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CONTENTS PAGES

| | |
|---|-----|
| EDITORIAL | 5 |
| RESEARCH - PARTICIPATORY RESEARCH IN ARCHAEOLOGY. LEGAL ISSUES AND GOOD PRACTICES | |
| A. Olivier Socialising heritage: polity and praxis | 9 |
| G. Tully Skills, ethics and approaches: an introduction to 'the basics' of participatory archaeology | 35 |
| A. Castillo Mena Participative processes in cultural heritage management. Methodology and critical results based on experiences within the Spanish World Heritage context | 61 |
| B. Wilkins A theory of change and evaluative framework for measuring the social impact of public participation in archaeology | 77 |
| G.P. Brogiolo, A. Chavarría Arnau Archaeology for local communities in Northern Italy: experiences of participatory research in an adverse legal framework | 101 |
| F. Pinna Archeologia e costruzione partecipata dell'identità locale: percorsi di archeologia di comunità in Sardegna | 123 |
| S. Thomas Doing public participatory archaeology with "difficult" conflict heritage: experiences from Finnish Lapland and the Scottish Highlands | 147 |
| F. Benetti, C.P. Santacroce In the public interest? Archaeological research, permits and public participation in Italy | 169 |
| K. Möller Will they or won't they? German heritage laws, public participation and the Faro Convention | 199 |
| R. Karl Authorities and subjects? The legal framework for public participation in Austrian archaeology | 219 |

M. Rizner Participatory research in archaeology in Croatia: between law and practice 257

L. Delgado Anés, J.M. Martín Civantos The legal framework of cultural landscapes in Andalusia (Spain): limits and possibilities of public participation from an archaeological perspective 269

K.A. Pyburn Archaeology by, for, and about the public 291

BEYOND THE THEME

E. Zanini Trama e ordito di un territorio: un esperimento tra (micro) *Big History* e archeologia pubblica a Vignale di Maremma (Toscana) 303

C. Citter From roads to mobility. A theoretical framework and a case study to investigate the medieval connections network 325

F. Sogliani, D. Roubis The discovery of the monastic settlement of Jure Vetere (S. Giovanni in Fiore, Calabria, Italy): a multidisciplinary project of landscape archaeology 343

RETROSPECT

T. O’Keeffe The archaeology of Ireland’s long middle ages: retrospective and prospective 365

PROJECT

L. Band CITIZAN 2015-2018 and 2019-2021, a community archaeology project past and future: successes, challenges, potential solutions 399

REVIEWS

S. Rippon, *Kingdom, Civitas, and County. The Evolution of Territorial Identity in the English Landscape* - by **G.P. Brogiolo**

W. Scheidel, *The Science of Roman History: Biology, Climate, and the Future of the Past* - by **M. Fecchio**

A. Izdebski, M. Mulryan, *Environment and Society in the Long Late Antiquity* - by **M. Rottoli**

M. Marinato, *Alimentazione, salute e mobilità della popolazione in Italia settentrionale tra IV e VIII secolo. Approcci bioarcheologici* - by **P.M. De Marchi**

V. Amorós Ruiz, *El Tolmo de Minateda en la Alta Edad Media. Cerámica y Contexto* - by **J. Sarabia**

B. Lefebvre, *La formation d’un tissu urbain à Tours. De l’amphithéâtre antique au quartier canonial* - by **M.-A. Causarano**

A. Chavarría Arnau, M.-A. Causarano (eds), *La memoria culturale dell’Oltresarca trentino. Paesaggi, persone e storie di pietre* - by **V. Higgins**

Lara Delgado Anés, José María Martín Civantos*

The legal framework of cultural landscapes in Andalusia (Spain): limits and possibilities of public participation from an archaeological perspective

This article addresses the issues of management and participation in cultural landscapes. The intention is to ascertain how they are conducted and to identify in which conceptual and normative contexts archaeologists should act in their approach to putting into practice a participatory model. This paper advances that this cannot be initiated uniquely from archaeological, or even heritage or cultural, practices. Environmental factors and natural values are essential and have often prevailed over more integrated conceptions of coevolutionary processes between humans and the environment.

Keywords: cultural landscape, management, participation, landscape archaeology, legal framework

Questo articolo tratta della gestione e della partecipazione nell'ambito dei paesaggi culturali, con l'intenzione di verificare come siano condotte e accertare in quale contesto contattuale e normativo gli archeologi operino per attuare un modello partecipativo. L'articolo evidenzia come questo non possa avere inizio unicamente da pratiche archeologiche, o culturali, o comunque legate al patrimonio. Fattori ambientali e valori naturali sono essenziali e hanno spesso prevalso su concezioni più integrate di processi antropici e naturali co-evolutivi.

Parole chiave: paesaggio culturale, gestione, partecipazione, archeologia del paesaggio, quadro normativo

1. Introduction

The choice of this subject stems from the accumulation of experiences gathered during the development of two research projects: MEMOLA (www.memolaproject.eu, Delgado Anés 2017) and more recently of REACH (www.reach-culture.eu). Over the last decades, the notion of landscape has become a key term for different disciplines. In the present case, the starting point is Landscape Archaeology, a specialisation that is part of a process of epistemological changes that has run in parallel with the advent of new questions and the development of issues as to our own practices as scientists (Martín Civantos 2016 and 2018).

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The inclusion of landscapes into the concept of heritage has generated the need for new legal and management tools of great complexity that have not always properly resolved the problems linked to conservation and protection. Landscape management is carried out in a legal and administrative framework where natural and cultural heritage are clearly differentiated and marked by a disconnection between theory and execution. This study therefore attempts to present a global vision of the regulations that allows us to determine the context of management, conservation and participation in Andalusia. Yet it is crucial to specify that there are many widely dispersed regulations that affect different entities.

A concern emerged in the USA as far back as the end of the 1960s as to the treatment of archaeological heritage and how to include it within the policies on territory and environment. This led to the development of new theories in archaeology. The USA also offered the first example (1853) of protection of a heritage site and its landscape: the tomb of Washington and its surroundings at Mount Vernon. The following list of protective measures extended an interest in heritage to other historical periods. The *Antiquities Act* of 1906, for example, ratified the notion of a 'National Monument' applied to historical and natural elements. The National Park Service was created 10 years later to manage natural parks and historical sites. The enactment of the *Historic Sites Act* of 1935 and the *National Trust for Historic Preservation* of 1949 were the first to involve communities in managing historic sites. Subsequently, the 1970s and 1980s saw the development of legal frameworks for the protection of archaeological heritage within environmental and public works policies. These included the *Reservoir Salvage Act* (1960), the *National Historic Protection Act* (1966) and the *National Environmental Policy Act* (1969) (Neumann, Sanford 2001; Fernández García 2010; Almansa Sánchez 2013).

These types of initiatives arrived in Europe with different levels of intensity as heritage management adapted to the archaeological and legal traditions of each country. In the case of Spain it was imbued with theories stemming from Italy, such as an initial unification under the same block of the right to enjoy historical heritage and the conservation of the environment. It appears in this manner in articles 44, 45 and 46 of the *Spanish Constitution* (1978). Yet despite these regulations, as will be exposed in the following pages, the issues of the protection of the environment and historical heritage in Spain are addressed by regulations deriving from different legal systems (Rodríguez Temiño 1998; Fernández Cacho 2007).

2. Regulations and categories of international landscape protection

The notion of landscape as heritage is complex. It represents the relationship between society and nature and is linked to very different regulatory frameworks. Understanding the evolution of the regulations requires backtracking to the *Federal Law* of 1872 in the USA on the protection of natural areas and the creation of Yellowstone National Park, the first of its type in the USA. The number of agreements and proposals with the objective to conserve natural landscapes has multiplied since then giving rise to different concepts with similar characteristics. This study, nonetheless, focuses on the current context. There are basically three international organisations yielding regulations and procedures that, in spite of their different approaches and effect on other bodies and administrations, have concentrated on landscape: UNESCO, the International Union for Conservation of Nature (IUCN) and the Council of Europe.

Different concepts began to be defined since 1933 until the general assembly of the IUCN in 1994 determined the association of the protected area with natural and cultural resources (Dudley 2008). Six categories were established including one or more landscape typologies. These categories were adapted to the context in order to maximise the possibilities of their conservation. Yet, only the categories of terrestrial landscapes and protected areas make reference to a landscape resulting from the interaction of humans with nature. In other cases, the natural tends to prevail and more conservationist visions limit at different levels the resources managed by the inhabitants of the local communities. Conservation of landscapes from this perspective can lead to conflict that is aggravated when carried out behind the backs of the local inhabitants who managed the territory before its declaration as a protected areas, as it happens in Sierra Nevada (Spain).

At the international level we find other means of protection such as UNESCO's *Convention concerning the Protection of the World Cultural and Natural Heritage* of 1972. In 1992, the World Heritage Committee approved a revised version of the *Operational Guidelines for the implementation of the World Heritage Convention*. It was the first international legal instrument to recognise the notion of cultural landscape (Orejas Saco del Valle, Ruiz del Árbol 2013). This *Convention* defines the cultural landscape as "cultural properties representing the combined works of nature and of man [...] illustrative of the evolution of human society and settlement over time" (Article 1). These include three categories: designed landscape and created intentionally by man, organically evolved landscape (living or fossil) and associative cultural landscape. It was rat-

ified in Spain in 1982 and currently within the list in the category of cultural landscape are Aranjuez (2001) the Sierra de Tramontana (2011), the Pyrenees - Monte Perdido (1999) and Ibiza (1999).

In 2002, the Food and Agriculture Organisation (FAO), 30 years after the *Convention*, initiated the *Globally Important Agriculture Heritage Systems (GIAHS)* project with the aim of creating a new category of World Agricultural Heritage within the UNESCO's World Heritage List. It included outstanding examples of the use of the land, its biodiversity, its evolution throughout history, its process of adapting to the environment and its resorting to traditional techniques of resource management (Silva Pérez 2008).

The year 1992 also saw the signing of the *Mediterranean Landscape Charter*, adopted in Seville by the regions of Andalusia (Spain), Languedoc-Roussillon (France) and Tuscany (Italy), with the objective to make the public aware of the importance of landscapes and the necessity to reconcile economic and social activity with the environment and its natural and cultural heritage. This initiative recognised landscape as a fundamental heritage resource of culture and represented the first step toward adoption of the *European Landscape Convention* in 2000.

In 1995, the Council of Europe approved the *Recommendation on the integration of cultural sites into the landscape*, which states that landscape has a triple cultural dimension: 1) it characterises a social group of a territory, 2) it reflects the relationships between humans and the environment, and 3) it contributes to the development of local traditions. Within these landscapes are cultural sites, which in addition to being cultural heritage, are formed by elements of landscape that require particular legal protection. This recommendation calls for an interdisciplinary approach to identify and evaluate landscapes and relies on the participation of the local communities.

The notion of cultural landscape within the more global idea of cultural heritage was once more introduced into European regulation in 1999 through the *European Territorial Strategy* of the European Commission. Point 154 of this regulation is particularly compelling as it dictates that the deterioration of landscapes in certain cases is due to the abandonment of the traditional exploitation of its natural resources.

The following year (2000) saw the first specific international treaty, the *European Landscape Convention (ELC)*, approved by the Council of Europe in Florence. It came into effect in 2004 and was ratified by Spain in 2007. Moreover, it led to the development of the Spanish *National Cultural Landscape Plan (2012)* with the objective to promote protection and management of landscapes, as well as to raise society's level of awareness and training. This represented a move away from the notions

of value content or exclusivity of protection (as proposed by the UNESCO or the IUCN) to an emphasis on the individual character of each landscape and its temporal and historical dimensions taking into account simultaneously its natural and cultural elements.

Adoption of the ELC treaty in Spain led to a great quantity of qualitative changes as will be exposed below. It promoted regulations at both national and autonomous community levels. It is founded basically on two principles: landscape as a living space for people and as an element of cultural identity for each society (Zoido Naranjo 2002; 2010; 2012). The ELC stresses that an essential element for considering landscape as heritage is the need to bolster the relationship of the population with its territory (Silva Pérez 2009). Castillo Ruiz (2015a) maintains that the ELC definition of landscape is the conceptual framework extended internationally in which cultural landscapes are another type of landscape. Moreover, UNESCO has characterised cultural landscapes as heritage assets, as it is also reflected in the Spanish legislation related to heritage. This therefore poses two ways of viewing cultural landscape: 1) as a territorial heritage asset or 2) as another landscape. This leads to confusion in their regulation.

3. Regulations and civic responsibility

In addition to the explicit recognition of landscapes and their categorisation, this study is interested in referring to international regulations that show a greater focus on local communities, both in their traditional practices, considered intangible heritage, and in the promotion of spaces so as to involve them in their management.

In this respect, these are in fact recent regulations and recommendations. Moreover, the *International Charter for the Protection and Management of the Archaeological Heritage* (1990), in the framework of the *International Council on Monuments and Sites (ICOMOS)*, states that protection by archaeological techniques does not suffice and the approach must be carried out from a multidisciplinary perspective including the participation of local communities (Article 2 and 6). Two years later, the *European Convention on the Protection of Archaeological Heritage* (Valletta Convention, 1992) was approved and ratified by Spain in 2011. Despite appearing later than that of ICOMOS, its references to the public participation in archaeological heritage are limited to awareness and education.

There are also references in the sphere of environmental legislation to the role of humans in maintaining these landscapes. This is the case

of the UN *Convention on Biological Diversity* of 1992. Article 2 specifies that the laws of the different countries must respect, preserve and maintain the knowledge and practices of traditional indigenous and local communities, as they are relevant to the conservation and sustainable use of biological diversity.

Provisions and declarations centred on protected areas and indigenous peoples have seen a recent boom. This is the case of the *World Congresses of Nature, the Program of Work on Protected Areas* of the *Convention on Biological Diversity*, as well as the *UN Declaration on the Rights of Indigenous Peoples*. These state that protected landscapes must in fact take into account the traditions and knowledge of territory and natural resources of local populations. Yet a large percentage of these spaces stem from administrative decisions that did not consider the local communities. Today, more in theory than in practice, there is a tendency to focus on having discussions with the different agents so as to come to joint decisions on how these spaces should be delimited and managed.

There are, however, cases of conservation that have emerged from the initiative of local populations. They are labelled “governance by indigenous peoples and local communities”. The terminology on local governance is still in development and differs from country to country. Some are called *Indigenous and Community Conserved Areas* (ICCAs). ICCAs can correspond to other types of protected areas and in certain cases are recognised as part of the conservation planning strategies, complementary to those protected by the governments. However, most today are not identified or valued in the same way as other protection areas (Dudley 2008). It is nonetheless of interest to highlight these ICCAs as they serve to demonstrate that the conservation of the territory is part of the history and daily life of the local population. It also considers these territories as living spaces of resilience, adaptation and mitigation facing the problem of climate change and governance in nature (as opposed to of nature). It focuses on interests and communal practices to maintain biocultural diversity.

The Council of Europe Framework *Convention on the Value of Cultural Heritage for Society*, held in Faro, Portugal (see *Heritage and Beyond*, 2009) was a meeting designed to approach of the need to socialise and communicate heritage. The convention was ratified by Spain on December 12th, 2018. This convention stems from the right of citizens to participate in cultural life as specified in the *Universal Declaration of Human Rights* (1953). Also of interest in this document is also the concept of Heritage community, introduced for the first time in the legislation. This term refers to the groups or collectives linked to an

asset of heritage in terms of heirs or users, as well as those with a scientific or cultural interest. Article 12, for example, alludes to access and democratic participation in heritage. Article 8, in turn, refers to the environment, heritage and quality of life, and promotes an integrated approach to cultural and environmental policies so as to attain a better balance between the different elements.

Years later, in 2014, the Council of the European Union published the conclusions of the *Participatory Governance of Cultural Heritage* in a report promoting democratic participation, sustainability and social cohesion. Member states also were invited to develop multi-lateral and multi-level governance frameworks in which cultural heritage is recognised as a shared resource, bolstering involvement of different groups.

Since then, the Council of Europe has devoted a large number of reports and accords to the notion of heritage, particularly to the issues of landscape, that include references to participation, such as, the program *Cultural Routes of the Council of Europe* (2010). Given this new and interesting panorama, it is worth enquiring into whether the regulation is having a real impact and if participatory governance or management is really taking place in cultural landscapes. This study therefore intends to address both environmental and territorial legislation and heritage from the national and regional perspectives, to identify how the international recommendations are applied in Spain, as well as how their possible initiatives, if they exist, have led to a more comprehensive management of cultural landscapes.

4. Environmental and territorial legislation in Spain

The following studies serve to define the evolution of protected natural spaces in Spain: Troitiño Vinuesa 1995; Espluga González de la Peña *et al.* 2001; Florido Trujillo, Lozano Valencia 2005; Delgado Anés 2017. These authors refer back to 1916, the year of the first Spanish legislative territorial regulation, that is, the *Law of National Parks*, in the wake of the model designed for Yellowstone in the USA. Moreover, different means of protection have begun to emerge from 1917. Yet improvement of the definitions of the notions of integral reserve, national park and natural area of national interest only date to 1975, after the ratification of the *Law of Protected Spaces*. This law dictates that a natural park is an inhabited and slightly transformed territory where traditional activities and tourism are compatible.

However, their design is fraught with a number of operational problems as they do not limit themselves to following the IUCN typology and

are not endowed with the economic and human resources necessary to assure their management. Shortly after, following the approval of the *Spanish Constitution* in 1978, a transfer of powers to the autonomous communities took place. In spite of the retention of a basic legal code at the national level, each autonomous region added its own rules of development and its own legislation. Silva Pérez (2008) explains that the notion of the natural park was initially inspired by that of French regional natural parks, designed as anthropised territories where agricultural practices are vital to linking the natural and cultural. The problem, as noted below, is the lack of adhesion in Spain to the French model in which the park agency intervenes so as to maintain viable agricultural activities preventing the abandonment of the land, a degrading of the environment and a deterioration of the landscape.

Law 4/1989 on the *Conservation of Natural Areas and Wild Flora and Fauna* was approved about a decade later. The main aspect of this national regulation is the types of categories of protected spaces noted in articles 13 to 17 that espouse a vision of landscape that once again is linked to natural spaces. Only in the *protected landscape* are there references to traditional practices of the local population, albeit in this case, as keepers of the resources and not as generators of the landscape.

Another noteworthy novelty was the introduction of Law 4/1989 in the *Plans for the Regulation of Natural Resources* (PORN in Spanish) as an instrument to manage resources, territories and their species. This plan stems from the idea that adequate management of natural resources is necessary for the protection of a territory. Therefore, this also implies limitations to activities and uses. For their part, the *Master Plans of Use and Management* (PRUG in Spanish), as opposed to the PORN, are more practical tools focusing on the uses of the park's activities and exploitation of areas with their own specific regulations. The downside after the passing of Law of 4/89 is the confusion linked to the application each of these tools (Becerra, Lastra Bravo 2008, p. 16).

There is a commitment among the PORN regulations of 2003 to the integration of cultural heritage with policies of sustainable development. The only example in Andalusia that integrates natural and cultural resources is that of the Natural Park of Cabo de Gata-Níjar (1994) through the concept of eco-cultural values (Fernández Cacho 2007).

In the 1990s, the Council of Ministers promoted a series of recommendations regarding landscape and rural heritage at the national level, a step forward toward a more integrated vision of heritage. Among these, the 1995 recommendation on the *Integral Conservation of Cultural Landscapes* (Orejas Saco del Valley, Ruiz del Árbol 2013) stands

out. Currently, as a result of the transfer of powers to regional governments, a series of new regulations have emerged on the preservation of agricultural spaces. This is the case, for example, with the Law of the Parliament of the Canary Islands 5/1992 (Silva Pérez 2009). Yet in recent years there have been very few cases of a population demanding the conservation of certain areas due to their values of heritage. It is therefore not surprising in the current framework to witness the disappearance of emblematic historical agrarian landscapes due to encroaching urbanisation given the passivity and connivance of local populations and administrations.

A series of laws related directly or indirectly to natural heritage, such as the Law 45/2007 on the *Sustainable Development of Rural Areas*, have been ratified more recently. This law highlights the rural environment in Spain, which accounts for 90% of the territory, as it comprises all the natural resources and a large part of the nation's cultural heritage. Among its objectives is the protection and conservation of both natural and cultural heritage and resources. Law 42/2007 on *Natural Heritage and Biodiversity* also was enacted in 2007 with the aim, among others, of developing and updating the Spanish inventory of natural heritage and biodiversity. Tolón Becerra and Lastra Bravo (2008) explain that this inventory collects traditional knowledge related to natural heritage. It also highlights the necessity of ensuring information and participation of the population in the design and implementation of public policies (Article 2). Article 8, furthermore, clarifies the existence of a body of public participation formed by local entities who possess a voice but no vote.

The year 2007 also saw ratification of the *Network of National Parks* (Law 5/2007) establishing the basic criteria for their management in Spain. It argues that there are landscapes, that is natural spaces of great ecological and cultural value, which deserve to be considered as national parks that stem from the historical interaction between humans and the territory. Among the objectives is that of encouraging collaboration with society to meet the objectives of each national park (Article 2). It also proposes resorting to patronage as an organ of the participation of society. However, in the case of Law 45/2007, this type of participation remains at the level of consultation, once again without the right to vote.

New legislation (Law 30/2014) on *National Parks* and their networks approved in 2014, comprises an updated legal regime to ensure their conservation and coordination. Curiously, in this case the concept of National Parks is defined as natural spaces of high ecological and cultural value, with little regard to the signs and transformations of human activity. These spaces theoretically cannot serve for agriculture, forestry or

hydraulic power. Meanwhile, the law specifies that traditional practices are essential to management and have shaped the landscape, allowing modifications that are compatible with the park's objectives (Article 33).

4.1. *Environmental regulations of Spain's autonomous community of Andalusia*

At the level of the Autonomous Community of Andalusia, there is a wide range of other regulations including the *Inventory of Protected Natural Spaces of Andalusia* and additional measures for its protection in 1989, the *Territorial Planning of the Autonomous Community* of 1994, as well as the *Regulations and development of Natural Monuments in Andalusia* of 1999 and 2001. So as not to stray in the complex and vast legal and normative panorama, this study focuses on the Law of 1994 labelled *Ordinance of the Territory of Andalusia*, that serves as the source of two plans: the *Plan for the Regulation of the Territory of Andalusia* (POTA in Spanish) and the *Plans for Territorial Planning at the Subregional Level*.

The POTA of 2006 was advanced as a frame of reference to facilitate the development of integrative heritage management policies that articulate the territory. POTA also introduces the concept of "territorial heritage" integrating nature, culture and landscape. Yet the regulation does not explicitly cite agrarian spaces (Silva Pérez 2008).

Later, the *Strategy of Andalusian Landscape* was published (2012) seeking to attain a pact on this matter. Its two main objectives are 1) to integrate the landscape in all the policies of the *Junta de Andalucía* through shared actions coordinated by its ministries, and 2) involve public administrations, economic and social agents, and local populations. This same year, as a result of this framework, saw approval of the *Environment Plan of Andalusian Horizon 2017* with the objective to be the main planning tool for Andalusia's environmental policy.

The typology of protected natural spaces is confusing and varied since the creation of the different autonomous communities. In fact, each has developed its own laws and has added new regulations (up to 40) to the four basic categories of protected natural areas defined at the national level. The Observatory of Protected Spaces EUROPARC-Spain (www.redeuroparc.org/observatorio) explained this in 2009. In Andalusia, the Ministry of Environment and Territorial Planning includes 13 measures of protection within the Network of Natural Protected Areas of Andalusia (RENPA).

This wide range of measures of protection are nonetheless inefficient from the management standpoint. Andalusia, in fact, has 242 protected

areas corresponding to about 3 million hectares that apply one or more protection regulations. In addition, although these are recent documents, there are few references to the local populations' participation and their involvement has been limited to advisory bodies.

Moreover, from a theoretical point of view, there also is the issue of whether environmental and territorial legislation is more prone to establish participatory spaces than that of cultural heritage. Hence, for this and other issues related to cultural landscapes, this study now focuses on these types of national and autonomous region regulations.

5. Spanish heritage legislation

The *Law on Archaeological Excavations* approved in 1911 is a type of heritage legislation that has led to the emergence of numerous regulations (Delgado Anés 2017). Yet the inclusion of the idea of landscape in heritage policies is recent and motivated not only by theoretical advances, but also by other factors such as risk, environmental and landscape deterioration, and the consideration of landscape as an economic good (Zoido Naranjo 2002; Pérez 2009). In the case of Spain, a singular action was the transfer in 1981 of the tutelage of historical-cultural heritage and its management to the independent autonomous communities.

The *Law of the Spanish Historical Heritage*, ratified in 1985, extends the assets of historical heritage to include natural sites, gardens and parks. Also of interest are the references to two entities of heritage linked to territory: historical sites and archaeological zones. These suppose that for all sites declared to be *Bien de interés cultural (BIC)* (assets of cultural interest), the protection of their territory and also their natural heritage must be taken into account as a first step.

Law 16/1985 also granted the national government's administration the power to adopt measures that facilitate collaboration between different public entities. Hence, since the second half of the 1980s, the Institute of Cultural Heritage of Spain, part to the Ministry of Education, Culture and Sports, has published a series of specific national plans. The objective was to develop a program and method adapted to the requirements of each site, and since 2010, the selection of plans with a more transversal profile (Delgado Anés 2017). This led to, among others, the *National Plan of Cultural Landscape* (2012), and different definitions linked to the evolution of this concept, and concludes by explaining that cultural landscapes are "... the result of the interaction over time of people and the natural environment leading to a territory perceived and valued for its cultural qualities, a product of a process and support of the identity of a com-

munity" (p. 25). A highlight within the *National Plan* is the section on landscape and society, which deals with their relationship and insists on the need to bolster awareness and the social significance of landscape conservation and management. The plan, besides identifying landscape as a social and economic resource, also insists on its symbolic value, as well as a population's sense of belonging to a territory and its cultural traditions.

5.1. Regulations in Spain's autonomous community of Andalusia

Since the 1990s, the different Spanish autonomous communities began to adopt laws of regional protection and management. Andalusian Law 1/1991 of *Historical Heritage*, for example, led to the ratification in 2007 of the *Historical Heritage of Andalusia* which introduced a number of different measures of protection. Many of these refer to the relationship of heritage to territory. In fact, the concept of a "heritage zone" is integrated into a system comprising different goods and values. As pointed out by Fernández Cacho (2010), a "heritage zone" is a tool through which the cultural administration of Andalusia applies criteria set out by the European ELC. However, it is not possible to establish a correspondence with the notion of cultural landscape because it does not contain landscape and environmental values. These also include the concepts of cultural sites and cultural parks.

Despite the fact that this law does not count on the specific aspect of cultural landscape, the Andalusian Institute of Historical Heritage (AIHH), specifically the Laboratory of Cultural Landscape, has paved this path by identifying and characterising cultural values of Andalusian landscapes in order to propose actions for its management and maintenance. The findings of this project led to the development of a series of recommendations on its status and a list of landscapes of cultural interest in Andalusia that remains open (Fernández Cacho *et al.* 2010). A *Cultural Landscape Program* was also drawn up, based on POTA. In this sense, the Andalusian cultural landscape was subject, yet only partially, to territorial and urban planning. Different lines of action were established from the integration of landscape in the *System of Territorial Heritage of Andalusia* (SPTA), the organisation that promotes the landscape policies. The SPTA also seeks to facilitate the joint management of cultural and natural heritage to avoid isolated sites devoid of territorial connection (*Cultural Landscape Program* 2005).

Specifically, the *Junta de Andalucía* drafted a *Guide to the Cultural Landscape of the Ensenada de Bolonia* (Cádiz) (2004). It highlights the need to deepen knowledge of both rural and urban Andalusian cultural

landscapes, as well as the development of criteria for their analysis, protection, intervention, conservation and use. It is a fine example of analysis, diagnosis and action proposal on one of Andalusia's most unique landscapes from the management perspective. It follows three fundamental lines: 1) territory from the geographical point of view; 2) the perception of the space by its local population, visitors and institutions; and 3) the anthropic activities throughout history. This guide also proposes actions for better maintenance in areas such as cultural resources, protection and improvement of the physical environment, infrastructure modernisation and territorial planning (Fernández Cacho 2010).

6. Discussion

Currently the management of landscapes and use of land are represented by a combination of different demands and interests linked to agriculture, forestry, livestock, conservation of nature, conservation of cultural heritage, archaeology and local populations. It faces a series of challenges where different models of protection and management have been developed with a greater or lesser degree of effectiveness.

The conclusion that landscape is an object of study and protection, as well as of a cultural product resulting from a historical relationship between humans and the environment, is attained from two different points. The first stems from the environment and is represented fundamentally by the North American tradition that places an emphasis on natural heritage. The second, in turn, stems from the European concept of cultural heritage and from there identifies and integrates the environment influenced, among other things, by different disciplines such as Geography, Archaeology or Museology (Delgado Anés and Martín Civantos, 2016). In this sense, the evolution of the idea of cultural landscape itself is complex and multidirectional. UNESCO and other institutions such as the National Park Service have, in fact, proposed classifications that have not been received with unanimity.

How heritage is defined or what its definition contains is significant as it will be incorporated, or not, in the regulatory documents and policies of conservation and protection. Recent decades have seen an increase in interest in both the academic and administrative spheres in natural and cultural heritage, and in proposals for the integration of both. There are basically three international organisations that are fundamental to the current framework serving as the basis for national regulations. These are the IUCN, the UNESCO and the Council of Europe; each have

yielded regulations and procedures from different approaches while always focusing on landscape.

Regulations containing integrative proposals have at times been ambitious in theory, yet have not put their reflections into practice. There is, for example, the case of the biosphere reserve that originated within the MaB (Man and Biosphere) program that originally intended to integrate environmental and cultural aspects. Yet currently there are few instances that combine each of these types of heritage. Spain is only represented by the sites of Sierra de Grazalema (1977) and the Dehesas de Sierra Morena (2002).

In fact, the notion of cultural landscapes is not included as such in all recent regulations, but is rather part of proposals and recommendations. The *Junta de Andalucía*, for example, promoted the Cultural Landscape Guide in 2004 for the Ensenada de Bolonia (Cádiz), a site, however, that was not included in the law of 2007.

The definition of cultural landscape advanced by the ELC, as noted previously, considers that all territory is landscape and that every landscape expresses heritage values. In this framework, it is compelling to consider the issue brought up by Zoido Naranjo (2012) on how to reconcile policies of heritage (and here environmental policies can also be included) that are mainly of a conservationist nature with the daily life of those landscapes and their local populations. Hence, is it feasible under current regulations to protect the entire territory? To answer this and other queries one has to take into account that there are numerous protected areas. From the standpoint of the environment alone there are several measures of protection that combine the same space. This is the case in Andalusia where this combination applies to 242 protected areas. To this number can be added certain heritage cases. This complexity supposes a greater difficulty for territorial management and local populations often view this tutelage as a hindrance. The inhabitants of these spaces often retain a negative perception of these measures as they see them as an obstacle to development and growth. Frequently these measures are not accompanied by specific programs of communication and awareness or sufficient means of compensation. Moreover, as noted, processes of participation are practically absent even among regulations in which they theoretically appear. In most cases participation is limited to consultation or to councils with a voice but no vote.

Given this situation, we deem that it is necessary to establish a clear classification containing cases that integrate natural and cultural heritage, involvement and support by local populations that maintain the spaces, and that count on tools and financing for management. This

| International | | |
|--|--|---|
| IUCN | UNESCO | European Council |
| Strict Natural Reserve Wild natural area National Park National monument Habitat/species management area Protected terrestrial and marine landscape Managed resource protected area Indigenous protected area Landscape conserved by local communities | Cultural landscape Agricultural landscape | Cultural sites Cultural landscapes |
| Spain | | |
| Law 4/89 | PORN-PRUG | Ley 16/1985 |
| Parks Natural Reserve Natural Monument Protected landscape | Ecocultural | Historical site Archaeological zone |
| Andalusia | | |
| Law 2/1989 | POTA | Law 14/2007 |
| National Park Natural Park Peri-urban Park Natural Expanse Protected Landscape Natural Monuments Natural Reserves Protected nature reserves Protected spaces of the Natura 2000 network Specially Protected Areas of Mediterranean Importance Biosphere reserves Ramsar sites Geoparks | Territorial Heritage | Heritage zone Cultural spaces: groups and cultural parks |

Tab. 1. Measures of protection linked to territory (Delgado Anés 2017).

would lead to a cultural landscape management process that conciliates daily life with its agrarian and traditional practices.

Heritage legislation includes Law 16/1985, which pertains to territory as a historical site or an archaeological zone. At about the same time, the IUCN established management measures that are more flexible as to the local communities that inhabit these sites. Yet, these measures did

not explicitly include cultural heritage in the definition of protected space when referring to cultural resources until 1994.

Practical changes require time and, in addition, the means and personnel to carry them out. This expansion over time is considered, as are the consequences and reflection on the late introduction of measures of cultural landscape among the recommendations and regulations of protection. As noted, the UNESCO, did not introduce these measures until 1992, and from a heritage perspective, the IUCN also did not directly include them. The idea of heritage in Andalusia, as pointed out by Fernández Cacho (2010), is that it serves as an instrument for the cultural administration of Andalusia to apply ELC criteria. However, it is not possible to establish a correspondence with the case of cultural landscape, as it does not encompass landscape and environmental values.

With regard to environmental regulations, the trend is toward the natural without recognising the anthropisation of these landscapes. The only mention of the IUCN is the measure referring to *terrestrial landscape* and *protected area*. This highly naturalistic conception is a handicap for the management of these spaces because the environmental and territorial legislation of Spain and Andalusia is based on the proposals of this body.

This study also has detected inconsistencies between regulations on national parks. The law of 2007 dictates that this type of landscape results from the historical interaction of humans and a territory. Law 30/2014, by contrast, defines it as a natural space with only slight or no transformation. Moreover, this last law also comprises confusing regulations among its points. Article 2, for example, forbids agricultural, forestry and hydraulic activities while Article 33 states that traditional practices are necessary to the territory's management.

The IUCN, in turn, proposes more conciliatory measures between the issue of management and the local population that include their participation in the protected areas. These measures are entitled *Indigenous protected area* and *Landscape conserved by local communities*. This is surely not so much a matter of considering them as historically anthropised spaces, but a conceptual shift that is affecting policies following the need to accommodate local populations.

Protected spaces normally derive from a decision-making process of the administration that disregards local populations. The measures adopted by the ICCA recognise the essential role of indigenous and local communities in the management of ecosystems. These measures have not been included in the national regulations of most countries, including Spain, as they represent a change in the way management is currently

carried out. It is striking that Spain does not recognise and incorporate these measures and adapt them to their own characteristics. The ICCA Consortium (www.iccaconsortium.org) recognises that Spain is the nation in Europe with the greatest wealth of areas under communal governance, the result of a long historical tradition of communal management of landscapes and resources.

It is nonetheless important to clarify that the early Spanish environmental laws were not very conservationist. Even today, in many cases the practice is more conservationist than the theory. Initially, for example, the idea of a natural park was inspired by the French Regional Natural Park which opted to promote agrarian practices with links between the natural and cultural based on the idea that these are inhabited spaces characterised by natural, cultural and human wealth. In fact, it is the municipalities of these spaces that have joined and requested, pending approval, to be declared a regional park after drafting a strategic plan.

Landscape management requires the participation of the local public, due to their closeness and personal commitment to their environment. These landscapes are associated with family stories and memories. It must be borne in mind that the public is multi-vocal and has different attitudes, interests and perceptions. Decisions therefore should not be taken without their participation. Moreover, as professionals we must analyse these spaces without ignoring their inhabitants or those who use or have a connection to them. These practical changes take time, as they require means and personnel for their execution. The fact that regulations tend toward naturalisation and do not recognise the notion of anthropised landscapes, as stated before, makes it more difficult for the proposals of governance or participative management to be regulated and enforced.

There are few references in recent national and autonomous community legislation that allude to participation and involvement of the local population. The first tools (*Land Law, Natural Heritage and Biodiversity Law* and *Network of National Parks Law*¹) citing local population participation in the design and execution of public policies or in the drafting and approval of territorial tools date to 2007. In practice these provisions are not having the expected impact as this participation is made known through public information, allegations, claims and complaints.

In fact, most are legal tools meant to serve as mechanisms to inform, consult or make claims. The laws of sustainable development and the

¹ Soil Law (Ley de suelo), Biodiversity and Natural Heritage Law (Ley de patrimonio natural y de la Biodiversidad) and National Park Network Law (Ley de Red de Parques Nacionales).

network of national parks of 2007 contemplate an organ of participation that bears no decision-making power. This last park network legislation conceives of a board that functions as a means of information rather than a means to carry out collective management. Thus, the process is not participatory, but consultative.

Likewise, heritage measures also include theoretical references to the involvement of the public. These include the *International Charter for the Management of the Archaeological Heritage* (ICOMOS) (1990), the *Convention for the Safeguarding of Intangible Heritage* (2003) (UNESCO), the *Convention on the Value of Cultural Heritage for Society* (2005) (CoE) and the *Participatory Governance of Heritage* (2014) (EU Council). Other measures at the state level are included in other national plans. Yet all these references and recommendations are ignored. They mention the positive effect of public participation, or that such involvement should be undertaken in planning, development and evaluation. They nonetheless have not led to the creation of agencies or spaces that facilitate public participation, nor do they offer recommendations on possible tools or techniques. Moreover, the notion of participation is pending application to the new *Law of Historical Heritage of Andalusia*. As noted in its preliminary draft, the law recognises that contributions by the local population in the conservation, diffusion and identification of the historical heritage should go beyond simple denunciation.

This dynamic of declaring an area as protected and managing it without involving the local communities and without taking into account their opinions and knowledge can provoke their rejection as has occurred in the case of sites declared as *Assets of Cultural Interest* (*Bien de Interés Cultural, BIC*). This also generates daily conflicts due to the bureaucratic burden on the populations, as well as problems linked to their control and limits. A living, continuous dynamic territory or landscape can, in fact, clash with approaches designed for more static or fossilised aspects such as monuments, objects, etc.

7. Conclusion

Given the current circumstances, initiation of an effective and practical means of defence and protection of historical territories from a heritage as well as an environmental perspective, as noted by Castillo Ruiz (2015b), requires the development of a series of tools and mechanisms. An integrated approach combining collaboration and coordination between administrations is undoubtedly necessary. For this, as pointed out

by Troitiño Vinuesa (1995) and Silva Pérez (2008), management of protected areas only can be effective when it can count on the local communities to contribute to resolving the most urgent problems and to ensure long-term stability. From an archaeological perspective, two issues must be considered. Firstly is that interest should not be focused on sites that are already subject to protection: there are specific problems and conflicts linked to the local population and their participation in these contexts. In other areas of territory the lack of protection against the depredation of resources and the disappearance of values is even greater. The second is that the historical processes of production and reproduction are those that have led to these cultural landscapes, and that they therefore stem from a coevolutionary process in which cultural factors cannot be separated (material and immaterial) from environmental elements.

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