate historic and authentic cultural practices from cultural practices that are only performed in tourist context and for mere economic purposes, and these can be found as a locally generated argument in the case of Binche. The difference between "authentic" and "imitated" was used as a discursive strategy locally before it reached scholarly notoriety. In Binche this strategy has had different functions: production of local identity, claiming cultural property, and marking cultural characteristics within the nation state.

Considering the history of successive commodification of the Binche carnival, local assessments about "tradition" or "culture" appear to be manifested in scholarship with a time lag, contributing to the formation of new paradigms there. More accurate, though, is the postulate that local and scholarly discourses are intertwined, feeding into and off each other. Knowledge production in fields of cultural research assists in the production of local culture, scholars not only analyze but also construct the local through their scholarly gaze. Marking cultural difference is a complex cultural process and – as Konrad Köstlin has argued – this is a cultural technique characteristic of and significant for modernity (Köstlin 1991; cf. Noyes 2007). Yúdice observes the use of cultural resources everywhere, yet to understand such omnipresence in terms of cul-

tural property regimes, it would be useful to search for explanations and contextualizations via the kind of historical processes I have presented for Binche. Empirically oriented microstudies focused on the lifeworlds of local actors such as Warner's study of Siena's *contrade* (2004) offer a framework that is essential for understanding the global processes which in turn contribute to the shaping of the local (cf. Apadurai 1996, 2001; Shuman 1993).

## Conclusion

An interpretation of Binche's history of valorization and valuation of its carnival leads to a description of the carnival as a local resource. Hand in hand with a growing reflexivity that contributed to the valorization of the carnival, local actors intended to mark the carnival as their local cultural property and worked with polarizations that declared their carnival old and original in order to legitimize their rights to their tradition.

Actors from outside Binche tried to benefit from the valorized carnival on a symbolic as well as an economic level. As a reaction, leading actors in Binche developed mechanisms of exclusion. These mechanisms culminated in the legal protection of the trademark "Carnaval de Binche" and "Gille de Binche". Thus access to the local resource was regulated and formerly discursive arguments were moved into a legally defined space. Even within the community, access to the resource was regulated. The profit of single individuals was restricted in favour of rights for the entire community or, more accurately, in favour of those who comport themselves as speaking for the whole community. The concept of cultural property becomes visible, in this instance, as a cultural practice that creates and refers to strategies of empowerment.

Protecting intangible culture with legal measures that function by analogy with intellectual property rights is a step toward rendering folklore, tradition, or craftsmanship into a commodifiable good. The Binche case demonstrates, however, that a hegemonic understanding of tradition constitutes a kind of bulwark against the free or uncontrolled commodification of culture. The protection of the label, for

instance, was not intended to serve economic ends. Rather, it was meant to avert economic misuse in and outside of Binche. Dorothy Noyes' analysis of Berga's *Patum*, a Corpus Christi fire festival in Catalonia, shows how the introduction of legal contexts resulted in a shifting of responsibilities for the performance of the festivity (Noyes 2003). Those who determine rules also postulate that they are in possession of a hegemonic interpretation of a given cultural practice. Social conflicts may ensue.

Yet aside from such socially palpable shifts, the case of Binche illustrates that limitations on the use of carnival icons or allusions are only one result of the thickening of legal measures. The restrictions also led to an increase in creative potential. Creative actors inside and outside the community reacted ingeniously to the new legal parameters and put the carnival to use for their own ends. Thus, on the one hand one can observe how discursive patterns in the interpretation of the carnival solidify and in combination with the implementation of legal measures help to render the event increasingly monolithic. On the other hand, new readings and creative reinterpretations emerged.

Finally, the carnival's new frame of reference must be mentioned. Since 2003, Binche finds itself on the Unesco list of "Masterpieces of the Oral and Intangible Heritage of Humanity" (Tauschek 2007). Symbolically, this global commendation results, as Barbara Kirshenblatt-Gimblett states, in the broadest rights and possibilities of access to a local tradition. This tradition now belongs – at least metaphorically – not just to the local actors but to the world community of heirs. This new context produces a paradox:

Patents, trademarks, trade secrets, and copyright protect the holder's rights and interests by restricting access, while heritage designations are intended to protect an object or practice from disappearing so that all may have access to it (Kirshenblatt-Gimblett 2006: 184).

Long before Unesco proclaimed the carnival as an accessible heritage of humanity, the carnival had attained the status of local, regional, national and

international heritage. In a long history of meta-cultural operations (cf. Kirshenblatt-Gimblett 2004) the local custom thus became a reflexive cultural practice with various dimensions of symbolic and economic value (cf. Kuutma 2007). Beyond the question of which dimensions of access are created, one could argue that it was exactly this perception of open access – the carnival as a commons and a public good – that led local actors to push forward the legal protection of their tradition. Local actors experienced that their carnival was an accessible good that could be referred to and used in creative ways not only by local actors; the event's transformations produced new practices which in turn led to various strategies of exclusion on a local level. Local actors were thus moved to mark the carnival as their own, a locally anchored cultural property.

## Notes

- 1 Acknowledgments: Many thanks to Regina Bendix, Valdimar Hafstein and the anonymous reviewers for their constructive and helpful commentaries.
- 2 The city of Binche is located about 60 km south of Brussels, in the province Hainaut and thus part of the French-speaking area (the Wallonie) of the federal state Belgium. About 9,500 inhabitants live in the city; together with suburbanized villages the total population of the town is about 32,000 people.
- 3 Letter Mme Hocquet-Charlet to the Mayor of Binche, August 13, 1992; archive of the association "Carnaval de Binche".
- 4 Letter Martine Antoine to Mme Hocquet-Charlet, August 19, 1992; archive of the association "Carnaval de Binche".
- 5 Letter Michel Van Malderen to the association "Carnaval de Binche", September 1, 1992; archive of the association "Carnaval de Binche".
- 6 Talk by Jean-Pierre Jaumot, press conference, December 10, 1985; archive association "Carnaval de Binche".
- 7 Cultural practices are an important resource for the intra-community creativity that gains its dynamics from social and cultural exchange in competition with other communities, as shown by Sabina Magliocco in her work on festival politics of two Sardinian festivals (1993).
- 8 Letter Martine Antoine to Brigitta Baudine, October 22, 1999; archive association "Carnaval de Binche".
- 9 See: [www.brasserielaibinoise.be](http://www.brasserielaibinoise.be) (accessed 09.08.2008).
- 10 Noyes has shown, with the example of Languedoc

during French absolutism, the incipient use of local cultural characteristics already before the nineteenth century. Here, seventeenth century actors utilized their cultural practices for staging local identity, constructing difference and making it visible in their performances (Noyes 2007; see also Götttsch 2003).

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