The Ownership of Culture

The Ownership of Culture

Haruya KAGAMI

The ownership and value of culture

Try to think of culture as a resource, and you will inevitably find yourself wondering to whom that resource belongs and for whom does it exist[1)]. The term "resource" is normally used to refer to a natural resource, such as minerals or marine products or forests, or to something, such as land or people, used to produce or create something else. These resources all have physical form. Humankind uses them for a certain purpose or to create something else. And many bitter assertions have been made—sometimes to the point of inciting warfare—over who is the rightful owner of these tangible and tangibly important resources.

Culture is also something created by humankind. It encompasses both tangible materials and intangible property, that which has no form—knowledge, skill, thought. Where an object is tangible, the question of who might own that object seems an entirely reasonable one. But for that cultural property which has no form, which is intangible, we must first consider whether we are prepared to accept the very notion of ownership.

Japan has in place the Law for the Protection of Cultural Properties, which defines "cultural properties" variously as tangible, intangible, and folk-cultural heritage, as well as monuments, cultural landscapes, and groups of historic buildings[2)]. Tangible cultural properties include buildings, pictures, sculptures, applied crafts, calligraphic works, classical books, and ancient documents. Intangible cultural properties include drama, music, and applied artistic techniques. Folk-cultural properties include manners, customs, and folk arts and implements related to food, clothing, housing, occupations, religious faiths, and annual festivals, and the clothes, utensils, and buildings used in these. Monuments include shell mounds, ancient tombs, sites of fortified capitals, fort or castle sites, monument houses, gardens, bridges, gorges, seashores, mountains, animals, plants, and geological minerals. Cultural properties, as set out in this law, range from tangible properties and monuments, which exist in material form, to music, drama, applied arts and landscapes, all of which are intangible.

Article 4 (2) of the Law for the Protection of Cultural Properties, in reference to these tangible and intangible cultural properties, states that "an owner of cultural property and other persons concerned therewith, being conscious that cultural property is a valuable national asset, shall preserve it with good care for the public and endeavour to promote its cultural utilization, such as by opening it to public viewing", indicating a clear assumption that cultural properties have owners. This assumption may be reasonable for concrete, tangible cultural properties and monuments. However, there are no consistent stipulations with regard to exactly who owns the cultural properties that belong in categories which cannot be adequately described as having physical form: manners and customs, folk entertainment, folk implements, cultural landscapes. Article 71 uses the phrase "bearer or bearing body" in relation to intangible cultural properties, but for intangible folk-cultural properties, the only reference to ownership is of "an owner of the records [of the intangible folk-cultural property]", found in Article 88. For cultural landscapes and groups of historic buildings, where an individual building within them may be the property of an individual but their cultural value is determined by the landscape or the collection of buildings in its entirety, the law defines the agent of application and preservation to be the municipality in which the relevant cultural landscape or building group is located (Article 134, Article 143). It may also be noted that the objective of the law is "to preserve and utilize cultural property objects, so that the cultural quality of the nation can be enhanced, thereby contributing to the evolution of world culture" (Article 1), which clearly indicates for whom the cultural properties exist (for the Japanese people, for the whole of humankind).

When attempting to establish to whom culture belongs, we can use the example of language. There is no doubt that the language spoken by humans is a fundamental part of culture, and so it sounds somehow strange to ask to whom that language actually belongs, almost as if the

question itself is logically flawed. Language cannot be used without being shared, so it is logically contradictory to try and apportion individual ownership to language. Even an attempt to define language as the collective property of a certain group of people causes any number of inconvenient issues. For example, if the Japanese language is the property of the Japanese people, or to put it more specifically, if the Japanese language is the collective property of persons with Japanese nationality, in other words the property of the nation of Japan, then permission should be sought by any person other than a Japanese national who intends to use the Japanese language, and perhaps even a usage charge levied. This is a good indication of how difficult it is to establish the scope of ownership and acknowledge ownership rights with regards to language; indeed, it is almost logically impossible. Put simply, language is the cultural product least suited for consideration in the context of the concept of ownership.

At the same time, we could ask to whom language is useful. This is a much simpler, entirely acceptable question. Language is highly valuable and has been put to great practical use precisely because language is not the property of any single person or group of persons. In other words, language does not gel well with the concept of ownership, but it has great significance as a resource, and indeed is a cultural property that has been used as a resource by all of humankind. Other similar examples of language-like resources include knowledge, such as mathematics, and technology, such as the principle of leverage.

In this way, the products of human culture include both those that can accommodate the concept of ownership quite easily, and those that cannot. At the same time, when thinking of the usefulness of those products for humans, we can reasonably assume that, in principle, all cultural products are useful to humans, or were useful at some point in the past; culture is something generated for no reason other than to secure the survival of humankind. When considered from the perspective of usefulness, tangible cultural properties, the ownership rights to which can be clear, actually seem to be rather limited. In particular, tangible cultural properties as defined by the Law for the Protection of Cultural Properties comprise mostly of relics of past human activity, or, to put it another way, of items that are no longer used for practical purposes. Such properties today are limited to use as either historical monuments or as tourist resources because of their status as historical monuments. These are examples, however, of the use of such tangible properties as physical objects; there may be other uses in which the properties are made use of abstractly, perhaps as the symbol of a certain nation or as the core of a specific ethnic identity. Furthermore, the skills and ideas that generated these products are an important part of the cultural wealth of humankind, which has produced results that have gone down in history and may be subject to a revision of use at any time, even after their practical applicability has diminished and the products replaced by something else.

When thinking about culture as a resource, this approach suggests that considering culture in terms of who benefits from it (for whom is it useful?) rather than in terms of who owns it (to whom does it belong?) allows us to consider a wider subject matter. Issues regarding systems of ownership and usefulness will now be considered taking hints from the theory of the commons, which is more often discussed in the context of usage methods for natural resources and environmental problems[3)].

The commons: theory and culture

The concept of the commons has been put under the spotlight in the course of the debate on environmental issues. Its definition varies from person to person; in Japan, for example, Tomoya Akimichi has examined the question of the commons in the context of environmental issues, and has defined it as common property and resources that are "used and managed on a shared basis by many people in a group" (Akimichi 2010:13)[4)].

The debate on the commons with regard to natural resources is based on the assumption that the commons in question are useful to humankind. Of the elements that comprise nature, there are, of course, those which are of little benefit to humankind, and even those which actively harm us. The concept of an ecosystem, however, stops us from seeing such elements as nothing more than harmful components that should be removed. Rather, we have learned to view such elements as integral parts of the ecosystem. Humankind, too, is part of nature, and lives within it. Before broaching the question of how valuable or damag-

ing individual elements might be to humankind, we must first secure the stability of the natural system as a whole. Only then can security be ensured in people's lives.

Culture is something that has been generated in response to a need in human lives. As such, its usefulness has been programmed into its concept from the very beginning. Culture that has lost its usefulness will no longer be sustained, and will eventually fade away. This may seem like a parallel phenomenon to the rise and fall of natural elements through changes in the global environment, but in the case of culture, it is difficult to establish whether in fact there is a mechanism, equivalent to nature's ecosystems, which controls and adjusts culture as a whole. Rather, culture is a concept that seeks to consider the products of human action, and the ways of thinking and patterns of behavior that support and inform those products, as an integral whole. However, the task of clarifying how the various elements that make up culture interact remains unfinished. Issues also remain with regard to the relationship between the culture of humankind as a whole and individual historical and ethnic cultures. Can the cultures of the same region but of different times reasonably be described as being the same? What reciprocal effects are there among cultures displaying differences according to ethnic group? And how do the similarities and differences that we see among cultures arise—is it due to a certain mechanism that acts upon the human as a living organism? As this shows, nature and culture simply cannot be placed in the same category. This does not change the fact, however, that both are vital platforms upon which humankind exists.

How should we think about the relationship between human culture and nature? In recent times, nature has come to be thought of as something to be utilized by humans. That perspective would suggest that culture is a method used by humans to utilize nature. It is well known that this modern exploitation of nature and unreasonable level of development has caused serious environmental damage and destruction. The premise of ecosystems, which came to prominence as one of the theories sounding out a warning about the level of environmental damage, holds that human activity is a partial action within a greater system. Here, culture can be located as the knowledge required for humans to live within that natural ecosystem. This way of thinking has, in fact, been intuitive to humankind before modern times. The idea of the commons takes as its precedent the custom of the shared use of resources, an approach that remained in place for a long period until the modern concept of ownership became established.

Akimichi has argued that, in the commons theory, there are three levels: the global commons, the public commons and the local commons (Akimichi 2010: 13, 21). The local commons refers to natural resources in a certain area used by local residents; it takes as its model the way in which resources have been managed and used by traditional local communities since time immemorial. The public commons are defined by the notion of a shared asset or property, such as parks, a concept that appeared after the establishment of modern nation-state. The global commons can be seen as a way of thinking, subsequent to the emergence of the ecosystem theory, which is the result of the view that global nature functions as a single system. It supposes common property, circulating around the entire globe or supplied without bias to all of humankind, such as water, atmosphere, and sunlight. These three levels and their definitions provide useful hints in thinking about the value of culture and the ways in which it is used.

Culture is, to begin with, something that is shared, so there is no logical issue with referring to it as a type of commons. As with natural commons, there are ways in which culture is shared locally, and ways in which it is shared publically and globally. Locally-shared culture refers to the culture of discrete regions and ethnicities. Public culture is, primarily, that which is shared within a single nation; examples which come to mind are national languages and traditional national culture. Global culture is, as the term suggests, property and resources shared by all of humankind. But what are the relationships among these three types of commons in terms of the value of culture?

It hardly needs to be stated that local culture and public culture are of value to the people who share them. This is the same with natural resources, but in the case of natural resources, by locating both local and public parts within the entirety of a global ecosystem, the stable and sustainable management of those partial natural elements contributes to the stable and sustainable management of nature on a global scale; this is, therefore, advantageous to the whole of humankind. With culture, however, the existence of a single local or public culture may have a positive impact on anoth-

er local or public culture, but may equally have a negative impact. Possible examples on the one hand include the use of one culture's technology and knowledge by another culture, or the cultural activities of one culture becoming part of the norm of another culture. On the other hand, however, one culture may oppress another culture or provoke conflict with another culture. This is no different from the way that the nature of one region may affect the nature of another region, but in the case of nature, the interrelationship between each region is a dimension of the dynamics of the worldwide ecosystem itself. With culture, however, the existence of a single local or public culture does not automatically affect the condition of the neighbouring cultures.

The difference lies in the fact that while, in the case of nature, the local, public or global commons are all parts of a single whole, the ecosystem, in the case of culture, human culture, global culture, ethnic culture and national culture are related to each other in the sense of the general and the individual. Logically speaking, it is not the case that the sum total of all the individual parts adds up to the general whole; the rise and fall of an individual culture does not necessarily have any direct impact on the rise and fall of human culture in general. The issue of note here is what value the rise and fall of an individual culture has for humankind. In the case of nature, the function played by biodiversity in conserving the global ecosystem is widely debated. Should it not be possible to discuss in similar terms the effect of cultural diversity on human culture in general?

The effects of cultural diversity

The loss of a specific individual culture may occur whether the people who built up that culture desire it or not. Culture does not have to be forcibly disposed of through war or conquest. It may no longer fit into a society that has undergone changes in lifestyle, or it may have come to be seen as outdated. In such cases, culture may be easily disposed of, and here we can assume that the culture in question has lost its value, at least for the people who are disposing of it. But the issue of whether the loss of the value of the culture in question to the people in question is mirrored by an identical loss of value for humankind is quite separate. This requires us to consider the effect of diversity in human culture.

While it is possible that the existence of diverse regional cultures and ethnic cultures enrich the country and national culture in which those diverse cultures are found, there is also the possibility that such cultural diversity may function as an obstacle to the unity of the national culture. There are, after all, many cases in which the differences between ethnic culture and national culture cause stumbling blocks to consensus formulation and the establishment of peace and order in all locations around the world. Indeed, in practical contexts, the diversity of culture seems to work in a negative direction.

But surely local culture and the public culture of a single nation have been built up in order to sustain the existence of the people who live in the region or nation in which the culture is located, as an aggregate of all the interactions woven between humans and nature in that region or nation. Seen from the singularity of humankind as a species, these diverse cultures are surely the result of regional 'mutations', adaptations to differences in the natural environment. The spread of that adaptation may be by force, through conquest or oppression, or by acceptance, with the people of that region actively wishing for it. If this expansion, translation, and transmission takes hold long term, it is an indication that the relevant way of life has become incorporated into the lives of the people in a wide region. There is nothing to lament here, nothing to criticize.

But still, that does not mean that all ways of life of all humans on the globe will or should eventually converge into one. Unlike other animals, culture mediates the adaptation of humankind to nature; humans do not, therefore, need to respond as quickly as animals to changes in the natural environment. However, the various ways of living that have been built up in diverse natural environments will inevitably contain many elements that cannot be easily integrated into a single whole. This is something that comprises the collection of knowledge and innovation spun from the exchange and experience between human and nature.

Thinking in this way, the diversity of culture is not a reflection of the wealth of single ethnic cultures and national cultures, but rather of the wealth of partial mutations that develop on the platform common to all humankind. In terms of adaptation to the natural environment, while this is something that animals and flora have responded to through species variability, humans have responded with cultural diversity while maintaining species uniformity. As

such, the significance and effect of diversity among biological entities on the global ecosystem and the effect of diversity in human culture on humankind are, strictly speaking, structurally different. However, the seeds of adaptability to unpredictable environmental changes, noted as one of the effects of biodiversity, should be retained as much as possible; this significance also applies to diversity in culture.

Human culture has a further significance in addition to adaptability to environmental change, namely as the basis for new creativity. In the present day, while it is true that cultural diversity has caused a number of problems, we should not allow that to lead to the short-sighted conclusion that all global culture should be integrated. We need to debate the effects of cultural diversity in the context of the future of humankind.

In 1985, the anthropologist Geertz wrote, in his conclusion to an essay on cultural diversity, that "the uses of cultural diversity, of its study, its description, its analysis, and its comprehension, lie…..along the lines of defining the terrain reason must cross" (Geertz 2000: 83). This is an extremely abstract conclusion, but the "terrain reason must cross" may be related to the potential to adapt to unpredictable environmental changes and new creativity. To think of culture as a resource is nothing more than such an approach toward the future, and its starting point is thinking about culture as something that belongs to (and is for the benefit of) humankind. Cultural resource studies is an academic field that, while being aware of the effects of local culture and public culture, takes as its fundamental viewpoint the notion of culture as global commons. It is a field that seeks to study cultural activities from the past and those geared toward the future.

Notes

1) The anthropologist Moriyama (2007) has discussed the significance of looking at culture as a resource in terms of *who* turns *whose culture* into a resource for *whose purpose* and *as whose culture*. Moriyama concludes that focusing on the topic of culture being made into a resource reveals clues to the political dynamics of the actors involved in this change. Moriyama uses the example of Madagascan burial rites, identifying political intention in the way the colonial government attempted to shift those customs from the actual practitioners, the Merina tribe, to the Madagascan people. The politics focus on whether the cultural practice of a single burial custom should be considered and treated as local commons or public commons, both of which are discussed later.
2) Citations here are based on the Law for the Protection of Cultural Properties, Act. No. 7, March 30, 2007, as published on the website of the Agency for Cultural Affairs of Japan. The Law for the Protection of Cultural Properties was enacted in 1950, and was subsequently amended a number of times. The reference to "Groups of historical buildings" was added in the 1975 amended, while "cultural landscapes" were added in 2005. See Kagami (2010: 186-189).
3) Debate on whether culture can be considered a type of commons is taking hold in Japan. See Yamada (2010). The catalyst was the increasingly frequent occurrence of social problems related to the Copyright Law of Japan.
4) For the various definitions of commons, see the outline given in Yamada (2010: 19-25).

References

Akimichi, Tomoya. 2010. *The International History of Commons*. Iwanami Shoten.

Kagami, Haruya. 2010. *Key Concepts: Culture*. Sekaishisosha.

Geertz, Clifford. 2000. The Uses of Diversity. In: Geertz, Clifford. *Available Light: Anthropological Refelctions on Philosophical Topics*. Princeton: Princeton University Press.

Moriyama, Takumi. 2007. How to Use Cultural Resources: The Resoursification of Culture in Colonized Madagascar. In: Yamashita, Shinji (ed.). 2010. *Culture as Resource*. Tokyo Shuppan.