POLICIES OF MEMORY, POLITICS OF FORGETTING:

A COMPARATIVE STUDY OF SOCIAL MEMORY AND CULTURAL HERITAGE

IN BRAZIL AND THE UNITED STATES

A Dissertation

by

SAMILA PEREIRA FERREIRA

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Chair of Committee,	Luis Filipe Monteiro Vieira de Castro
Co-Chair of Committee,	Thomas Green
Committee Members,	Michael Alvard
	Robert Warden
Head of Department,	Cynthia Werner

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ABSTRACT

The comparative study proposed in this research between German-Pomeranians / Brazil and Native Americans Tiguas / USA, despite the differences in the historic and geographic trajectories, highlights similarities in the effects that contemporary public policies may exert in processes of social memory projection and selection of what will and what will not be recognized as cultural heritage.

In fact, as current discussions in the fields of Anthropology, memory and cultural heritage suggest, remembering and forgetting are two faces of the same coin. Therefore, processes of identity claims, particularly those fostered in the context of tourism globalization and mass culture, may present the risk of oblivion to other less empowered social groups, therefore constituting a threat to the very tenets of diversity.

In this theoretical context social memory and the preservation of heritage references are dependent on contemporary social and political contexts in which remembering and forgetting are negotiated practices, part of heritage and identity strategies of a people. It is from this perspective that I seek to observe the importance of heritage public policies and their effects in the construction of collective memories opposed to the risk of social oblivion.

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1. INTRODUCTION

This dissertation proposes a discussion regarding the processes of construction and selection of social memory and cultural heritage in contemporary claims of cultural recognition. It will be examined the trajectories of two distinct groups, one of German-Pomeranians descendants in São Lourenço do Sul, Brazil, and another of Native Americans Tiguas, in El Paso, Texas. It aims at building a comparative study taking in account the role of public heritage policies and their effects regarding the construction of collective memories and consequent risk of social oblivion of less empowered groups.

The trajectory of the group of German-Pomeranians in southern Brazil begins at the end of the 19th century (1884) with the income of free-labor immigrants to work in agricultural colonies in the region, extending through the period of economic decline of the rural area in the decade of 1960's. In 2005, in order to reinvigorate the self-esteem of São Lourenço citizens, particularly those of the rural area, we start seeing the emergence of public policies towards cultural valorization. These policies sought to create alternatives for improving jobs and income through public-private partnerships, based on cultural resources pertaining the history of immigration, folklore, culture and gastronomy, aiming at strengthening tourism in the region (Figure 1).

Figure 1: Maps with the localization of the study area in Brazil.

On the other side, the trajectory of the Native Americans Tigua group in the American southwest starts at the end of the 17th century, with the movement anti-Spanish domination known as the Pueblos Revolt (1680), passing through the annexation of the Tigua lands into the North American territory, nowadays El Paso, Texas, and extending until the emergence of state and federal recognition policies established in the US legislation starting in the 1960's, when the Tigua envisioned the opportunity to establish a new sociopolitical context and spatiality (Figure 2).

I have dedicated my academic career to this debate, focusing on the group of German-Pomeranians in São Lourenço city, which contributed to the production of my undergraduate monography and master thesis, as well as scientific papers and the participation in conferences (Ferreira, 2008, 2010). In these works, I sought to incorporate theoretical discussions from the field of Social Memory and Cultural Heritage to study the effects of public policies in the relations between heritage preservation and social oblivion.

The study of both groups, despite the differences in the historic and geographic trajectories, highlights similarities in the effects that contemporary public policies may exert in processes of social memory projection and selection of what will and what will not be recognized as cultural heritage, that being of a group, city or country. In fact, as current discussions in the fields of Anthropology of memory and cultural heritage suggest, remembering and forgetting are two faces of the same coin. Therefore, processes of identitary claims, particularly those fostered in the context of tourism

globalization and mass culture, may present the risk of oblivion to other less empowered

social groups, therefore constituting a threat to the very tenets of diversity.

Figure 2: Maps with the localization of the study area in the United States.

Therefore, in Section 2, I sought to contextualize the historic trajectories of both studied groups, followed by, in Section 3, a summarized presentation on the legal frameworks pertaining to public heritage polices in both countries. Section 4 brings to the discussion current theoretical views in the field of Social Memory and Heritage, particularly as regards the sense of heritage, excesses and shortages of memory, and the bearers of memory. Section 5 brings a comparative analysis of both processes of identitary recognition. It considers the effects of contemporary policies connected to cultural tourism, contrasting similarities, differences, and discussing their consequences to the preservation of cultural diversity. Final considerations are presented in Section 6.

Thus, this research is justified by the need to develop practical actions in response to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, as well as to construct a reflexive positioning on the intrinsic problems related to public projects towards heritage and historic memory empowerment, particularly the eminent risk of sociohistorical oblivion of less favored groups.

2. HISTORIC BACKGROUNDS

2.1 German-Pomeranians Group, São Lourenço do Sul, Brazil

The province of Rio Grande do Sul, known as the Rio Grande of São Pedro province during the nineteenth century, developed its economy based on the predominance of extensive livestock, with little need for hand labor and large properties, the latter representing the foundations of its development. Livestock has always been associated with the development of the southern region during the colonial period and later during the Empire. Furthermore, differing from other provinces such as Minas Gerais, Rio de Janeiro and São Paulo, which depended on international demand, the gaucho province dynamics were focused on the domestic market. According to (Osório, 2007: 189-190):

> Despite its small population and having most of its marketable production directed to supply the colonial domestic market, the southernmost Captaincy, in the early nineteenth century, had a more substantial trade, dealing with much higher amounts of money than the former Captaincy of São Paulo, whose main export was aimed at overseas markets. The Rio Grande constitutes, therefore, an example of a recently occupied region quickly integrated to the intercolonial commercial circuits.

Unlike other regions of the country, European immigration in Rio Grande do Sul did not happen in order to replace the slave labor of the *charqueadores*[1] activities but came to create a new relationship of ownership and work ensuring the dominion in the Empire over the territory. In this sense, immigration represented a solution for the government, not for the *charqueadores*, a situation which differs from the case of São Paulo coffee growers as an example (Saviani Filho, 2008).

Even if the province's *charque*[2] oligarchy did not have the same prestige and power than the central oligarchies of São Paulo and Rio de Janeiro, and as such was not able to bar the province colonization project, it still gained concessions regarding the locations for the settlement of future colonies, which would not be in areas that were of interest for livestock. Thus, the land available for colonization was located in the regions of forests, mountains as well as regions populated by Natives.

In this sense, the arrival of European immigrants in the nineteenth century emerged as an alternative that enabled the imperial government to reduce the large landowners' dominance of the territory. The solution being small properties destined for colonization (Anjos, 2002: 2),

> After dominating and economically exploring the plains region, the *charqueadores* and wealthy ranchers (...) turned their interests, in the nineteenth century, to the fertile and rich lands in the forests and mountainous regions, seizing these slowly, with the initial objective of extracting wood and sporadically form small farms, both activities based on slave

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[1] Manufacturer of jerked beef.
[2] Jerked beef.

labor. These, however, will lead to another and more profitable: the formation of immigrant settlements.

Moreover, colonization served as a response to the British government's pressures for the abolition of slavery and the definition of borders. Another point worth mentioning is that, still during the nineteenth century, the Rio Grande do Sul population did not exceed 450,000 inhabitants for an extension of 283,000 km^2. Thus, the lack of skilled labor was cause for concern for the Imperial government, which led Dom Pedro I to choose to encourage immigration especially of Germanic origins, "white and free" (Saviani Filho, 2008: 161).

There were basically three types of colonial settlements in Brazil: colonies settled by governments, companies, and private initiative. "The government ones were implemented by the central, state or the municipal government. From the mid-nineteenth century, a number of private companies held in parallel with the government's colonization".

The pioneers' immigrants longed for the Portuguese colonies in expectation of life improvement at a time of poor living conditions in the post-Napoleonic Europe. In order to attract these immigrants to Brazilian lands, conditions seen as favorable were offered to them, such as payment of the trip (no return, practically and metaphorically speaking), immediate naturalization, religious freedom and the granting of plots of land per family, as well as draft animals, among other benefits. Moreover, as stated by Saviani Filho (2008) they were exempted of taxes payment for a period of ten years.

Such conditions were seen as extremely beneficial to immigrants who left their homeland in an adventure which memory can be recovered through expressions such as "clearing", "cut the forest with machetes," a continuous struggle against a nature seen as wild and inhospitable.

The European context of this period was of total instability with the formation of National States and the transition from a still existing feudal system in the rural areas, to a capitalist system, from communal lands to private lands, leading to the fencing of the fields and the resulting rural exodus. This generated a workforce surplus in the cities against little demand, resulting in lower wages and higher exploitation. With no capacity to absorb this surplus, a solution was to encourage emigration to America.

In relation to the structure of the colonial economy, the migratory movement initiated in 1824 set the southern region of the country apart from the other Brazilian provinces. These colonial areas boosted the region's economy, as some agricultural products were no longer imported and began to be locally produced.

In the south of Rio Grande do Sul, more precisely where today is located the city of São Lourenço do Sul, the arrival of this workforce of European origin was organized by José Antônio de Oliveira Guimarães, farmer and owner of land located on the left bank of the São Lourenço river and the Rhenish immigrant Jacob Rheingantz.

Jacob Rheingantz is known to be originally from Sponheim, the Prussian Rhineland region (German state). Born in 1817, from an early age he started working in a wine house in the Kreuznach region. In 1839 he moved to France to work in a wine house in the Champagne region (Iepsen, 2008: 23).

After his stay in France, Jacob Rheingantz decided to immigrate to the United States to work with his brother. Not having succeeded in the venture because of his brother's death and thus not having achieved his economic goal, Rheingantz decided to immigrate to Brazil and in 1843 arrived in the port of Rio Grande. In this city, as pointed out by Iepsen (2008), he went to work in trading houses and in the export sector, quickly becoming one of the strongest local traders.

In 1854, the Provincial Law No. 304 is enacted, prohibiting the donation of plots of land to immigrants and establishing that the granting of land would be released through sale. Thus, after acquiring capital, Rheingantz devised a colony of European immigrants in the Serra dos Tapes, São Lourenço do Sul region.

Thus, in 1856, Rheingantz signs a settlement agreement with the Empire which sold him eight leagues of unclaimed land in Serra dos Tapes. However, the cost of the contract were high and required that Rheingantz find a partner to continue the project. Even with the recognition he enjoyed in Rio Grande and Pelotas, it was in São Lourenço that he was able to form a partnership with José Antônio de Oliveira Guimarães and in 1857 they signed a partnership contract valid for five years, to carry out the European colonization project in São Lourenço (Iepsen, 2008). On this subject, we emphasize that (Costa J, 1999: 35),

> While Jacob Rheingantz went in Europe to find and send the first immigrants to this land, Oliveira Guimarães prepared the plots for the settlement of the immigrants, hiring the services of the surveyor Carlos Othon Knüppeln, providing them accommodation, arranging transportation to the colonial plots and providing immigrants with

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domestic animals to start their activities. Oliveira Guimarães also obtained funds from third parties in order to finance the project, which was decisive for the settlement success.

In 1850, eight years before the first large-scale arrival of immigrants in São Lourenço do Sul, José Antônio Oliveira Guimarães donated an eighth of a league so that a village would be founded there: "the donor had an amazing vision of the peculiar situation of the Saõ Lourenço river and the Patos lagoon for the development of this region" (Costa J, 1999: 34).

In the desk research conducted for this dissertation, no records that allowed the association of this citizen with activities inherent to the manufacturing of jerked beef were found. However, the farm headquarter belonging to his family bears many similarities to other headquarters of jerked beef farms. An important factor in this case is the location of the farmhouse on the banks of the Patos lagoon and the São Lourenço River, convenient location for the distribution of the production of jerked beef, if any such activity took place there.

According to Coaracy there was already a concentration of people on the left side of the São Lourenço River, however there are no records of who these persons were and what activities they were related to, if they were linked to the river or if they already used it as a natural port for distribution and transportation. As argued by the author, at the mouth of the São Lourenço were the properties of ranchers José Antônio de Oliveira Guimarães and Francisco dos Santos Abreu, "around whose homes stood a few and poor

farms, establishments premises and housing for "farmhands" and aggregates. To this was called the port of São Lourenço" (Coaracy, 1957: 37).

Thus, in 1858, the first immigrants arrived, predominantly from the extinct Pomerania region[3] as well as other regions of Germany[4] and other European countries. The early years of the colony formation in São Lourenço were not exactly as promised, because besides the fact that the land were covered by vegetation and forests, the immigrants had to adapt to housing structures very different from their living habits in their places of origin.

Barracks were built to accommodate the immigrants as well as the installation of a warehouse for the local supply. Over time these buildings were eliminated and the new arrivals of immigrants were distributed in the homes of settlers already installed, and the accommodation paid in cash or services in agriculture.

The colony growth occurred quickly. Before reaching five years, the colony already had approximately one thousand and four hundred and forty settlers. Its production was based on corn, beans, potatoes, butter, smoked meats, poultry, eggs and firewood and the main consumers could be found in the cities of Pelotas and Rio Grande (Coaracy, 1957).

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[3] Pomerania had their political conditions often changed during the consolidation of the German state. It comprises a strip of land that extends from north of Poland along the Baltic Sea and is extended into the Germany in the Mecklenburg region. In 1919, Pomerania was annexed by Poland and remained so until 1939, at the beginning of World War II, when it was taken by Germany. With the end of World War II, its territory was divided between Germany and Poland.
[4] Strictly speaking, we can only reference "Germans" after 1870 with the unification of Germany. In the period of the immigration mentioned in this study, "Germany" did not exist. The territory was divided into independent national units, each with its own dialect.

With the foundation of the immigrants' settlement, the port of São Lourenço became crucial for the development of the colonizing venture. Thus, the pace of prosperity of the port and the village was dynamic with the apparition of homes and warehouses of goods, thus generating an environment of intense movement and flow of people and goods.

Thus, the history of the city of São Lourenço do Sul dates back to the early nineteenth century, when records of the "District of São Lourenço of the village of Rio Grande of São Pedro" can already be found. The first marriages records in the Oratory of São Lourenço located in the resort of the same name, where there were activities of plantations, jerked beef manufacturing and port, are dated from 1800 (Caldas, 2008).

The reconstruction of the history of the city through the material evidence and documentary survey still needs to be better and more extensively studied. Some information and hypothesis are advanced, however, without sources of reference, a situation that undermines the researcher's work. The first known occupation in the lands where today is located São Lourenço do Sul, is where the property of the Portuguese Lieutenant Joaquim Gonçalves da Silva would be located, cattleman and also owner of the land of the currently Camaquã region, on the right bank of the Patos Lagoon (Spalding, 1974).

According to the consulted bibliography, there are references about Joaquim Gonçalves da Silva's marriage to Perpétua Costa Meirelles, daughter of Jerônimo de Ornellas Menezes e Vasconcellos, one of the pioneers of the Rio Grande do Sul populating project. Setting residence in the city of Rio Grande, the couple's children

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would become characters who stood out in the history of Rio Grande do Sul state: Bento Gonçalves da Silva[5] and Anna Joaquina da Silva Gonçalves (Abreu, 2001; Spalding, 1974).

In order to expand the livestock business and demarcate the land ownership, Joaquim Gonçalves married his daughter Anna Joaquina Gonçalves da Silva to José da Costa Santos, resident of the city of Rio Grande and begins the construction of an imposing farmhouse on the left bank of the São Lourenço river. The construction dates from about the late eighteenth century (Abreu, 2001). It is in this context, José Antônio de Oliveira Guimarães appeared and, through his marriage with his cousin, daughter of Perpétua Silva Santos and Antônio Francisco dos Santos Abreu, becomes the owner of the land that later on would be São Lourenço do Sul.

José Antonio de Oliveira Guimarães had the rank of captain and following the suggestions of his friend Domingos José de Almeida, councilor for the Liberal Party in the city of Pelotas and former Minister of the *Farroupilha* Republic[6], he established a strategic development plan for the city of São Lourenço do Sul. The main objectives were: the construction of a road connecting the city of Canguçu to the port of São Lourenço, the creation of a settlement of Europeans immigrants next to that port and between the current municipalities of Boqueirão and Quevedos, situated at about 12 km from São Lourenço do Sul (Caldas, 2008).

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[5] Great owner of land and livestock. He was a political and military leader of the separatist movement of the Rio Grande do Sul state from the Luso-Brazilian Empire. The battle lasted ten years, from 1835-1845. Even today he is regarded as a regional hero.
[6] During the years 1835-1845, known as the period of Revolução Farroupilha, the state of Rio Grande do Sul became independent from the Empire, denominating themselves as República Farroupilha.

Once the Liberal Party dominated the Provincial Assembly Rio Grande do Sul, Guimarães and Almeida achieved their first victory: the budget approval for the road, the Boquerão-Quevedos stretch, which was completed in 1859. The previous year, the company founded by Guimarães and Jacob Rheingantz had initiated the settlement process. In 1860, Guimarães was elected the city councilor and then filed a proposal to move the headquarters of the parish from Boqueirão to São Lourenço, which was approved by the Provincial Assembly in 1861. While the Boqueirão city from the time of wagons and cattle traders were stagnated, in São Lourenço do Sul the money was circulating, the trade of agricultural products, as well as boat traffic, were growing. By the way, this argument was used by the liberal deputy Saturnino Arruda to defend the law approved on April 29, 1876, for the creation of the parish of São Lourenço do Sul (Caldas, 2008: 2).

Thus, in 1858 the character of Jacob Rheingantz shows up; trader from the Rhine Valley region in Germany, who established a settlement company in Serra dos Tapes along with his partner José Antonio de Oliveira Guimarães. The partnership continued during the first five years of the immigrants settlement process (Iepsen, 2008: 102), which has contributed to populate the port area where first stood the urban plant of São Lourenço do Sul.

At the time, these lands of São Lourenço do Sul, belonged to the city of Pelotas and were suitable for the cultivation and trading of agricultural products, result of the work of the workforce brought from Europe. Initially this immigrants settlement achieved significant success compared to others established settlements in southern

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Brazil (often dependent on the support from Portugal) due to the fact that the entrepreneur Jacob Rheingantz, before starting this project, was already established in southern Brazil, having lived primarily in the city of Rio Grande and later in the city of Pelotas (Coaracy, 1957: 38).

Situated at the inlet of the São Lourenço River, on the west bank of the Patos lagoon, the city of São Lourenço do Sul was constituted during the nineteenth century by the activity of immigrants and the movement of boats that distributed the agricultural goods from the immigrants settlement, integrating the city to the shipping lines and trade of the Patos lagoon.

2.2 Native American Group of Tiguas, El Paso, United States

Around 1692, the Tiguas and Piros were among the three permanent pueblos who lived down the Passo River. The Tiguas in Ysleta del Sur and the Piros in Socorro del Sur and Senecú del Sur. These communities had defined territory and rights over the land and water protected by the Spanish Crown. In 1751 the Spanish governor, in order to strengthen protection on these rights, formalized the concession of land donation to the natives of the region that included the Manso and Suma of El Paso del Norte, the Tiguas of Ysleta and the Piros of Senecú and Socorro. Thus, the Tiguas of Ysleta del Sur received the Ysleta Grant that was protected by Spanish law during the period of 1751-1821 (Houser, 2011: 5).

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Rapidly the pueblo of Ysleta del Sur became prosperous and self-sustaining noted for its agricultural productivity such as wheat, corn, beans, squash, grapes, orchards and livestock. In 1773, a Spanish traveler passing through the region wrote the following about this prosperous pueblo: "... in the same direction follows the Mission of La Isleta, abundant in all, with a separate irrigation ditch and a large number of Indians workers, civilized and educated...". The Indian pueblo of Paso contributed to the defense of the border, protecting the El Camino Real (Royal Road), providing informants and helpers for the Spanish forces.

In 1821, Mexico gained independence from Spain, the new nation recognized the rights on indigenous lands and waters which were granted under Spanish sovereignty. However, the Mexican government had serious financial problems and the chaotic conditions prevailed on the borders, threatening the autonomy and rights of indigenous people. Gradually, non-indigenous people began to invade indigenous territory. The invaders then justified their actions by stating that the Indians had a land surplus or that these lands were not used. Sometimes these invaders entered farms or pastures that had been abandoned because the river had changed its course or had destroyed the irrigation system, obstructing accessibility. Some Indians sold their land for cash or exchanged it for cattle and supplies. By law, the land donation to the Pueblo Indians was protected by both Mexican and Spanish governments, and prohibited the sale and transfer of indigenous lands even to another native.

In May 1846 the war between the United States and Mexico started. In late December the victorious American troops entered El Paso del Norte in the city of Juárez.

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Under the regulations of the Treaty of Guadalupe Hidalgo (1848) which ended the war, the rights of the Mexican properties within the territory established by Mexico for the United States, were maintained inviolable. Therefore, land donations both Spanish and Mexican were protected, including the Ysleta Grant (Houser, 2011: 6).

Before the war, the natives of Senecú and Ysleta routinely kept their fields and surrounding lands on both banks of the river Rio Grande, although their respective lands would reached the middle of the river. In 1850, Mexico and the United States agreed to establish an international border on the deepest channel of the river. This border agreement deprived the natives of the use of their land located on the opposite side of the villages and resulted in legal disputes between two pueblos. Eventually, the non-natives of Ysleta, who had taken control of the Ysleta Grant, acquired the Senecú Grant portion of the bank to the north.

In the first two years of American autonomy, Ysleta Pueblo belonged to the jurisdiction of the Indian agency of the United States in Santa Fé, capital of the federal territory of New Mexico, but it was far from being benefited. The Ysleta Grant was also guaranteed by the federal treaty of 1834 and the non-intercourse act, which prohibited the acquisition of indigenous lands by non-indigenous except in controlled situations. Despite the government's commitment to protect the rights of the Tiguas of Ysleta Pueblo, they soon became vulnerable to exploitation and fraud. The Texas Compromise of 1850 transferred Ysleta and other northern bank communities in the vicinity of El Paso from the federal territory of New Mexico to the state of Texas. This transfer seriously hindered federal protection over Ysleta Pueblo. However, one of the

conditions for Texas to be part of the Union in 1845, was that the titles of Spanish and Mexican land should be recognized and inviolable (Houser, 2011: 6).

In early 1850, after the inclusion of the communities of the north bank of El Paso in the Texan territory, the state legislative assembly approved a number of relinquishments acts. The first application of this law was in San Elizario in December 1851, when the lands of San Elizario were transferred to its inhabitants. The vague and ambiguous term for inhabitants was also applied at Ysleta and violated the rights of the Tiguas on Ysleta Grant. Among the inhabitants of Ysleta were included people who did not belong to the Tigua tribe, who held the legal right of the Ysleta Grant, and also to squatters living in surroundings.

In 1859, many of the non-Indians of Ysleta, who were landowners and merchants, were inserted in the town of Ysleta under the state law of incorporation of 1858, in which it was stated that only whites and free men had the right to vote. These non-indigenous residents planned to incorporate not only the town of Ysleta, but all the Ysleta Grant. However, the law of incorporation protected the communal lands (Chapter 61, pp.69-74), (Houser, 2011: 7).

During the Civil War and the following decade, the Tiguas suffered from the strict and discriminatory measures imposed by federal representatives and unsavory politicians who took advantage of the political vacuum of the time. Many former Anglos residents who maintained friendship and sympathy from the Tiguas, had their properties confiscated by federal authorities except the lands occupied by the Tiguas. At that time, the region was under the marital law, imposed by the oppressive government of the

Radical Republicans. The war had exhausted the region of its Anglo population but during the postwar period, a new group began to populate the region. Among them were opportunists who through force and fraud began to gain political power, land and fortune.

In 1871, Ysleta was incorporated by a special law in the legislative chamber of Texas, which was designed to alienate the legal rights of Indians on the Ysleta Grant. This incorporation resulted in an illegal expenditure of much of the donated land. According to the law of incorporation, only those living in the city could require free land, but the land was indiscriminately transferred to surveyors, lawyers, politicians and businessmen, who had no intention of living in Ysleta.

The city council composed of non-indigenous adopted semi-legal measures to improve land titles and pass along land to themselves and their friends. The city, which had roads and irrigation system, started imposing taxes to its inhabitants and such ill-intentioned measures eventually attained the Tiguas. During the first three years of the incorporation, this measure had already occupied much of the Ysleta Grant, where Indians went from being self-sufficient farmers to landless workers. The sheriff of the district visited indigenous lands often to demand proof of possession, but families responded that they had no such papers as the land belonged to the tribe. Consequently, the Tiguas were evicted from their land (Houser, 2011).

The Tiguas of Ysleta del Sur, as a cultural entity, started to exist in the late seventeenth century, after the Pueblos Revolt in 1680. Prior to this event, due to the dissatisfaction of the Pueblos with the oppressive demands of the Spanish conquistadors,

small rebellions had arisen, led by two or three pueblos, but these disarticulated efforts were easily crushed by the powerful Spanish army (Green, 1976: 310).

The Revolt of 1680, nevertheless, was a campaign very carefully planned and executed by Popé, a religious leader of the Pueblo of San Juan whose headquarters were in Taos Pueblo. The revolt, which should have started on August 11, 1680, started earlier than had been previously planned due to the capture and interrogation of two of Popé's messengers who held all the details of the attack. After this unexpected episode, the plan would be to anticipate the killing of all the Spanish settlers and their secular officials and clergymen to the morning of August 10th. On account of the warnings issued after the capture of the messengers, even before the attack, many Spaniards managed to find refuge in Santa Fé, New Mexico. The siege of the capital of the province by the Pueblos was so fierce that after nine days the governor and general of the province captain, Don Antonio de Otermin, was forced to withdraw with his subordinates and join the Spanish colonizers in Isleta, New Mexico (Green, 1976: 310).

The Natives residing in Isleta Pueblo were the only Pueblos that did not participate in the uprising of 1680. Arriving in Isleta, Otermin found a completely deserted place due to the fear the Indians had of the Spaniards. After Otermin's withdrawal of New Mexico, some of the native inhabitants (referred to as the Tiwa because of the linguistic classification of their native dialect) returned to their pueblo. The rest of the group left with the Spaniards to eventually colonize the region where today is El Paso, Texas (Green, 1976).

The Texas group went on to call its settlement Ysleta del Sur, to distinguish it from the original group located more than 200 miles in northern New Mexico. They kept the Spanish spelling both of their tribal name, Tigua, and their pueblo. In addition, they continued to assert their cultural uniqueness from both their Anglo-American and Mexican Americans neighbors (Green, 1976: 311).

The determination to maintain their social and cultural integrity and keep possession of the land that remained of the treaty granted by Carlos V of Spain was put to the test in 1955 when Ysleta was annexed by the city of El Paso. As a result, the Tiguas, whose average annual income per household was four hundred dollars, were subject to tax on property worth over a hundred dollars a year for each family. Before long, most of the tribe faced foreclosure of their properties. As a result of this obvious threat to the right to land, the Tiguas entered a legal battle that culminated in the official recognition as a tribal entity by the federal government and the state of Texas. The central importance for the present discussion, however, is the fact that the Tiguas perceived the annexation as an inherent threat to their cultural integrity and traditional way of life. In order to fight this threat, nativist strategies were activated (Green, 1976: 311).

The determination in preserving their cultural autonomy as a people under pressure from North American society has enabled the community of Tiguas of Ysleta del Sur to maintain its traditions and native collective identity into the twentieth century. Nevertheless, the coping mechanisms used by the Tiguas in negotiations against racial violence and discrimination in the early twentieth century during the Progressive

Era[7] caused the denial of their roots by some of its people who identified themselves as Spaniards or Mexicans. This practice was extended through all the twentieth century until the mid-1960s when the Tiguas of Ysleta del Sur experienced cultural renaissance (Comar, 2015: 258-259).

During the Termination Era[8], the United States sought to dismember the Indian reservations, relocating the Indians in urban centers and trying to assimilate them into the American society. In order to understand the process of recognition of the Tiguas, it is necessary to make a superficial analysis of the Native American policy, in both the national and state contexts. After World War II, the United States spent a significant amount of money to rebuild the nations of Western Europe in order to contain Soviet communism. In this Cold War environment, many American politicians sought ways to reduce government spending. In 1946, the Senate ordered the commissioner of Indian Affairs William Zimmerman to formulate a list of tribes that could be removed from federal protection (Comar, 2015: 318-319).

At national level, the Termination Era seemed to be at a standstill during the Civil Rights movement in the 1960s. However, defending the fishing rights of natives in the Pacific Northwest and the right of Native Americans, the National Indian Youth Council occupied the former prison on Alcatraz Island near San Francisco. The Native Activism gained momentum when one of the leaders, Vine Deloria Jr Lakota Sioux,

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[7] The Progressive Era was a period of widespread social activism and political reform across the United States, from the 1890s to 1920s.

[8] The Termination Era was the policy of the United States from the mid-1940s to the mid-1960s. It was shaped by a series of laws and policies with the intent of assimilating Native Americans into mainstream of American society.

became involved in the cause. Between 1964 and 1967, Deloria served as Executive Director of the National Congress of American Indians (NCAI) before graduating in law from the University of Colorado. In 1968, when the American Indian Movement (AIM) began, President Lyndon B. Johnson gave a speech titled "The Forgotten Americans" that denounced the federal government's Termination policy. After Texas centennial in 1936, the Tiguas of Ysleta del Sur seem to fall into historical obscurity, even though they maintained their cultural identity and continued to practice their traditions during the 1940s and 1950s. With the Era of Termination, the conquered benefits were eliminated, treaties were broken and entire reserves were emptied out, indicating that the enclave of Tiguas in Ysleta del Sur, known as Barrio de Los Indios, could disappear completely within the Anglo and Mexican society (Comar, 2015: 321).

In the mid-1950s, from an outsider's view, it looked as if the Tiguas of Ysleta del Sur had been completely assimilated. During the Second Red Scare [9] and McCarthyism[10] eras, policymakers both at the state and federal levels, seemed to have forgotten the Tiguas. Still, city property taxes threatened to evict them from any land left from the Ysleta Grant. However, pressures from external capitalist interests threatened to invade their sovereign space again, while the federal government ended its relations with numerous sovereign nations, exposing them to similar dilemmas.

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[9] A "Red Scare" is the promotion of fear of a potential rise of communism or radical leftism. In the United States, the First Red Scare was about worker (socialist) revolution and political radicalism.
[10] It was a vociferous campaign against alleged communists in the US government and other institutions carried out under Senator Joseph McCarthy in the period 1950–54. Many of the accused were blacklisted or lost their jobs, although most did not in fact belong to the Communist Party.

3. LEGAL FRAMEWORKS

The historian Françoise Choay (2001) noted that after the end of World War II the need for reconstruction of torn countries generated a critical reflection and analysis of what to preserve and on the State role in the protection of Culture. As we have seen, there is indeed a need for constant reflection on the theoretical and practical issues related to construction of memories and heritage preservation, particularly when we consider the intrinsic effects of the dichotomy remembering and forgetting in the selection of what we want to preserve for future generations. We know that the search for historical and patrimonial recognition is integrally related to the participation of various social groups, either in the heritage claims processes and repatriations, in the community representation or academic research (Marshall, 2002; Lippert, 2005; Zimmerman, 2005).

The meaning of the term Heritage is changing from a restricted and defined concept to a set of different terminologies and variations. Expressions such as Historical, Cultural, Environmental, Architecture, Urban, and Rural Heritage can be highlighted. Such discernment may be the result of the scope of the discussions currently established in the Heritage field, both in academic research and in social events, claims, appropriations and public policies (Castriota, 2009).

In this project, we chose to use a contemporary perspective for the definition of the term and its application in the case under study. Thus, the concept of Heritage is perceived in conjunction with other categories such as social memory and Heritage

policies. Its dynamic is therefore linked to the meaning it takes in the set of the social and cultural practices of a society, approximating the term to other concepts such as cultural identity (Ferreira, 2009).

Consequently, the number of typologies fitting under the Heritage designation has expanded. Originally linked to the image of great monuments, historical characters and historical narratives, the designation of historical and cultural Heritage now applies also to cities, places, landscapes, cultural practices, traditions and knowledge that carry references to the identity of a particular social group or a society. These Heritage references, tangible or intangible, are support points for the objectification of social memory. They therefore serve as support and encouragement for the construction of the Heritage narratives that are within a community, conditioning the transfer of social memory from generation to generation.

By structuring the surviving features of a common past, however, the social memory attributes to heritage holders a mean of selection and re-signification, based on both socio-historical and autobiographical references and projections of possible and desired futures. Authors such as Ivan Izquierdo (2002) and Joel Candau (2002) observed that social memory is produced within complex interactions and disputes that men develop with one another, at the individual level as well as the collective level, presenting itself as construction that is dynamic and relational, and not an autonomous reality.

We know, on the other hand, that history and memory are also made up of details and characters more or less diffuse, whose participation in the socio-historical processes

are constantly obliterated by official efforts to frame memory (Pollack, 1992). As a result, we find that the loss of biographical supports and materials from other ethnic groups that make up the local history, associated with the selection made by the public memory in favor of the German-Pomeranian cultural heritage, has resulted in the expropriation of the constituent elements of the city's Historical Heritage, affecting the perception of history and the collective sense of belonging for the future generations (Ferreira, 2010).

We also understand that, in the field of collective, the mythical construction of the experience lived and the exaltation of characters are able to generate inclusion and identity affinity (Félix, 1998). Over time, these recognized traits are passed on by the media and by political actions and as such contribute to the construction of a common past, influencing the formation of a collective memory or, as per the anthropologist Joel Candau (2008), a "representation that each individual makes of his own memory, a metamemory".

Social memory and the preservation of heritage references are thus dependent on contemporary social and political contexts in which remembering and forgetting are negotiated practices part of heritage and identity strategies of a people. It is from this perspective that I seek to observe the importance of heritage public policies and their effects in the construction of collective memories and the risk of social oblivion. I also intend to observe the challenges that these heritage policies face with the cultural diversity issue and how the countries involved in this research have reacted in front of these challenges.

At an international level, several declarations and international conventions have been adopted for the protection of cultural heritage and cultural diversity through conventions promoted by the United Nations Organization for Education, Science and Culture (UNESCO). Among them I would highlight those of greatest interest for this research.

In 1972, the Convention Concerning the Protection of the World Cultural and Natural Heritage was approved. In 2001, the UNESCO adopted the Universal Declaration on Cultural Diversity; where cultural diversity was elevated to the category of "common heritage of mankind". The Declaration aims to preserve the living and renewable national treasure composed by cultural diversity, and seeks to prevent the segregation of cultures while contributing to the recognition of a plural society. It outlines directions that should guide the member states, the private sector and civil society in the fight for the institution and implementation of policies aiming at a plural, democratic and creative world.

The article 1º of the Declaration states that cultural diversity (source of exchange, innovation and creativity), common heritage of mankind, must be preserved for the benefit of present and future generations, being so necessary for humankind as biodiversity is for nature. It also recognizes the importance of cultural pluralism as a political response to the reality of cultural diversity. In a democratic context, cultural pluralism can ensure harmonious interaction among the various cultures (article 2º).

Cultural diversity is also considered a source of development, not only in terms of economic growth, but also as a means of access to a satisfactory intellectual, moral

and spiritual existence (article 3º). Moreover, cultural diversity is an ethical imperative, inseparable from respect for human dignity, implying respect for human rights and fundamental freedoms, especially with regard to the rights of minorities and indigenous peoples (article 4º).

In article 5º the Declaration stipulates that cultural rights are an integral part of human rights, and as such every person has the right to express themselves, create and disseminate their work in the language they desire, have the right to an education that is respectful of their cultural identity, the right to exercise their cultural practices, within the limits imposed by the respect of human rights and fundamental freedoms.

In addition, all cultures should have the right to express themselves and make themselves known, with guaranteed freedom of expression, media pluralism, multilingualism, equal access to artistic expression and to scientific and technological knowledge, means for the guarantee of cultural diversity (article 6º). The contact and dialogue between cultures is also highlighted in the Declaration, given that while creations are cultural constructions, they develop fully when in contact with other cultures (article 7º).

In 2003, the Convention for the Safeguarding of the Intangible Cultural Heritage assigned the following purposes: a) safeguarding of the intangible heritage; b) ensuring the respect for the intangible cultural heritage of communities, groups and individuals concerned; c) raising awareness at the local, national and international levels of the importance of intangible cultural heritage and of ensuring mutual appreciation thereof; d) developing cooperation and international assistance (article 1º). The intangible

cultural heritage manifests itself in the following fields, in accordance with the Convention: a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; b) artistic expressions; c) social practices, rituals and festive acts; d) knowledge and practices concerning nature and the universe; e) traditional craftsmanship (article 2º, item 2). The Convention also recognizes that the intangible cultural heritage is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, generating a sense of identity and continuity, thus contributing to respect for cultural diversity and human creativity (article 2º, item 1).

In 2005, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, defines that cultural diversity refers to the variety of ways in which the cultures of groups and societies find their expression. Such expressions are transmitted between and within groups and societies (article 4º). In addition, the Convention declares that cultural diversity is demonstrated not only in the ways in which it expresses, enhances and spreads the cultural heritage of humanity, but also in the forms of expression, creation, production, dissemination and enjoyment of cultural expressions, regardless of the means and technologies employed.

In 2007, the United Nations Declaration on the rights of indigenous peoples, is another milestone of great importance, which reiterates the rights of Indians to an autonomous, safe and full life, emphasizing the need for "free, prior and informed consent" in the event of use of their land by others, in addition to recognizing the validity of non-formal indigenous institutions governing internally the life of

communities as well as the right to intellectual property. The document also emphasized to the sad story of persecution, oppression and extermination of these peoples, and their importance in the conservation of nature, urging for understanding and good relations between indigenous peoples and all other segments of society.

Therefore, the UNESCO guidelines have brought important recognitions, which have also been used as a reference point and foundation to support projects aiming to point out that the cultural diversity as the access door to the development national cultures.

3.1 Heritage Legislation in Brazil

In the Brazilian context, a change in the elites' thinking already appeared during the Imperial period (1822-1889) and involved questions about nationalism and national identity.   Indeed, in the nineteenth century, especially with romanticism and academicism, themes such as national identity and the idea of nation became recurrent in arts and literature.

In the first decades of the Republican period (1889-1930), the perception and acknowledgement of the need to protect the historical and artistic heritage reflected the socioeconomic transformations of the society. This period marks also the beginning of the preservationist initiatives.

In Brazil, the preservationist wave followed the world's trends such as the French Revolution (1789) and the conception of the term public assets; the Industrial Revolution

and the introduction of technology, science and new habits - among them the development of culture and the preservation of material goods; and the first World War (1914-1918), and the consequences of this conflict, all of which pointed in the direction of the need to preserve and safeguard cultural heritage.

In 1920, the concern with the preservation of the national heritage, mainly the assets outside the scope of the museums, gained a more relevant meaning in the sense that the lack of preservation of these assets was compromising its conservation, a fact that drew much attention from intellectuals who criticized the neglect of historical cities and the destruction of what was seen as a National "treasure". They pointed out the inertia and neglect of national elites and of the state which could end up compromising the country in faced to the civilized nations. This issue became a focus of concern for the government, the National Congress, cultural institutions and the media. During this period, Bruno Lobo, President of the Brazilian Society of fine arts, delegates to Professor Alberto Childe, from the National Museum, the elaboration of a draft act in defense and protection of the National artistic heritage.

In 1923, the Congressman Luis Cedro presents to the Congress the first project intended at organizing the defense of the country's historical and artistic monuments. In 1925 the governor of the state of Minas Gerais proposed the establishment of a Committee to prevent the extinction of the historic cities of the state threatened by the antiquities trade, and in 1933, the decree 22.928 declares the town of Ouro Preto a national monument. This decree is a landmark because it outlined protection policies at a national level.

In the Brazilian Constitution of 1934, the legal notion of the term National Historic and artistic heritage appears for the first time (article 10). This article was intended to give to the public authorities the rule over the preservation of the monuments of historic or artistic value of national importance. The article 10, paragraph 3 of the Constitution provides that "it is incumbency to the Union and the states concomitantly to: protect the natural resources and monuments of historic or artistic value, and prevent the circumvention of art pieces".

In the same year was witnessed the first real attempts of intervention by the public authorities regarding the preservation of assets of importance to the history and national arts, with the creation of the Inspectorate of National Monuments, resulting of the expansion of the National Historical Museum. It was the responsibility of the Inspectorate to develop a catalog of buildings of artistic and historical value and interest and to present it to the federal government so they may be declared national monuments by presidential decree. The proposal was to standardize the states' legislations in the context of the protection and conservation of national monuments, safeguarding and monitoring historical-artistic objects.

The effective intervention of the federal government on the issue of heritage preservation occurred when the minister of then President Getúlio Vargas, Gustavo Capanema, asked the poet Mário de Andrade to prepare a draft for the creation of an agency essentially aimed at the preservation of national historical and artistic heritage. This initiative resulted in the drafting of the National Historical and Artistic Heritage

Service (SPHAN), which began working experimentally from 1936, but was consolidated only on 30 November 1937.

In 1937, the President Getúlio Vargas, signed the decree n° 25 on the creation of the National Historical and Artistic Heritage Service (SPHAN). This decree is known as "National Heritage law" that prohibits the destruction of protected cultural assets by placing them under surveillance of the Institute. To be listed, an asset has to go through an administrative process until it is enrolled in at least one of the four categories required by the decree: archaeological catalog, ethnographic and landscape catalog, historic catalog, fine arts catalog and the applied arts catalog.

The SPHAN was structured by Brazilian artists and intellectuals of the time and the definition of National Historic and artistic heritage as: "the set of movable and immovable property in the country and whose conservation is of public interest, or on its binding to memorable facts in the history of Brazil, either by its exceptional archaeological or ethnographic, artistic or bibliographic value".

From then on we observe the implementation of an appropriate regulation for the protection of cultural assets in Brazil. The subsequent Brazilian Constitutions to this decree have only ratified the concept of heritage in terms of rights and duties involving both the State and the citizens.

However, it is important to highlight that in the following years the establishment of the SPHAN, the heritage preservation policies in Brazil adopted a predominantly aesthetic perspective at the expense of the historical aspect, excluding relevant historical

concepts nationally and internationally that would ensure a more effective result with respect to the preservation of heritage.

As previously mentioned, the consequences of World War II drew attention to the possibility of irreparable loss of monuments and Brazil did not remain indifferent, and started considering mainly the monuments featuring colonial art, that were already in concern since the second decade of the 20th century by intellectuals who later integrated the modernism. In response to the intellectuals' claims, initially at the levels of those states that had significant assets of historical and artistic monuments, initial steps were taken toward their preservation. In 1946 the SPHAN had its name changed to Department of National Historic and Artistic Heritage (DPHAN).

In 1961, under the government of President Jânio Quadros the law n° 3.924 which rules on the archaeological and prehistoric monuments was promulgated. Its article 1 stipulates that: "the archaeological or prehistoric monuments of any nature existing in the national territory and all the elements they contain are under the custody and protection of the public authorities, as required in article 175 of the Federal Constitution". And article 2 on the specification of prehistoric or archaeological monuments establishes that: "(I) the deposits of any nature, origin or purpose, representing testimonies of the paleo-amerindians culture in Brazil, such as sambaquis, artificial hills, sepulchral pits, graves, leveled ground, and any others not specified here, but of identical meaning according to the judgment of the competent authority; (II) the sites where positive traces of occupation by paleoameríndios such as limpets, caves and rock shelters can be found; (III) the sites identified as cemeteries, graves or of prolonged

stay or settlement, in which human traces of archaeological interest or paleo-ethnographic can be found; IV the rupestrian inscriptions or places such as polishing grooves of utensils and other traces of paleo-amerindians' activity.

That same year the Xingu National Park was created, a vast natural conservation area where many native peoples still living, thus breaking the paradigm of the omission until then practiced by the laws and federal constitutions and having as premise the right of peoples to preserve their cultures in its fullness and authenticity, protected from the influence of Western civilization, and in the natural environment needed for these traditions to persist continuously.

During the Brazilian dictatorship regime (1964-1984), in 1969, the 1st amendment was drafted which represented another instrument of protection, establishing the indigenous lands as Union heritage, therefore banishing some threats of expropriation. In addition, it recognized the right of the Indians to exclusive enjoyment of the natural resources existing on their lands, their right to legal representation, and declared the invalidity of acts that threaten the possession of lands by Indians, annulling the arguments based on the acquired rights by third parties. These measures generated great controversy, being considered as threats to private property, at a time when the Indian protection service could hardly be effective in its functions and was the target of numerous complaints of irregularities, omission and corruption. This service was extinct in 1967, and replaced by the National Indigenous Foundation (FUNAI) which is the body responsible for indigenous issues to this day. Trying to counter the criticism, the

government promised to devote more attention to the native peoples, which eventually led to the creation of the Indian Status Act in 1973.

At least until the end of the decade of 1970, the concept of national heritage was strongly linked to the preservation of immovable property. From these isolated units stemmed the concepts for sites and architectural complexes relevant to society, symbols of ancient history and used pedagogically to teach national values in order to establish a sense of common nationality for every Brazilian. It was during the decade of 1970 that the name of federal institution changed again, from DPHAN to National Institute of the Historical and Artistic Heritage (IPHAN) keeping this same nomenclature to the present time. Currently the IPHAN is divided into 25 technical offices and special units, in addition to the 27 offices in each state of the country.

In 1985 the federal act 7.347, which regulates the public civil action of liability for damage caused to the environment, the consumer, the property and rights of artistic, aesthetic, historic, and scenic tourist values and other matters, was enacted. And in 1986, the resolution n° 001 of the National Environmental Council (CONAMA), provides basic criteria and general guidelines for the environmental impact assessment.

Subsequent to the idea of unique preservation of immovable property, measures were adopted for other areas of the Brazilian cultural dynamics and eventually, more reflections led to the understanding that intangible assets could also be considered, so that the Brazilian Federal Constitution of 1988, in its article 216 emphasizes that: "Brazilian cultural heritage is constituted by assets of material and immaterial nature, taken individually or collectively, bearer of reference to identity, action , the memory of

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the different groups forming Brazilian society, including: the forms of expression; the ways to create, do and live; the scientific, artistic and technological creations; the artifacts, objects, documents, buildings and other spaces for artistic and cultural manifestations; the urban complexes and sites of historical, artistic, landscape, archaeological, paleontological, ecological and scientific value".

The Federal Constitution of 1988 broadens the notion of cultural heritage set by the act Nº 25 of November 30th 1937, providing greater emphasis on the cultural plurality present in the formation of the Brazilian people. Furthermore, article 215 of the Constitution provides that the State shall ensure to all the full exercise of cultural rights, in addition to protecting the cultural manifestations of the groups participating in the national civilizing process.

Thus, from the article 216 of 1988, cultural heritage starts to encompass both tangible assets (artifacts, objects, buildings, urban complexes...) and intangible assets (forms of expression, creations, and ways of life...), that are linked to the identity, action and memory of the groups forming the Brazilian society, so that their exceptionality would not to be a decisive feature of cultural assets. Another important feature of article 216 is that it guarantees the recognition and protection of intangible assets, without the need to integrate the Brazilian cultural heritage catalog given to its characteristics of intrinsic mutability.

In the Constitution of 1988, article 5, recognizes that the indigenous cultures are destined to be naturally diluted and homogenized by the Brazilian culture. Thus, Chapter VIII states: "the Indians: are lands traditionally occupied by the Indians and inhabited by

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them on a permanent basis, the ones used for their production activities, the ones essentials for the preservation of environmental resources necessary for their well-being and the ones necessary for the physical and cultural reproduction, according to their usages, customs and traditions, at the same time annulling any other acts which had as their object the occupation , the domain and the ownership of these lands, excepting for the cases of "relevant public interest of the Union".

The convention nº 169 on indigenous and tribal peoples and the resolution concerning the action of the International Labor Organization (ILO), reviewed the ILO Convention nº 107 from 1957. It is the first binding international instrument that specifically addresses the rights of indigenous and tribal peoples. In the years 2000 it undergoes ratifications that will be mentioned later.

Still in the year 1988, the ministerial order n° 07 of the SPHAN regulates applications for permission to develop field research and archaeological excavations and in 1989 through an Inter-ministerial Ordinance n°69, were adopted common standards on research, exploitation, removal and demolition of things or assets of artistic, historical or archaeological interest, sunk, sunken, stranded and lost in waters under national jurisdiction in marine land and its incremental, and marginal land as a result of a claim, discharge or fortune of the sea.

In 1990 through the act 99.492, the Brazilian Institute for Art and Culture (IBAC), National Library (BN), and the Federal Authority Brazilian Institute of Cultural Heritage (IBPC) were created, and the act 99.643 provided the budget of the Union in favor of the Secretary of Culture and Supervised Entities. In 1997, another resolution,

nº237, of the National Environmental Council (CONAMA), rules on the review and the completion of the procedures and criteria used for environmental licensing. In 1998, the federal act 9.605, better known as Environmental Crimes Law, provides for criminal and administrative sanctions derived from conducts and activities harmful to the environment, and other matters.

In 1999 is promulgated the act nº 9.795, which rules on environmental education, establishes in its article 4 as one of its basic principles, the recognition that the environment should be considered in its totality, taking into account the interdependence of the natural environment, the cultural and socioeconomic, under the focus of sustainability, and, furthermore, establishes the articulated approach to local, regional, national, and global environmental issues, with recognition and respect for plurality and individual and cultural diversity. Thus the role of heritage education activities, linked to environmental education, had a major role in preserving the cultural heritage.

In 2000 the decree 3.551 was promulgated, establishing the national catalog of intangible cultural assets of the Brazilian cultural heritage, with reference to the historical continuity of the asset and its relevance for the national memory, identity and the formation of the Brazilian society. Legal references of this decree are found in the development of article 216 of the Constitution of 1988 and the recommendation on the safeguarding of traditional and popular culture of UNESCO in 1989. Its article 1, paragraph 1 listed how the books of record will be organized: I – book of records of knowledge, where shall be recorded knowledge and ways of doing rooted in communities' daily life; II –book of records of celebrations, where will be registered

rituals that and celebrations that mark the collective experience of work, religiosity, entertainment and other practices of social life; III –book of records of forms of expression, where will be entered literary, musicals, scenic and recreational manifestations; IV – book of record of the places, where will be entered markets, fairs, sanctuaries, squares and other spaces where cultural collective practices are reproduced.

To achieve that it became essential to develop a methodology called National Inventory of Cultural References (INRC), that would develop, from a broad perspective and in accordance with the definition of cultural heritage expressed in the Federal Constitution of 1988, the knowledge needed to support the elaboration of heritage policies. Through this decree, the catalog of Intangible Cultural Assets and the National Intangible Heritage Program (PNPI) were also created.

In 2002, the Brazilian Congress ratified the Convention nº 169 of the International Labor Organization (ILO) on Indigenous and Tribal peoples. Brazil, which in addition to being an ILO member state is one of the ten countries with permanent seat on its committee, adopted the most comprehensive international law instrument on this matter, which seeks to guarantee to indigenous and tribal peoples more specific rights in relation to the protection of their cultures, defending multiculturalism.

Also, in 2002, the ministerial order n° 230 drafted by the National Institute of Historical and Artistic Heritage (IPHAN), outlining the steps to obtain the environmental licenses and the preventive archaeology studies compatible. Intended at licensing projects that could potentially affect archaeological heritage, the draft sets the procedures and stages required to obtain a prior license and a mandatory environmental

impact assessment (EIA) and environmental impact report (RIMA) to obtain the final environmental licenses (see below – LI and LO), whether or not in emergency. This would ensure accuracy and help the monitoring of archaeological research in the country. The following stages of the licensing procedure are the installation license (LI) followed by the operating license (LO).

The following year, in 2003, the same agency (IPHAN) wrote the Ordinance n° 28, which determines that the renewal of environmental licenses for operation of hydroelectric enterprises, that did not submit an archaeological survey for the first application, may have to submit archaeological studies at the time of renewal in order to supply the legal gap.

In 2005, the constitutional amendment n° 48 was ratified. The amendment deals with the planning and implementation of public policies aimed at protecting and promoting Brazilian cultural diversity. It also establishes the National Plan for Culture, multiannual, and therefore included in the government's budget plan for four years. The purpose of the Plan is the cultural development of the country and the integration of the actions of public authorities leading to: (I) defense and enhancement of the Brazilian cultural heritage; (II) production, promotion and dissemination of cultural assets; (III) training of qualified staff for the management of culture in its multiple dimensions; (IV) democratization of access to cultural assets; (V) valorization of ethnic and regional diversity.

In 2009 the federal act n° 11.904 that determines the status of Museums and other matters, is enacted. In 2010, after five years of debate, the Executive project of the

National Plan for Culture was finally approved with the federal act nº 12.343, outlining measures aimed at the valorization of culture and democratization of cultural policies, and assigning responsibilities to the public agents on cultural policies, the protection and promotion of the Brazilian cultural heritage.

Factors linked to the recent economic stabilization of the country, however, and the visibility of promising investments that it generates, has launched a challenge to the implementation of those policies and the need for careful planning to ensure effectively the preservation of heritage assets and of the references that configure the diversity of Brazilian culture. An example of this are the problems caused by the growing demand for archaeological licensing required for the implementation of new ventures in the country, which led to a mismatch between the capacity of the regulator body (IPHAN and Ministry of culture) and the demand for the preservation of heritage assets, generating challenges for the execution of Ordinance No. 230/2002 IPHAN and other legal instruments mentioned above.

3.2 Heritage Legislation in the U.S.

In the U.S., the beginning of the discussions on heritage preservation were also associated with big government-sponsored projects to promote the development of the country from the late 1960s, when structuring projects of the interstate highway system and the renewal of the urban network in historic cities became common, resulting in the loss of some national historic sites. In response to growing public concern, Congress

passed the National Historical Preservation Act (NHPA) in 1966. The Act established a national policy for the protection of important historical buildings and archaeological sites, and delineated responsibilities for federal and state governments for the preservation of the nation's heritage[11].

Many regulations followed, such as the National Environmental Policy Act of 1969 (NEPA), the Native American Graves Protection and Repatriation Act (NAGPRA) and Archaeological Resource Protection Act of 1979 (ARPA). In the state of Texas, in particular, where part of this project will be carried out, the regulatory body of Cultural Heritage is the Texas Historical Commission (THC), established in 1953 as the Texas State Historical Survey Committee with the task to identify important historic sites across the state. The Texas Legislature changed the agency's name to the Texas Historical Commission in 1973. Along with the name change came more protective powers, an expanded leadership role, and broader educational responsibilities. THC is governed by specific state legislation, in addition to the federal laws mentioned above.

With the Antiquities Code of Texas of 1969, the state began its policy of protection of Cultural Heritage. Since then the THC has been facing the challenges of cultural inclusion of African-Americans, Asians, Germans, Indians, Hispanics and Latin Americans in the projects of preservation and promotion of cultural diversity, whose trajectory is considered exemplary, being largely copied by other U.S. states. Currently the THC seeks to increase the diversity of professionals working in historic preservation, acknowledge the variety of cultures that enrich Texas' heritage, and engage a wider

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[11] The USA Legislation were consulted at http://www.achp.gov/pubs-caselaw.html on March 20th, 2016.

range of organizations and communities in supporting efforts to protect and preserve the history of the state.

The agency also is promoting programs as the Diversity Internship that was created to build interest in and awareness of historic preservation, specifically among students from underrepresented cultural, ethnic, and socioeconomic groups. The THC recognizes that many such groups are currently underrepresented in the professional fields related to historic preservation. This initiative targets undergraduate students to encourage their interest in pursuing fields of study in history, preservation, architecture, landscape architecture, archeology, downtown revitalization and heritage tourism. Students will also learn about the impact that historic preservation programs can have on a community's economic development.

After fifty years of the National Historic Preservation Act (NHPA) of 1966, a federal law which shows the commitment of the nation in preserving and protecting its historic and patrimonial resources proves that it was not always the case. However, federal statutes on preservation policies have existed since the turn of the 20th century but those laws were restricted and there were no effective means of implementation.

Historically, the first federal statute was the Antiquities Act of 1906, which authorized the president to determine the historical heritage in the territory controlled by the United States as national monuments. This law required permissions for archaeological activities on national territory and criminal and civil penalties were established in case of violation of this law.

The Historic Sites Act of 1935 is the second largest composition on federal legislation regarding historic preservation. This law formulated its national policy for the preservation of public use of historic sites, buildings and objects of national importance and delegated to the Secretary of the Interior the responsibility over several programs always considering historic preservation. Even if these statutes were significant, they did not create a national consciousness on the need to preserve, neither did they offer ways to incorporate the concerns about preservation in the programs of the federal agenda.

In 1964, the U.S. Conference of mayors conducted a study on historic preservation in the United States. The final report, "With Heritage So Rich" showed a growing public interest in the preservation and the need for a unified mechanism for the protection of historic resources. This report influenced the National Congress to formulate a new statute establishing a preservation policy across the country that would eventually be entitled National Historic Preservation Act of 1966.

In 1965, the United States launched the idea of combining cultural conservation with environment conservation. This idea resulted in a White House Conference which called for a "World Heritage Entity" to preserve the "scenic and magnificent natural areas and historic sites in the world for the present and the future of all humanity". In 1968, The International Union for Conservation of Nature (IUCN) developed a proposal and in 1972 both were presented at the UN Conference on the Human Environment in Stockholm, Sweden . Only one text was accepted, and "The Convention concerning the Protection of World Cultural and Natural Heritage" was adopted by the General Conference of UNESCO on November 16 of 1972 .

There is no doubt that this law of 1966 was a defining moment since it created a way by which the nation's preservation goals could be achieved. Recognizing that a better knowledge and better historical resources administration could improve the planning and execution of federal projects, stimulate economic growth and development in all the country. That law promoted the use of historic properties to meet the contemporary needs of society. This bill incentivizes the federal government, in partnership with State and local governments, Native Americans and the general public, to assume a leadership role in preservation.

Since 1966, Congress has strengthened national preservation policy recognizing the importance of historic preservation aspects of the nation's heritage in various other statutes, including the National Environmental Policy Act and various transportation laws, formulating statute directed to protection and preservation of archaeological resources. These laws require federal agencies to consider the historical resources in their planning and decisions and although they do not coexist, they often overlap with the provisions of the NHPA.

The executive branch has been supportive of preservation of historic assets through various decrees. In 1971, for example, President Nixon signed the decree nº 11.593 that instituted procedures that federal agencies should follow in property management activities. In 1996, President Clinton signed another important decree, establishing the support for localization and establishment of federal offices in historic neighborhoods and properties in cities in the interior of the country: the decree nº 13.006 directs to federal agencies the use and restoration in such areas whenever possible, and

reaffirms the commitment to federal leadership in the preservation of historical buildings as established in the NHPA thirty years ago. Another decree of 1996, nº 13007, expressed support for the protection of sacred sites of Native Americans.

The National Historic Preservation Act and other preservation statutes, as well as the aforementioned decrees, has clarified and improved the obligations and responsibilities of federal agencies with regard to protection of the cultural heritage of North America. Federal compliance with these authorities, however, was not always consistent raising the number of lawsuits brought primarily by citizens and organs of preservation. As a result, the legal opinions help to interpret and elucidate the historic preservation provisions of these laws.

The National Historic Preservation Act expresses a general policy of support and incentive of the preservation of colonial and pre-colonial resources for present and future generations by directing federal agencies to take responsibility to consider these resources in their activities. The NHPA does not stipulate the preservation of such resources but demands that federal agencies consider the impact of their actions on historic sites. The statute establishes a multifaceted preservation structure to implement these policies and directives at state and federal levels.

This law primarily authorizes the Secretary of the Interior to expand and maintain the National Register of Historic Places, a list of districts, sites, buildings, structures and objects of relevance for history, architecture, archeology, engineering, and American culture at the federal, state or local levels. The registry of properties on the national register and determination of the eligibility of listed properties are at the

discretion of the Secretary of the Interior, while publicizing the criteria and procedures used. Cataloguing the material asset on the National Register qualifies the property to apply for federal grants, loans and tax incentives.

Secondly, the NHPA incentivizes state and local preservation programs. The states may draw up and submit to the Secretary of the Interior historic preservation programs, that the Secretary must approve, if they provide for the designation of a State Historic Preservation Officer (SHPO) to administer the state's preservation program; establish a review board of historic preservation in the state; and provide for adequate public participation in the state's program. The SHPO should identify and catalog historical assets; denominate assets eligible for the National Register; prepare and implement the historic preservation plan throughout the state; serve as a liaison with federal agencies on issues of preservation; and provide public information, education and technical assistance.

Even though the organization of state programs and the effective roles of SHPOs may differ from state to state, the provisions of the NHPA has influenced the administrative structure of the states. For example, most state governments from now on carry out comprehensive research activities and planning and maintain experienced preservation professionals to supervise the activities of the state that affect historic properties. Many states have certified local governments to carry out preservation activities and since the NHPA was introduced in 1992, Indian tribes can assume total or partial SHPO functions regarding to indigenous lands.

The NHPA also authorizes a grant program, sponsored by the Historic Preservation Fund, to provide financial resources to the states for preservation projects and to individuals for the preservation of properties catalogued in the National Register. The grant program provides for two categories of subsidies: one for research and planning, providing essential financial support for the administration of each state program; and another for the preservation of "bricks and cement" or rehabilitation of historic buildings. States and other beneficiaries of these subsidies must match the federal funds. Through the Historic Preservation Fund, in 1995, the federal government transferred to the states the amount of U$30.940 million to carry out activities related to preservation. [The National Historic Preservation Act of 1966 was taken from Advisory Council on Historic Preservation website accessed in March 2016].

Finally, the NHPA established the Advisory Council for historic preservation, which is now an independent federal agency. Comprised by 20 members from both public and private sectors, the Council employs a team of professionals trained in many aspects of preservation. The Council members include the Secretaries of Interior and Agriculture and four other heads of federal agencies designated by the president; the architect of the Capitol; four members of the general public; a Native American or native of Hawaii; four experts in historic preservation; a governor; and a mayor, all appointed by the president. The president of the National Trust for historic preservation and the president of the National Conference of State Historic Preservation Officers serve as ex-officio members. The NHPA instructs the counselor to advise the president and Congress on historic preservation issues, review of the policies and programs of federal

agencies to improve their consistency with the purposes of the law, conduct training and educational programs and encourage public interest in preservation. More importantly, the law puts the counselor in the lead role in the administration and participation to the processes of preservation review established by Section106.

This law has been improved several times since its inception in 1966, increasingly strengthening and clarifying various aspects of the law. Significant amendments were adopted first in 1976 when Congress established funding for historic preservation as a resource to match grants for the states and for the National Trust for historic preservation to perform activities on historic preservation. The amendments of 1976 extended also the application of Section 106 to include properties eligible for cataloging in the National Register, and not only those already registered. The amendments of 1976 turned the NHPA into a federal independent agency; previously, its team and support were through the National Park Service.

The NHPA changed significantly again in 1980, when Congress added Section 110, which directed federal agencies to take more responsibility in the management and protection of historic properties they owned or controlled. The amendments of 1980 also articulated better with the SHPOs' responsibilities provided for the certification of preservation programs of local governments and the participation of local governments in the nominations for the National Register. The tasks of the Council were also expanded, to include the assessment of historical preservation programs of federal agencies.

The Congress has drawn an amendment in 1992 that resulted in an increase in the participation of Native American and Hawaiian Americans in state and federal preservation programs, requiring federal agencies to establish internal procedures that incorporate the historic preservation projects within the program of the agencies and compel federal agencies to withhold any type of federal assistance in cases of anticipatory demolition. The amendments also established more specific measures to retain sensitive information about the location of historic properties, to specify the responsibilities of the federal agencies that receive formal comment from the Council and to clarify several key terms, including "undertaking", "State" and "Indian tribe". Although the amendments of 1992 have not changed directly the language of Section 106 of the NHPA, although the new provisions affected significantly the agreement process to the Section 106.

The most significant involvement of the Council in the process of federal preservation is the Section 106 of the NHPA, which provides that: the head of any federal agency with direct or indirect jurisdiction over a federal execution project or any federal business to be beneficiating financially l in any state and the head of any federal department or independent agency that has authority to license any venture must, before the approval of the budget of any federal funding for the venture or before the issuance of any license, take into account the impact of the project on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register.

Section 106 requires each federal agency to approve financial assistance and issue a license for a project that may affect the properties listed or eligible for inclusion

in the National Register of Historical Places even before the execution of the projects. Firstly, the Agency should consider the impact of the project on the historic properties. Secondly, the Agency must seek comments from the Council on the project. Section 106 was originally applied only to the properties listed in the National Register; however, in 1976, Congress extended its provisions to properties not yet listed, but that would still meet the criteria.

Much of the daily work of the Council involves analyzing and responding to requests from agencies under section 106. To administer these requests, under the authority granted by Congress, the Council has issued regulations governing the compliance of Section 106 by the agencies. These regulations established procedures, known as "Section 106 process" that explain how federal agencies should take into account the impacts of their actions on the historic properties and how the Council will respond on these actions.

The Section 110 of the NHPA rules the federal agencies programs, issuing historic considerations on historic preservation in the management of properties under federal ownership or control. Originally a codification of decree nº 11593, Section110, established special preservation responsibilities for federal agencies, with emphasis on property management activities. Section 110 did not replace or invalidate decree nº 11593, but complemented it.

Passed in 1980, Section 110 established procedures for federal agencies that managed or controlled properties. Among other things, the agencies should take

responsibility for the preservation of historic properties under their jurisdictions and, to the maximum extent feasible, make use of the historic properties available to the agency.

In addition, federal agencies have been directed to carry out their programs and projects in accordance with the purposes of the NHPA. Section 110(f) requires that, before the approval of any federal project that may affect directly and negatively any national historic landmark, the agencies should carry out such planning and action, in accordance with the need to minimize the damage to the historic landmark and obtain comments from the Council about the project. The review required by Section 110(f) is similar to that required under Section 106, but involves a high standard of attention. Generally, the assessment of Section 110(f) is held under the procedures of the Council for the implementation of Section 106.

The amendments of 1992 of the NHPA attributed greater responsibility of the evaluation of historic properties during the decision-making process. The amendment to Section 110 requires each federal agency to establish its preservation program. The program must provide the identification and protection of historic properties of the agency; ensure that such properties are maintained and managed with the appropriate methods for the preservation of its historical values; and contain procedures to implement Section 106, which should be consistent with the regulations of the Council. Specifically, the amendments explain that such procedures must provide a process for the identification and evaluation of historic properties for listing on the National Register and must develop consultation agreements with the SHPO, local governments, Native Americans and Hawaiians and the interested public.

Congress also added a new provision that directs federal agencies to retain subsidies, licenses, approvals, or other assistance to applicants who intentionally affect historic properties significantly and negatively. That provision, known as section "anticipatory demolition", is intended to prevent applicants from destroying historic properties before seeking federal assistance, in an effort to avoid the Section 106 process. Finally the changes in the 1992 amendment, Section 110, gave to the head of a federal agency, without delegation, the responsibility of documenting any decision under Section 106, where a Memorandum of Agreement is not executed. This provision ensures a high level of review from the federal agency where there is a probability of not reaching an agreement strengthening thus the incentives for agencies to sign the MOA. The amendment also codified a provision of the Council regulations stating that an MOA will govern the implementation of the project in a non-binding way.

The Secretary of the Interior, in consultation with the advisory Council, is responsible for developing instructions for implementation in accordance with the requirements of Section 110. The Council and the National Parks Service issued instructions jointly in 1989 and new guidelines have been developed and included in the amendments of 1992 to the NHPA.

Although the NHPA is the main historic preservation status of the nation, there are other federal authorities that include the preservation of historic resources within its purposes and objectives. These statutes include the National Environmental Policy Act (NEPA) of 1969, the Department of Transportation Act, the Historical and Archeological Data Preservation Act (HADPA) of 1974, the Archeological Resources

Protection Act (ARPA) of 1979, the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, and the American Indian Religious Freedom Act (AIRFA) of 1978.

The NEPA establishes a national environmental protection policy. To make this public policy effective, the law requires that the federal government executes its plans and programs in such a way as to "preserve important historic, cultural and natural aspects of our national heritage". Generally, in order to ensure that environmental concerns are considered in the agencies' decision-making process, the NEPA directs the federal agencies to draw up an environmental impact statement (EIS) for each "major federal action significantly affecting the quality of the human environment". The EIS must contain a detailed analysis of the environmental impact of the proposed action, the adverse environmental effects which cannot be avoided if the proposal is implemented, alternatives to the proposed action, and other information. When there are doubts as to whether to prepare an EIS, the agencies commonly conduct a preliminary analysis and complete an Environmental Assessment (EA) to inform on their decision.

Both the NEPA and the NHPA require that agencies conduct environmental studies, including historic properties, in the decision-making process. The courts have described both the statutes as procedural statutes that contain "stop, look and listen" provisions that require the gathering of information; they also have described the role of the courts in reviewing the decisions of the agencies, such as to ensure that the agencies follow the procedures of implementation of these statutes. In many circumstances when historical properties are present in major federal projects, if a statute is applicable, the

other also will be. This is not always the case, however, given that the statutes have different thresholds of requirements. While Section 106 applies to any federal project that affects historic properties, the NEPA requires an EIS only for "major" federal actions, which "significantly" affect the quality of the human environment. Consequently, there may be instances where the NHPA applies but there is no requirement for an EIS under NEPA. Many courts agree that the NEPA and the NHPA are different statutes that impose different requirements that must be met individually. Some courts have held that, despite EIS including some historic resources, it is not sufficient to comply with the NHPA or, for any matter of the decree n° 11593. Many courts, however, have interpreted the NEPA and the NHPA similarly and have applied the same reasoning to face claims in each statute; some have described large federal projects and actions as essentially coincident.

Cases that include historical preservation concerns under the NEPA generally fall into two categories: 1) cases that discuss whether the action of the agency is an important federal action that significantly affect the human environment, which requires an EIS; or 2) cases that discuss whether the agency properly conducted an environmental analysis for the main federal action.

The courts generally postponed the decisions of the agencies with regard to the application of the NEPA, releasing such decisions only after discovering if the agency acted arbitrarily or capriciously or acted in a manner contrary to the law. As a result, in cases that challenge the agency's decisions when the NEPA does not apply, the courts often agree with the agency's determinations, provided that the record indicates that the

federal agency took into consideration the requirements of the "hard look" on potential impacts.

Although the courts are not in agreement as to the degree of federal involvement required to trigger the NEPA, the courts have refused to apply the NEPA and its request for an EIS where federal involvement is limited to approving and granting financial assistance for an environmental study. The courts also approved the agency's decisions to treat certain actions as categorical exclusions under the NEPA. However, in one case, the court found the categorical exclusion decision unreasonable since the agency did not properly identify the location of the project; the court, in this case, determined that an EIS would be appropriate given that the project carried a risk of affecting a traditional cultural resource. In deciding whether a federal action will have a significant impact, the Courts have held that the mitigating measures may be considered, however, the guidelines of the Council on Environmental Quality (CEQ) warns the agencies not to rely on the possibility of mitigation to avoid the preparation of an EIS. The CEQ regulations establish determined criteria to assist agencies in determining the intensity of impacts.

An impact may exceed the limit of meaning depending on the degree to which it affects the "unique characteristics of the geographical area, such as the proximity of historical or cultural resources" or "districts, places, roads, structures or objects listed or eligible for inclusion in the National Register of historic places". A court found that if a property is listed on the National Register or is of historical value, its proposed demolition is a "major federal action" under NEPA, while not necessarily a "significant

loss in quality of the human environment". Other courts, however, have supported the agencies determinations that projects involving demolition or other impacts on the historic properties are not the purview of federal actions. Thus, an EIS would not be necessary. When EAs and EIS are prepared, each applicant can contest its content and scope. Issues raised by the applicants may include the failure of an agency to consider cumulative impacts, undue consideration of alternatives and inadequate analysis of mitigation measures. When EIS is drawn up, the courts have held that it must include an in-depth discussion of the historical and archaeological resources involved in the project, the impact of the project on these resources and alternatives that allow its preservation and rehabilitation.

The courts are not in agreement as to the fact that an EIS is written to complement when new information about historic resources come to light after the completion of the initial EIA. A court held that an additional EIS is required when new historical resources are discovered and although others have supported it, it still may not be enough for a change in the requirement of complementation of the EIS. When a property is determined eligible for the National Register after the publication of the EIS, a court recently found that the need for an additional EIS should be determined.

The HADPA provides for the preservation of historical and archaeological data that could be lost due to changes on the site caused by a federal program or by a licensed activity by the federal government. For the implementation of the proposals of the law, the HADPA allows the transfer of up to 1% of funds that will be allocated to the development of the project of the Secretary of the Interior. In contrary to Section 106,

which requires consideration of historic properties during the planning process by the federal agency, the HADPA guides the implementation of mitigation measures once the agency takes a decision in favor of the execution of a project.

The ARPA was designed to protect archaeological resources on federal and indigenous lands, and encourage the exchange of information relating to such properties between the federal government and the archaeological community. The ARPA strengthens its predecessor the HADPA, establishing specific licensing procedures that all applicants, including private bodies, as well as state and federal agencies, must follow before starting any excavation or removal of an archaeological resource on federal or indigenous land. Unlike the NHPA, the ARPA provides both civil and criminal penalties in case of non-compliance with the law.

Yet the NAGPRA requires that federal agencies and museums draw up an inventory of their archives of Native Americans cultural assets and return these items to the Indian tribes and other groups of Native Americans. The definition of "Indian tribe" of NAGPRA has been interpreted to include a group or community of Indians that the Secretary does not recognize as an Indian tribe. However, this decision was made before the promulgation of NAGPRA regulations that generally define "Indian tribe", as those recognized by the Secretary of the Interior. The law also provides that any intentional excavation and removal of human remains of Native Americans or any other cultural items in federal or indigenous lands must be conducted only with a license issued according to the ARPA conditions and after consultation with the appropriate Indian tribe. If an accidental discovery of vestiges or Native American objects happens and is in

connection with an activity on federal or indigenous land, the activity must cease in the area of the discovery, a reasonable effort must be made to protect the vestiges discovered before resuming the activities, and the federal agency or an indigenous authority must be notified. Activities can be resumed thirty days after receiving the certification of notification from federal agency or indigenous authority. The requirements of NAGPRA can overlap Section 106, since the projects occur on federal lands or indigenous.

The AIRFA protects the rights of Native Americans to exercise their traditional religions, ensuring access to sites, and use and possession of sacred objects, and the freedom to worship through ceremonies and traditional rituals. The intention of the AIRFA has been interpreted as ensuring that Native Americans receive First Amendment protection, but gives no rights in excess of the First Amendment. Due to eligibility of these sites to be included in the National Register, any consequence as a result of providing access to them can trigger a Section 106 review under the NHPA.

In 2003 when the UNESCO Convention had proposed the "Safeguarding of Intangible Cultural Heritage" and many nations embraced when it was first presented, the United States has never adopted. As a result of the absence in this world convention, unique American art forms and cultural practices, are not formally being recognized as this country's unique intangible cultural heritage. Instead of adopting the Unesco's convention, the term the term Guidelines for the Evaluation and Documentation of Traditional Cultural Properties was proposed by Patricia L. Parker in the late 1980s while preparing a piece of guidance for the National Register of Historic Places. Published in 1990 as National Register Bulletin 38, has defined the term in a National

Register context, as: A traditional cultural property [is]…one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that: a) are rooted in that community's history, and b) are important in maintaining the continuing cultural identity of the community (King, 2005).

4. SOCIAL MEMORY AND CULTURAL HERITAGE

Analyzing social memory, cultural heritage and identity, in an anthropological perspective enables us to make an 'archeology' of the concepts proposed by Choay (1992). Based on sociological and anthropological literature on the subject, we know that each of these concepts is complex enough to be studied separately. Thus, the justification to discuss them together and given the interrelationship between these three concepts: social memory, cultural heritage and identity. If we analyze the three concepts, we realize that these are social constructions in the sense pointed out by Geertz (1973) on representation and signification systems that are collectively constructed, shared and reproduced over time.

This system of representation, according to Llorenç Prats (2005), changes with the development of capitalism and the industrial revolution, when the systems of representation started to depend on the growing separation from nature, from the past and the valorization of individualism and exclusivity in a mediocre society, but that still depended on creativity. According to the author, even if historically this process is well documented, some issues need to be addressed to be culturally understood. Why would processes of patrimonialization be used with greater intensity than other symbol systems, as for example, a kind of secular religion, to legitimize identities or speeches? Why resort to what had been neglected and is now preserved and celebrated in ad hoc temples? Why did this perception of heritage spread gradually to the most distant corners

of the Western capitalist society? But most of all, how is that perpetuated so strongly today?

According to Clifford Geertz (1973), considering the heritage as a series of sacred symbols, which condense and emotionally incorporate values and worldview seems acceptable and explanatory, but is insufficient to account for the diversity of experiences and nuances in this field in contemporary times.

Speaking of diversity, when thinking of heritage management as well as studying it, considering policy-making and examining public awareness, we have been increasingly challenged to reconcile problems and possibilities, to understand the potential and the limitations of developing various policies for different management structures, heritage and identities impact policies, and to evaluate the impact and limitations of management tools of jurisprudence. Many of these issues are not new to the study and practice of heritage and according to Peter Biehl (2013), what is unprecedented is the scale. While most of the heritage management is conducted within the frameworks of national and regional government, the political, economic, demographic and technological forces are activated at a global scale.

If in sociology the focus is on the study of human organizations, in anthropology, the focus is on culture and many anthropologists consider society to be the result of culture. According to Geertz (1973:89), culture is a historically transmitted pattern of meanings substantiated in symbols, a system of concepts inherited and expressed in a symbolic form by means of which men communicate, perpetuate, and develop their knowledge about their attitudes toward life. Or as Roy Wagner (2010: xix) defines the

study of culture as a science of symbols that seem as unwise as such unlikely attempts to declare the unstable as a grammar metaphors or an absolute dictionary. And that is because symbols and people exist in a relationship of mutual mediation. Symbols are demons that harass us as we harass them. The question however is whether "collectivize" and "differentiate" are symbolic or human provisions that are irrevocably linked in the traps of mediation.

Therefore, these symbolic provisions are the value that human beings, both individually and socially, attach to the material legacy of the past, value in the sense of individual or social appreciation assigned to patrimonial assets in a given historical circumstance and according to the frame of reference of the era. According to Elsa Silva (2000), it is a relative concept, which varies depending on the people and groups that assign this value, permeable to the fluctuations of fashion and criteria of dominant tastes, tinted by the intellectual, cultural and psychological costumes of an era. In this sense, the decisive element that defines the concept of heritage is its ability to represent symbolically an identity (Scott, 2000:219), and thus, heritage and identity have numerous and varied relationships. As a collective attribute, heritage is a key element in the construction of social/cultural identity and, at the same time, is the very embodiment of the identity of a group or society (Choay, 1992).

However, according to the contextual approach of Michel Agier (2001), there is no identity definition in itself. Identity processes do not exist out of context and are always related to something specific to what is at stake. Thus, any identity, or any declaration of identity, both individual and collective, is therefore multiple, unfinished,

unstable, and always experienced more as a search than a fact. The path from culture to identity, and vice versa, is not unique, nor transparent or natural. It is social, complex and contextual (Agier, 2001:13).

Therefore, a society or a group can construct and reproduce their identity through the constant attachment to their mythological, historical and especially symbolic-religious past. Inverting the logic of the question, we can say that societies are the results of processes (historical and mythological) of (con)textualization and (de/re)contextualization of cultural identities over time (Santos, 1994), articulating situations and aspirations for the future. The construction of identity, whether social or individual, is not stable and unified – it is changeable, (re)invented, transitory and sometimes temporary and subjective. The identity is (re negotiated and will change, (re)building over time (Rodrigues, 2012: 3).

Donizete Rodrigues (2012) also defines identity as a historically appropriate identification process which gives sense to the group. In other words, identity invokes a feeling of belonging to a particular ethnic, cultural, religious group, according to the perception of differences and similarities, focused mainly between "we" and the "other". The identities, seen as differentiations in course, emerge from the interactive processes that individuals experience in their everyday reality.

An important aspect in this process of assigning meanings that characterizes the construction of cultural identities is related to memory. Nowadays, the study of memory won important contributions from neurobiological and physical sciences. In addition, social sciences and psychology also have memory, individual and collective, as one of

their research fields. The studies involve necessarily the concepts of retention, forgetting and selection. They try to understand how memory ordering is given from various stimuli, and how it articulates in constructions made in the present about experiences that have occurred in the past and expectations of possible futures.

In social sciences we can point out the studies that relate the individual memory to social environment, fundamental for this research. The studies led by Maurice Halbwachs (1990) contributed definitely to the understanding of the social frameworks that make up the memory, particularly the relationships between the individual memories and the group to which one belongs. The individual carries in himself a reminder, but it is valid to note that individuals are constantly interacting with society, its groups and institutions, and it is in this context of relationships that we built and structure our memory.

The individual remembrance happens, then, in the friction with the memories of the various groups with which we connect, so that, even if we're not in their presence, our remembrance and the ways we perceive and we see our surroundings are formed from this tangle of experiences and expectations. Individual memories feed from the various memories offered by the group that the author calls ' affective ' community, which constitutes a frame of references, where the individual is also subject to unconscious questions, such as affection and censure. Thus, both in the processes of formulation of individual memory and of recollection, the "other" has a vital role.

Collective memory therefore has an important role to contribute to the feeling of belonging to a certain group and of a common past that shares those memories. Memory

also ensures the feeling of identity of the individual, consolidated in a shared memory not only in the field of history, reality, but especially in the symbolic field. Memory changes and rearticulates according to the position and relations that are established in different groups in which the individual participates (Nora, 1984). One of the most important elements, which claim the social character of memory, is the language, since the exchanges between the members of a group are by means of language. Remembering and narrating are inseparable aspects of memory (Le Goff, 1996).

As stated by Ecléa Bosi (2003) language is the socializing instrument of memory since it reduces, unifies and brings closer in the same historical and cultural space experiences as diverse as dreams, remembrances and recent experiences. It is important to note also that memory can be an object of power struggle between classes, groups and individuals. Deciding on what must be remembered and also about what should be forgotten integrates the mechanisms of control of one group over the other and that's what we must constantly be cautious about. What will be remembered, what dates will receive attention and celebration, which stories will write the History and what will integrate the textbooks are some relevant points in this debate.

Another relevant aspect of memory for this research is its relationship with places. Individual and collective memories have in places an important reference for their construction, though they are not a condition for their preservation. The groups memories also find their references in the spaces they inhabit and the relationships they build with these spaces. The places are important references in the individuals' memory

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and the changes undertaken in these places entail major changes in the life and memory of these groups (Pollack, 1992).

According to Pierre Nora (1984) both the individual and the collective memory feed from and have points of contact with the historical memory and are also socially negotiated. They keep information relevant to the subject and have, as primary function, to ensure the group cohesion and the sense of relevance among its members. They use smaller periods than those used by history and find in orality its ideal but not necessarily exclusive exchange vehicle. However, the historical memory has in the written record a fundamental means of preservation and communication. Individual, collective and historical memories interrelate and contaminate each other. Individual and collective memories live in a permanent struggle for coexistence and also for the status to build themselves as historical and official memory (Le Goff, 1996; Pollack, 1992).

After this introductory conceptualization of the main terms used in this research, in the next chapters we will discuss the growing debate of heritage studies in contemporary times and its importance in identity claims processes, memory and heritage selections. As a counterpoint to these memory policies, we will discuss how they end up generating oblivion policies and how they have challenged the diversity paradigms using the analysis of the case studies highlighted in this research as a reference for the discussion.

4.1 The Sense of Heritage

From its meaning related to private property, great monuments to the formation of national states, the term Heritage has been changing and to this day is far from a restricted and defined concept. In this research, we chose to use a more contemporary perspective for our case study.

According to Ferreira (2009: 22), the concept of heritage should be seen in conjunction with other categories such as memory, the patrimonial claims and patrimonial policies. The patrimonial dynamic, therefore, is linked to the sense that the Heritage concept takes on all the social and cultural practices of a society. Thus arose the use of the designation "historical heritage" for monuments, cities, places, cultural practices, traditions, knowledge, etc.

Thus, each city expressed the uniqueness of its heritage, in the same way it expresses the subjectivity of its individuals. The common heritage is thus created by differentiation. Arruda (2008: 2) states in this sense that the urban landscape has the ability to change, evokes associations, memories and similarities, and maintains the curiosity of wandering idly or not the streets: " in the streets, for those who wander without sticking to detail, objects appear divorced from their context and subjects, often in mysterious connections, in which the meanings are often read only on the surfaces of things".

The growing debate about the scope of the term creates different terminologies and variations to the meaning of the concept. One can then highlight the terms Cultural,

Environmental, Architectural, Urban, and Rural and so on, Heritage. Such discernment may be the result of the scope that is currently taking place in the Heritage field, both in academic research and in social events, claims, appropriations and public policy.

The heritage in contemporaneity has taken on other contours and other social functions, so that since its institutionalization as inheritance and record of the national past, the concept of heritage has been going through changes that have brought it closer to other concepts, such as identity (Ferreira, 2009: 22). According to Castriota, it is not simply an issue of diffusion of the concept, but rather an innovative issue. For the author, the referred architectural heritage that had one definition, has now such a comprehensive conception that it includes the space as a whole (Castriota, 2009: 85).

According to Françoise Choay after the end of World War II, the heritage field starts to incorporate sets of buildings, urban networks, houses, neighborhoods, villages, whole cities opposing that limiting perspective of individual buildings (Choay, 2001: 13).

The notion of cultural heritage undergoes changes during the twentieth century, stemming from the fundamental and relativistic vision of anthropology as it incorporates marginalized societies opposite a dominant culture. Thus, the notion of culture now "includes popular events and modern mass culture. At the same time, material and technical elements of culture are now carefully considered (...)" (Castriota, 2009: 85). So, we observed that the expansion of the concept is modified also by inserting other new social groups and patrimonial objects.

In the context of mass culture Castriota (2009:104) outlines a change in the meaning of Heritage, from "an object of worship" to "an industry". The democratization of the heritage field happens simultaneously to its transformation into merchandise, in the logic of the cultural industry: cultural goods, in addition to offering "knowledge and pleasure ", are now also "cultural products", packaged, distributed and consumed. In other words, this commodification of heritage is a process by which things and activities are assessed primarily in terms of their exchange value, in a business context, thus becoming products and services, developed exchange systems in which the value of the exchange of things and activities is indicated in terms of market prices (Cohen, 1988:380).

In this context, the very perception of heritage undergoes a transformation and is perceived, in essence, as political and controversial, resulting in contemporary research, interdisciplinary and critical, the notion that cultural heritage is a social construction. Recognition of heritage is done through conscious decisions and reasons shaped by contexts and social processes. It is always necessary to examine why and how the heritage is valued, and by whom, states Castriota (2009: 106-107).

The heritage field implies special significances related to certain assets. It covers concepts which change over time and with the values assigned to it, involving questions of identity, modernity and nationality (Meira, 2004). According to Mónica Rotman (2010: 35-36), in order to be recognized, it is necessary for the heritage to be "activated", to promote a specific version of the past, thus selecting an identity, interpreting and representing a repertoire related to this selection.

Thus, the cultural heritage of a particular nation is not a given fact but a historic construction resulting from a process involving many political, historical, and social interests. The selection at this level is determined by hegemonic interests in accordance with the logic of homogenization of differences and internal contradictions (Rotman, 2010: 25).

For Jesus Machuca (2010), ideological and cultural phenomena have a close relationship when they justify or transfigure facts so that, socially speaking, certain situations become equivalent. In this sense the production of sense of belonging and the need to provide consistency require adaptations in the cultural sphere.

Consequently, the expression of an identity is essentially ideological, in the sense that it corresponds to the prior values and ideas, subsidized by certain interests. A dialectic relationship between the reality, the ideas, the values and the interests of those who shared and suggested them is established in the identity formation: "the heritage, or better said, the various activations of certain heritage references, are symbolic representations of versions of identity" (Prats, 1998:67).

To define, but not restrict, the concept, we can say that the cultural heritage is the set of assets, material and immaterial, which are considered to be of collective interest, sufficiently relevant for their perpetuation in time. Heritage helps to remember the past: it is a manifestation, a testimony, an invocation, or better, a recall of the past. It has therefore the function of (re) commemorating more important events, hence the relationship with the concept of social memory. Social memory legitimizes the identity of a group, using heritage to that purpose (Rodrigues, 2012).

Heritage expresses historical identity and the experiences of a people, contributing to maintaining and preserving the identity of a nation, of an ethnic group, religious community, tribe, clan, family (Choay, 1992). It is the cultural heritage of the past, living in the present, which will be transmitted to future generations. It is the set of sacred symbols, in the religious and ideological sense that a group, usually the political, scientific, economic and religious elite, decides to preserve as collective heritage (Rodrigues, 2012). There is therefore, a social and political legitimacy of what is, and especially what is not, heritage that varies over time and according to different interests.

4.2 The Excesses and Shortages of Memory

It is from this perspective that I would like to discuss the heritage valorization process in both case studies of this research: São Lourenço do Sul city (Brazil) and El Paso city (USA). When we look at the work of Huyssen (2000: 29), we observe that the musealization of the past and mediatisation of culture may be linked to compensatory attitudes toward the immanent risk of forgetting: "There is as much excess as there is shortage of memory.

As seen previously, it is necessary to consider the close relationship between heritage and identity because within this logic, the identity of a group / society is always a selective and fragmented process and requires full attention to the events and consequences (Rodrigues, 2012). It is essential to emphasize the aspect of ideological manipulation that operates in the selection of what will be considered as heritage and the

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decision about what to preserve. The heritage of a particular group presents itself as a social construct about historical versions focused on identity. It is then, a symbolic process of social and cultural legitimation of certain traits, tangible or intangible, which give a group a collective and cohesive sense of identity (Prats, 1997; Silva, 2000).

According to Bosi (2003: 200): "When you lose the witnesses of the time lived, the resulting void of a part of the history allows for an official version to take the place of what was being plotted". Thus, in view of the present time needs, either by fear of forgetting, for the promotion of tourism, or for ideological reinforcement actions, there is a need to create and strengthen the ties of identity, making the common past a kind of entity contributing to define the sense of belonging. It is essential to note that the cohesion of the group has a fundamental key role in this process, perhaps even more than the identity, and the danger is that everything that diverges is preferable to set aside to not compromise the "unity" of the group. But these dissonance will not disappear just because they were wiped out from the main role.

While the historical facts fade away in the distant time, their recounting transforms them at every remembrance. The materiality, in turn, as a memory bearer is re-signified according to our vision of the past. Remembering does not mean reliving, but rebuilding and rethinking the past in relation to the present: "The memory is the image built with the materials that are now at our disposal, within the set of representations that populates our present consciousness" recalls Halbwachs (1990: 35).

In this sense, the appropriation of the past - real or idealized – becomes essential to meet current needs. As if in a caricature, these needs appear fully satisfied by the

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election of a unique historical moment: that in the Brazilian side we find the settlement enterprise and in the American side the saga of the natives in search of their land; an ethnic group founder: in the Brazilian side the German-Pomeranians and in the American side the Tiguas; and a mythical figure: in the Brazilian side the Prussian who effected the arrival of the immigrants, Jacob Rheingantz and in the American side the Tiguas leaders who accompanied the Spanish army to the new lands as a revenge strategy described in folk history. Iepsen, studying the mythical figure of Jacob Rheingantz, noted this as a typical result of mythological constructions, "when a few men are exalted in a society, people tend to think that everything around is intended to celebrate these icons. It is the traditional simplification of the past" Iepsen (2008: 156).

In the field of the collectivity, the mythical construction of the lived experience and the exaltation of characters capable of generating inclusion and identity affinity is recurring. In a way, social memory is a sacralization of the lived experience for a given group since its existence and production create emotional ties that keep life and lived experience in the field of common memories, generator of social memory.

In other words, these elements that constitute both individual memory and the collective one nourish themselves from their own experiences and from those "experienced indirectly", as qualified by Pollak (1992: 2). For the author, the experiences gained by the group can awake, in other generations or other groups, an identification within the space-time through a political or historical socialization, which can cause by projection, an almost inherited memory.

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Meanwhile, history and memory are also made up of details and more or less fuzzy characters, whose participation in the socio-historical processes are constantly obliterated in official efforts to frame the memory. We found that the loss of biographical and materials bearers of that period, associated with the selection made by the public memory for the sake of Pomeranian cultural heritage has resulted in the expropriation of the constituent elements of the historical heritage of the city, affecting the perception of history and the collective sense of belonging.

Thus, according Cazzetta (1991: 192) "the past has been transformed into a product called heritage and this heritage has been packaged in a package called interpretation". If the interpretation emerges as a regulative agent for the determination of heritage, it is closely linked to power struggles of social memory of a given society, identity claims and mainly political interests fostered by tourism.

According to Elsa da Silva (2000), there is a collective feeling of nostalgia of the past in contemporary times, which prompted the emergence of a patrimonial market, parallel to the logic of singularity, stimulated by commercial values. Heritage has become an essential component of the tourist industry with economic and social implications. Tourist exploitation of patrimonial resources allows the reverting of the strong tendency of concentration of tourism along the coast, attracting tourism to countryside, in the small towns, with a more equitable distribution of its benefits, generating employment and income, revitalizing local economies. On the other hand, the use of heritage for the purpose of mass tourism ends up threatening local identities.

In some cases, this trend of commercial valorization of heritage has generated extreme versions of tourist use of the heritage resources. Not only the material vestiges have been converted into spectacles, but entire cultures have been selling the illusion of the past through models that have nothing to do with reality. These are the new places of worship, which feed on myths of material well-being, leisure and consumerism, manufactured by a hyper-real civilization that builds illusory stages because it needs an imaginary history (Silva, 2000: 221).

The modern tourist in search of authenticity often ends up reflecting a constructed vision of the primitive, the natural, of what is still untouched by modernity, expecting to find it in other times and other places, something that is absent in her own world, and thus consolidating a form of alienation. Therefore came up the concern, for this debate, regarding the authenticity of the groups involved with the valorization of their cultures and history, in the context of the performance, which led to the realization of this comparative study.

According to John Frow (1991:123), the magnificent value of such performances, and their deep connection with the past, is made up of one or more of these three elements: a name (that can encapsulate a story, or a reference to a divinity); a legend (that gives a story); and poetic themes. Dean MacCannell (1973), suggests that authenticity is a socially constructed concept, and that therefore, its social connotation is not a given but a negotiable fact. In this sense, if authenticity is not a given fact, it could be argued that different audiences will conceive authenticity to varying degrees of accuracy. In other words, individuals who are less concerned about the authenticity of

their tourist experiences will be more prepared to accept as authentic a cultural product or attraction that tourists more concerned and knowledgeable will classify as artificial.

On the other hand, this authenticity valorization is closely related to the impact of modernity on the unity of social existence. As institutions become lighter in the words of Nietzsche, and lose their reality, the individual is driven to become his own self. If no external existence can be evoked to make sense of the sensation of reality of the individual, there are no options for him, except to explore within himself in search of the real. Independent of what this realism can be, it must necessarily be in opposition to any external and modern social formation. The opposition between the individual and society has already reached its maximum and the concept of authenticity is a way to articulate this experience (Cohen, 1988:373).

Thus, while a very fine line in the treatment of contemporary memorial processes and projects in progress can be identified here, at the same time the institutional, economic, political and social issue around Heritage is highlighted, and it starts when the memorial/patrimonial references that will represent a past, an ethnic group, a city, or that which is the generalization of the story, are selected. We enter the intrinsic discussion of Social Memory, Cultural Heritage and the underlying contradiction between remembering and forgetting. I understand thus how Cultural Heritage is not a given fact but a historic construction, resulting from a process that encompasses various political, historical and social interests. The selection, at this level, is determined by hegemonic interests in accordance with the logic of homogenization of differences and internal contradictions (Rotman, 2010: 25).

4.3 Bearers of Memory: The Past Conductors

An aspect raised in this discussion concerns the mediation of the reactions between memory and heritage through so-called memory bearers. Memory bearers are formed by support points that act as external incentives for the construction of memorial narratives, and are invested in material elements such as objects, photographs, monuments, sites and landscapes, constituting means of mediation between the past of memory and the present of remembrance. The material remains are a means of mediation between the past of the memory and the present of the remembrance. However, we know that the material bearers of memory, by themselves, mean nothing. The memory bearers are not the memory. While memory is immaterial, and as such a social conscience attribute, memorial bearers need human practices to gain meaning, and thus become instruments for the actions of political, social and institutional actors (Mesentier, 2005).

In current Western society, the rapid pace of urban work added to the facility of the speed and the advancement of means of communication, places the common man in front of an overwhelming amount of information. Such facts create for the contemporary man almost an obligation to consume the information in an uncritical way, without greater selective care, losing consequently one of the most important functions of human memory, the selective capacity to choose what should be preserved and on the other hand, the facts and experiences that can and should be discarded. The loss of the exercise of that power of selection in current societies is the fundamental factor for the formation of what information professionals call the society of oblivion (Simson, 2003).

Olga Simson (2003) noted appropriately that we will not remember everything that happened or that we have been taught throughout our life. We rule out most of our experiences and only retain those that have meaning, that is, that are functional for our future existence. Thus, culture can be seen as the memory of a society, the result of filters through which the individuals who live in it have been able to exercise their power of selection and choice.

In small communities or pre-modern societies in which the volume of information is considerably more restricted, the memory is organized and held by all of its members, who are responsible for passing it to new generations, and the elders, due to their greater experience, have the important social role of guardians of the collective memory. They are in charge of the function of transmitting to future generations of their social group the facts and experiences that have been retained as fundamental for the group's survival.

This social role of the elders has been gradually lost along with the increased complexity of Western societies, and more intensely in contemporary times. Diversification and sophistication of supports of memory storage (written, media, photo, video, tape recorders, CDs, DVDs, hard drives, etc.) and the enormous volume of information have resulted in the emergence of institutions especially devoted to the work of selecting, collecting, organizing, storing, curating and disseminating the memory of social groups increasingly interconnected, at a time when societies are becoming increasingly societies of forgetting (Simson, 2003).

Hence, nowadays, these institutions perform professionally a social task previously carried out by the elders. As an example we can mention the museums, archives, libraries and memory centers, which according to previously established criteria, perform the curatorial work and make available the memory of a specific region or a social group, held on various materials supports. Therefore, research methodologies should guide this safeguarding work so that it can be well performed and their setting on storage media can be technically chosen.

Observing the general movement of Western society, we can perceive a strong need to remember, a need for memory, in response to processes that we can attribute to the phenomenon of globalization. When one lives so quickly that it get to point of not being able to feel time passing by, projects involving memory enable us to inhabit this time and live it fully, in a relationship which can be creative and transformative. In these projects the elderly go back to occupying a defined and fundamental social role, because they are the one holding the spatiality and the following phrase as *in those days...*.

Globalization, in the sense discussed here, does not refer only to the economic system articulated among countries, but to the socio-cultural and political implications arising from a hyper connected society. While this globalized economy articulates an interdependent world market, political globalization structures the world through new forms of power and authority, and the digital era promotes globalization of information. According to Scott Sernau (2009), cultural globalization means that music, fashion and lifestyles are transported around the world, reshaping ways of living and ways of thinking.

Consequently, we observe a constant friction between the local and the global, between the modern time and time of tradition, so that globalization has an essential temporal-spatial dimension – and is at the same time change and continuity. The advancement in communications and media technologies, such as internet services, satellite and cable and mobile phone technologies are moving not just goods and capital around, but people, services, and ideas from the national level to the transnational, in high speed, within the phenomenon of hyper connectivity. Intercultural interactions are more frequent, especially through the platforms of media technologies and cyberspace. In consequence of this, tensions and conflicts between cultures are also more likely to occur (Robins, 1997).

The act of remembering collectively, or the act of sharing a memory, is a task that builds strong bridges of relationships among individuals because it is based on a common cultural baggage, and essential for the conduct of any action involving the memory. Therefore, the shared memory is as much a way to tame time, living it fully, as a motivation that leads to action. It represents, therefore, a valuable strategy in the logic of market economies and the hyper-connected society, where practically everything has an exchange value, that is, can be transformed into merchandise.

This shared memory, as a latent desire of the globalized man, who even so is fulfilled by a relationship not inserted in the market logic, leads us to build networks of relationships in which it is possible to focus jointly on aspects of the past, involving participants from different generations of the same social group. These processes use

filters to reconstruct previous experiences and life experiences which lead us to think on more solid and realistic bases about our future actions.

Thus, we can understand that the issue of social memory in contemporary contexts is not limited to understanding the relationship of the studied groups with the past, but extends also to the political biases that it assumes in tackling the problems of the present and the imagination of possible futures. According to Olga Simson (2003), by allowing the reconstruction of aspects of the recent past, working with memory also allows people involved, directly or indirectly, to experience a transformation of consciousness in relation to the historical documentation. This shared immersion in the past makes us emerge more aware about contemporary problems of life and of the community studied and generally leads us naturally to joint actions politically conscious in order to overcome those problems.

We know memory never presents itself in an orderly or chronological manner, as it works through a free flow with associations between experiences, past facts and aspirations of the present. We also know that even before the registration processing, a very important selection filter will act by separating what must be retained from what is discarded and this filter will be determined by various aspirations within a given society. To understand how culture is memory and understand how memory through culture allows exercising a power that transcends both politics and philosophy, closing thus, and justifying the multidisciplinary need the subject requests.

5. DIFFERENT GROUPS, SIMILAR PROCESSES

As an introduction to this chapter, I would like to define the meaning of anthropology. Etymologically, the term anthropology derives from the Greek word *Anthropos* (man) and *logia* (study). Anthropology is the study of man and humanity in their entirety, including their biological, social and cultural dimensions, including their origin, groups and social relationships, behavior, social, cultural and physical development, their relationships with the natural environment, biological variations and their cultural production. In other words, anthropology seeks to study humanity in all its aspects.

Thus, anthropology goes far beyond the study of people of a non-industrial era. It is a comparative science that examines all societies, ancient and modern. Anthropology offers a unique intercultural perspective that compares the customs of a society with others. Therefore, it is able to explore the cultural diversity of the present and recent past. One of the sub-areas of anthropology, cultural anthropology, is the study of society and human culture that describes, analyzes, interprets and explains social and cultural similarities and differences. In order to study and interpret the cultural diversity, the cultural anthropologists are engaged in two types of activities: ethnography, fieldwork-based that provides a record of a particular community, society, or culture. Cities and countries increasingly invade local communities with the arrival of tourists, development agencies, political and religious officials, national and international political systems. These relations are prominent components of regional, national and international

political systems. These large systems have affected more and more people and places studied traditionally by anthropology. The study of such relations and systems is part of the theme studied by modern anthropology (Kottak, 2014).

And another type, ethnology, based on intercultural comparison, examines, compares, analyses and interprets the results in ethnography that is, the data collected in different societies. Ethnologists use these data to compare, contrast and make generalizations about society and culture. With a vision that goes beyond, from the particular to the general, these researchers are trying to identify and explain cultural differences and similarities to test hypotheses and create a theory to increase our understanding of how social and cultural systems work. Ethnologists get their data for comparative analysis not only from ethnography, but also from other subareas of Anthropology, particularly archaeology, which is able to reconstruct social systems from the past.

The word method in anthropology has at least three meanings. Firstly, the method relates to epistemology, the assumptions set on acquiring knowledge. Secondly, the method relates to strategic approaches for the accumulation of actual data. Experimentalism and naturalism are two strategic approaches within the scientific method. Experimentalism involves direct manipulation of variables under conditions as well controlled as possible. Naturalism involves observing phenomena in their natural environment. And thirdly, the method refers to the technics or sets techniques of collection and data analysis. The method of inquiry via questionnaire is a set of techniques (involving sampling, construction tools, interviews and other things) to

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collect the data. The field observation (in situ) is another set of data collection techniques (for example, about how long people spend on various activities). Observing participants is what makes it possible both to collect life history documents, attending sacred festivals, talking to people about sensitive issues, mapping rural properties informants, go with a hunter to heard over it, etc. Among other things, observe the participants helps us build affinity. Affinity is what makes it possible for us to observe and talk to people and record information about their lives (Bernard, 1993).

In this research, the methodologies proposed by cultural anthropology were adopted in a systematic manner. Data collection of public materials that have used ethnographic methods priory and were carried out in the respective cities as (Ferreira, 2009; Iepsen, 2008; Green, 1976).

The purpose of using these public materials about those people is exactly to play the researcher's role in to enable the memories, either through a previously established script, either through what the French anthropologist Joël Candau called memory socioconductors that in the case of this particular research were pictures and the city scenery itself. These memory socio-conductors allow this nexus between the subject and the memory in which it is immersed, constituting what Candau called as meta-memory, i.e., the representation that the subject makes of his own memory (Candau, 2008).

The interpretation and analyses of the publicized interviews (Ferreira, 2009; Green, 1976; Iepsen, 2008) were discussed as ways of understanding and interpreting the transformation processes occurring in both countries, being aware that when a person reports his experiences, he also shares emotions, worldviews, and this is done at a given

moment that serves as a starting point for remembrance. Here we come closer to Halbwachs when he says that all memory is related to the place of the subject in the present and he is the one who, ultimately, is producing the remembrance, thus differing from Henri Bergson's thesis for whom it is the past that is constantly influencing and even determining the present (Halbwachs, 1990, Bergson, 1999).

In a research, each memory brought by these respondents is associated with others, establishing a network of representations that serve to support the analysis of a particular social process. In the specific case of this research, considering that the main objective was to study how different socio-historical trajectories inserted in contemporary political processes of the past, heritage claim and construction of memory generate comparable and similar processes. It was also possible to witness the invisibility of other groups or social processes that occurred in both places and are now silenced by the emptying both physical and patrimonial.

Besides much attention has been given to memory analysis in recent years, it has been a feature of the approaches within the heritage studies, considering memory as ideologically opposed to forgetting. Forgetting has been understood as an adverse process, which carries removal connotations, silence, and losses; but this view has lately been rethought. A brief description of revised concepts of nature and the work on forgetting show that more than bias against memory, the two processes are dependent on each other, reflecting more accurately "the tenuous relationship between remembering and forgetting.

Yet, the theorization about an individual unable to forget developed by William James, who argues that the perfect mnemonic memory is a sign of mental illness. Forgetting and unconsciousness are not memory disease but a condition of health and life, inspired by what Nietzsche already advocated on the need to fully appreciate the experience of the present: "Who cannot leave behind at the threshold moment and forget the past, will never know what happiness is". Forgetting at this point of view it is both advertised as legitimate by their selectivity: arbitrating which is necessary for cognitive function and discarding what is not. According to David Lowenthal: "Forgetting is so essential to keep things in mind, because any individual or community can afford to remember everything. Total remembrances let us unable to discriminate or generalize" (Huyssen, 2000; James, 1981; Nietzsche, 2005; Lowenthal, 1999).

On the other hand, we observed that forgetting is always a politically-motivated case: a regime seeking through the systematic deletion to remove the memory of another. According to the author Norman Klein this narrative undoubtedly dominates the study of heritage in contemporary times, leading to a necessary archeology of forgotten narratives. However the process is not always centered and may be accidental, gradual and even uncertain. Other critics theorize oblivion differently. Huyssen, for example, suggests that the abundance of monuments in Germany's postwar signal a kind of overcompensation: "The more monuments there are, more the past becomes invisible and it's easier to forget: redemption through forgetting". Similarly, Esbenchade, advocates a more subtle interpretation: "Forgetting is not the negotiation of memory, something necessarily false and misleading but rather, it is remember in another way,

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another review on a flow of constant revision and evolution" (Klein, 1999; Huyssen, 2000; Esbenshade, 1995).

The term "memory confiscation" from Bronislaw Baczko (1999) analyzing Poland in the period termed real socialism, is an idea that characterizes the expropriation of the past and the imposition of a new body of values and ideas that arise in a conflicting way against the memory and the previous interpretation of the past, to purge them and manipulate them for the benefit of the new establishment (Padrós, 2002).

As a counterpart, we highlight the existence of underground or marginal memories that correspond to versions of the past of dominated groups in a given society. These memories are generally not monumentalized, neither recorded in tangible media such as text, artwork, and are only expressed when social conflicts evoke them or when researchers that use the biographical method and oral history create the conditions for their emergence. These painful memories can then be recorded, analyzed and become part of the collective memory of a given society (Simson, 2003).

As collective pasts are increasingly mobilized in a complex of museums, so to speak, heritage has necessarily become an arena for the conscious choice, justification and representation. This leads to a form of fetishization, such as dramatic performances and rituals of cultural traditions that are celebrated in the form of costumes, music, dance and crafts. This process, however, is not new (Anheier & Isar, 2011).

Nowadays, this "museumization" is an integral part of the heritage policy. Thus dominant groups often impose their idea of heritage on minority groups. In this process, the "cultures" ostensibly valorized in their fetishized forms can be the place of dual

violence. Such phenomenon challenge the valorization process of heritage. There is a quest for a purpose in understanding a display of a museum, for example, fully preformed for the tourists, since all traces exposed no longer exist at the expense of a community exclusion. This means ignoring the intricate and complex web of significant social actions undertaken by individuals, groups and institutions. Actions to protect inventoried tangible items (tanginilized) of cultural production are not likely to adequately protect the larger cultural patterns, deeper and more diffuse and their contexts (Anheier & Isar, 2011).

Based on the discussion brought in this chapter, I would like to present two examples of the confrontation memory-forgetting that are posed by many social and political actors and has been practiced in both cases highlighted in this study. Accentuate how memory and forgetting are intertwined in both cases and how the past can be manipulated to meet with present needs or to heal issues from a suppressed past.

5.1 Contextualization in the Brazilian Side

Located on the west bank of the Patos Lagoon, the city of São Lourenço do Sul started receiving immigrants from different parts of Europe, especially from Germany and the now extinct Pomerania, from 1858 onwards, to settle and cultivate land in southern Brazil. Given that slavery was abolished in Brazil only in 1888, it is important to emphasize that these were free workers. In the region of São Lourenço do Sul, these settlement activities were mainly rural, in the area of the Serra dos Tapes. Early on, however, the settlement venture came to depend on water transport for the distribution of its production, and reception of supplies for rural properties. These goods were carried by sailing vessels, known locally as yachts, which allowed the integration of the region with the shipping lines of the Patos Lagoon (Ferreira, 2010).

Over the years, the increasing demand for vessels attracted many yacht owners to the city of São Lourenço do Sul, where the operating expertise and seamanship were eminently Portuguese. Hence, the interaction of at least two ethnic groups can be highlighted in this process: the German-Pomeranian immigrants involved in agricultural activities, and the Portuguese descendants, inserted in the maritime-fluvial context of the Patos Lagoon since at least the eighteenth century, attracted by the then promising new economic activities (Copstein, 1992; Iepsen 2008; Torres, 2010).

The port landscape of São Lourenço do Sul was the heart of this interaction, and in the nineteenth century its surrounding landscape was transformed and re-configured by the emerging social, spatial and economic organization, consequence of the growing

regional demand for local products. A many-fold landscape of vectors and meanings, made up of masts, sails, boats, carts, people and trading houses emerges and develops the waterfront. Trading house owners also began investing in vessels so that after a while the growth of the port and the navigation came to be recognized in the whole state.

This golden context of maritime-fluvial transportation in the Patos Lagoon went through a gradual transition in the mid-twentieth century. A record from the City of Rio Grande City Hall dated from 1937, states that the vessels were barred from the inland waterways due to high port taxes, which caused the gradual decline of such activity. The maritime-fluvial transportation also suffered from the competition of the railways, with their lower tariffs, and the roadways, since trucks could rely on lower taxes and cheaper fuel besides being favored by the opening of roads to the interior. The immigrant inhabitants from rural areas, which were already experiencing constant economic swings with the decline of agricultural production and the insertion of monocultures, suffered as well. The new crops, especially tobacco, contributed to the degradation of life in the countryside. From the 70s of the twentieth century, there is a rural exodus of families, and especially young people, to the cities, looking for opportunities outside the rural context (Copstein, 1992; Costa, 1999).

During World War II (1939-1945) the Pomeranian immigrants were mistakenly called Nazis and were harshly discriminated. Many had their properties invaded, books and documents were destroyed, and women were abused. The attackers were known as "beat-stick", a kind of militia formed by civilians and military. For many Portuguese settlers it was impossible to watch somebody speak German or Pomeranian, and not

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imagine that these peoples were Hitler's admirers. Pomeranian is actually a dialect whose linguistic branch is closer to the English and Dutch than to the German language. During this period the naturalization campaigns promulgated by the Brazilian government toward immigrant descendants were extremely robust, and generated some negative impacts, especially on the younger generation, which was forced to abandon the Pomeranian dialect, which at this time was practically only spoken in Brazil.

The persecutions and public humiliations during World War II to those who had some "relationship" with Germany affected the German-Pomeranian communities, especially when they were forced to surrender their books to be burned, and adopt the mandatory use of the Portuguese language in schools and religious temples. In São Lourenço do Sul, until the early of the 90s, it was common to refer prejudicially to the German-Pomeranians with pejorative words as "German-potato", "sloppy", etc. (Anjos, 2000).

In 2005, however, the local government began to officially develop public andprivate actions in order to disseminate and valorize German-Pomeranian immigrant culture in the city and the region. These initiatives, linked mainly to tourism, emerged as an economic opportunity to the descendants of German-Pomeranian immigrants residing in the rural area of the municipality.

This effort evidenced and delineated the two cultural facets of the current society of São Lourenço. While there was an effort to restore a memory, looking to identify elements of social cohesion in the city's history, it was carried out in a context of adaptation to new social landmarks, in dialogue with other memories, which were by

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then vanishing within the community. This was a dynamic process. According to Candau, when landmarks are destroyed or modified, it is necessary to study the memorization modes because these modes and the actors change in order to adapt to the new social landmarks implemented (Candau, 2002: 66).

Numerous initiatives emerged in this context of cultural appreciation of the German-Pomeranian culture in São Lourenço do Sul. One of them, on which I would like to dwell, is the re-enactment of the arrival of the first German-Pomeranian immigrants. For such a setting, a vessel of about eighteen meters in length was built, where the extras remain on board in period costumes.

In 2008, January 18 was established as the official day of celebration of the arrival of the first German-Pomeranians immigrants in the city. On the sesquicentennial of the first immigration to the city, the arrival of the German-Pomeranians was celebrated with a historical reenactment, performed by the descendants of the new immigrants, and who else were interested in participating. Sailing the São Lourenço river, dressed in period costumes, on a vessel built exclusively for this celebration, the actors arrived at the city. After disembarking, the actors follow the same path that the newly arrived immigrants would have traveled in 1858 (Figures 3 and 4).
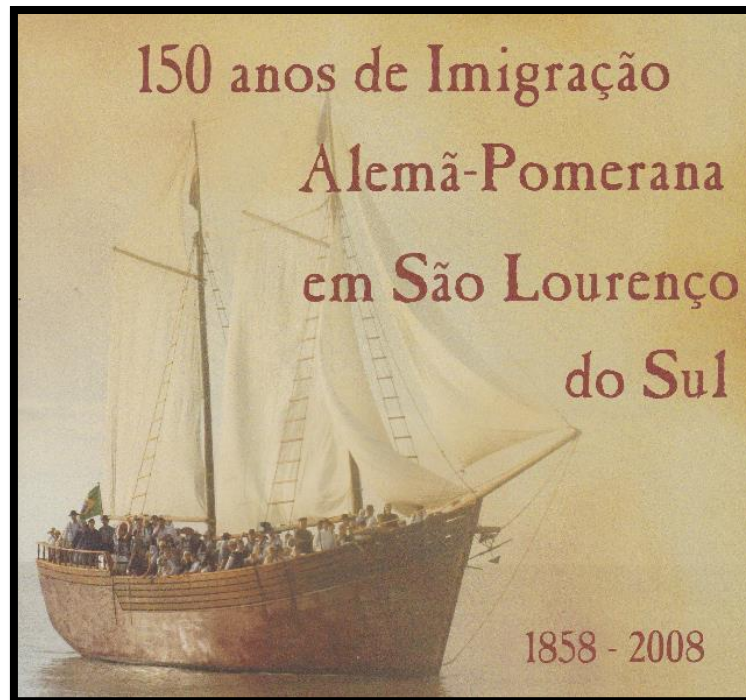
Figure 3. Cover of the commemorative booklet of the sesquicentennial of the German-Pomeranian immigration in 2008. Municipal advertising material. Free distribution from the municipality.
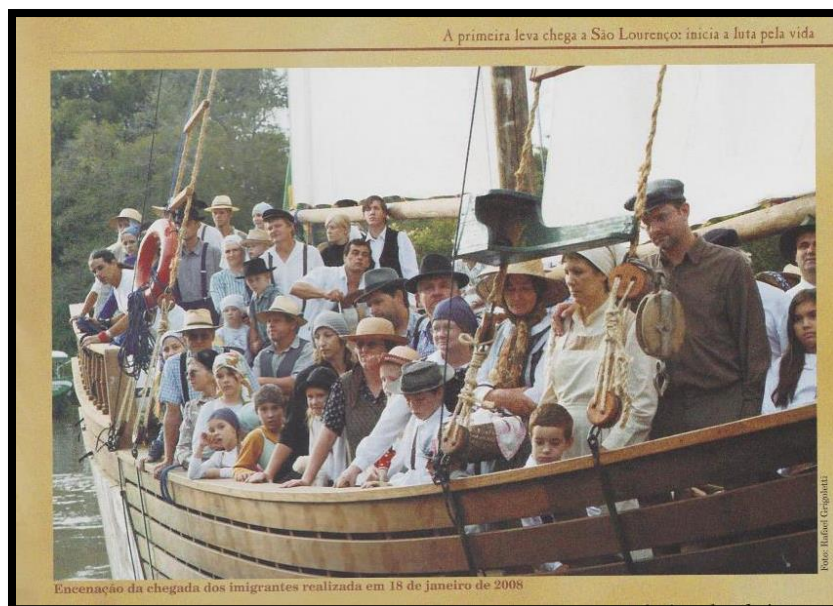

Figure 4. Enactment of the arrival of the first immigrants during the commemoration of the sesquicentennial in 2008. Municipal advertising material. Free distribution from the municipality.

This was all broadcasted by various media outlets, and advertised in posters, banners, news articles, as well as regional tourism development agencies. This new narrative of the formation of the city stimulated the production of local publications that have an emphasis on the history of colonization. The reenactment started in 2008 and was marked and celebrated in the city as the advent of the arrival of immigrants in São Lourenço do Sul. Therefore, it became necessary to recover old customs to suit new conditions because "(...) the objects and practices will only have a full symbolic use and cultural capital and ritual when they are no longer practiced" (Hobsbawm, 1984: 12-13). From the 150th anniversary event, the date began to be celebrated every year with a festive celebration in the rural municipality, at Coxilha do Barão region.

This formation of public memory around elements linked to the German-Pomeranian immigration typically falls in the identity reconstruction processes. These public policies related to the valorization of the German-Pomeranian memory and customs, and mainly articulated with actions to promote to tourism, reworked, however, important cultural symbols in favor of the effort previously mentioned. Festivals, tourist routes, the day of the settler, and the construction of the mythical vessel of the German-Pomeranian settlers' arrival created a new narrative of the past that excluded the Portuguese community. These commemorations oriented the construction of a new public memory. Relations between public memory and individual testimonies and materials should be observed with a critical eye, especially in the identity reconstruction processes.

In spite of the interaction of the various ethnic groups in this socio-historical process, this project slowly became a project of historical and political appreciation of historical memory fostered by the municipal administration and characterized by a one-sided narrative intended for only one group. It casted the German-Pomeranians as the founders and builders of the history, culture, and local economy. In the sense given by Michel (2010: 14), politics of memory relates to a set of public actors' interventions that aim to produce and impose common memories to a given society, in this case favoring a particular narrative, broadcast through a monopoly of public actions' tools: official celebrations, history school programs, memorials laws, pantheons, etc.

Thus, over the years, this municipal project gained thrust, impacted more space, and encompassed more participants for the touristic project. In this process, the official discourse excluded other narratives and elements that were not associated with German-Pomeranian immigration were not allotted space and importance in the celebrations. Since 2005, however, part of the non- German-Pomeranian population felt increasingly alienated. Some of the participants of the touristic project entitled "Caminho Pomerano" (Pomeranian Route) no longer feel the same support from the municipal administration (Figure 5) occasioning that many families are considering to give up from participating in the touristic project, and others are giving up for good.
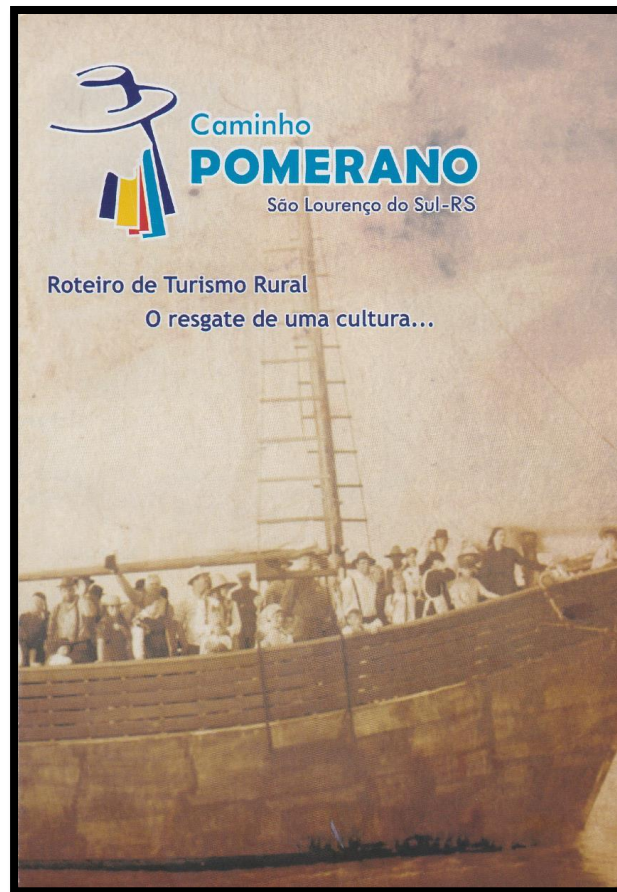
Figure 5. Promotional folder of the touristic attraction "Pomeranian route". Free distribution from the municipality. Rural tourism, the rescue of a culture…

Another example of the over valorization of the Pomeranian ethnic group is the museum project, entitled "Immigration House". Located in a building dating from 1860, built by Jacob Rheigantz, co-founder of the settlement in São Lourenço do Sul, the site served as the first housing for the 88 immigrants who arrived in the region on January 18th, 1858 (Figure 6).
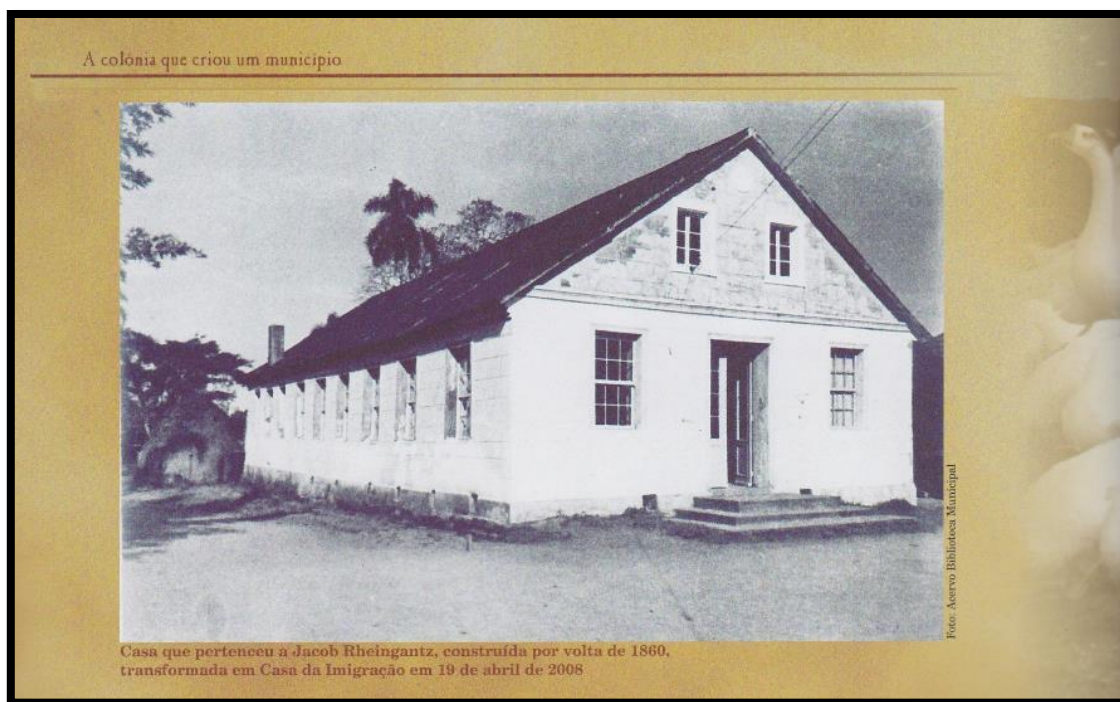
Figure 6. Jacob Rheingantz house. Promotional booklet. Free distribution from the municipality.

In 1877, year of the death of Rheigantz, the settlement had a total of 52,000 hectares and more than 6,000 residents among immigrants and descendants. Representing the beginning of the settlement in São Lourenço do Sul and initial center of the Pomeranian and German presence in the region, the site remained private until its emancipation and transformation into municipality. In 2008, to establish the 150th anniversary of German and Pomeranian immigration in São Lourenço do Sul, the community, in partnership with the Department of Tourism, Industry and Commerce, as well as a numerous team coordinated by the Simon Bolivar Foundation (FSB), started working to shape the project of the Immigration House Museum. In April 2008 an Educational Cultural Institute of Immigration House (ICECI) was created, specifically to

meet the management needs of the future museum, which was to be deployed in the Picada Moinho, on the municipal sixth township.

The lack of inclusion of all involved communities, however, derailed the project. Currently the Immigration House opens to visitors only on holidays, at the Memorial Feast of the Arrival of the First German-Pomeranians Immigrants in São Lourenço do Sul (January), during the Feast of the Settler (July), and by appointment. In fact the museum project has never gotten off the ground. In turn, the project's participants themselves expose in their living rooms the objects such as cooking utensils, wall clocks, pocket watches, photographs, furniture, etc., thus finding a genuine way to represent their past and the necessary distance in time to become identitary contrasting to the official initiative of the museum (Figures 7, 8, 9, 10, 11, 12, 13, 14, 15, 16).
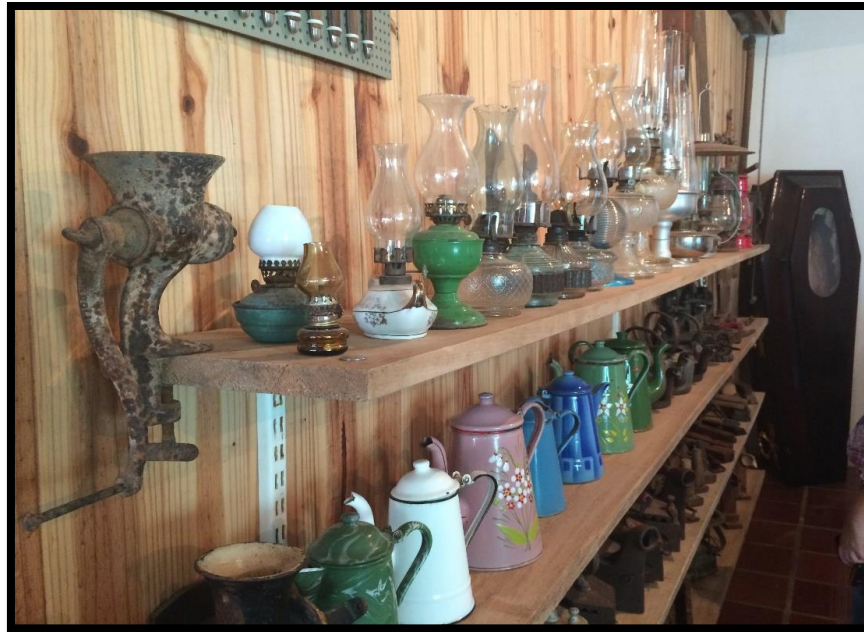
Figure 7. Heiden Haus Museum. Oil lamps, teapots and general tools. (Photo: Author).

Figure 8. Heiden Haus Museum. Chinaware. (Photo: Author).

Figure 9. Heiden Haus Museum. TV's, radios, cameras. (Photo: Author).

Figure 10. Heiden Haus Museum. TV's, radios, cameras, beer tankard. (Photo: Author).

Figure 11. Heiden Haus Museum. Candy-keeper, little concertina, concertina case and radio. (Photo: Author).

Figure 12. Heiden Haus Museum. Silverware. (Photo: Author).

Figure 13. Heiden Haus Museum. General view. (Photo: Author).

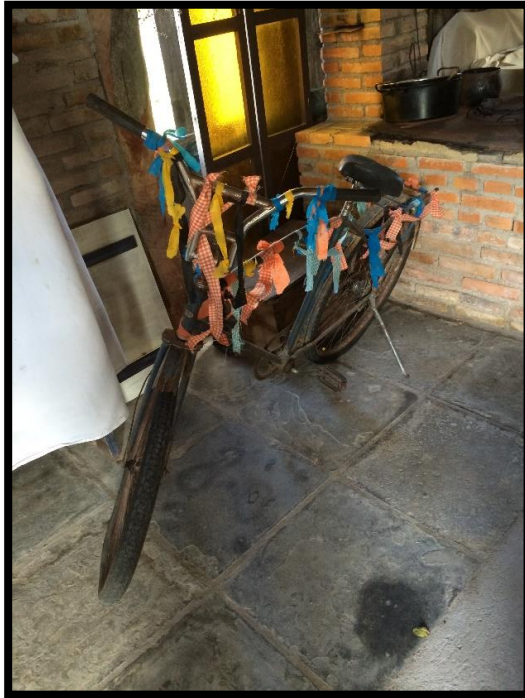**Figure 14. Heiden Haus Museum. General view. (Photo: Author).**

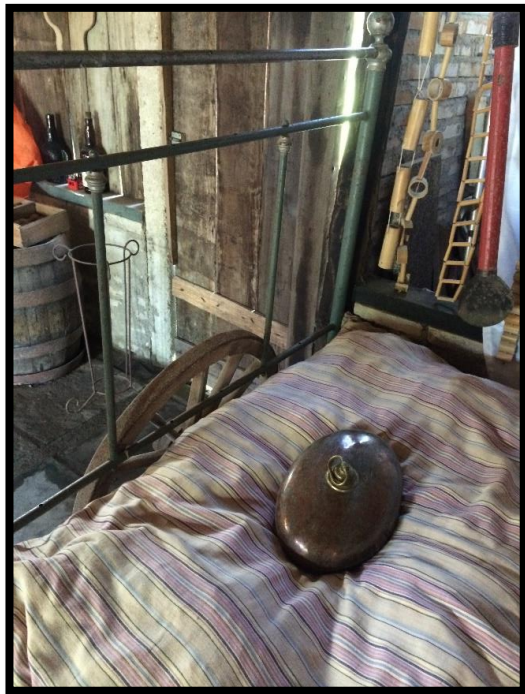**Figure 15. Flajoke Cultural Center. Representation of the inviter's bike. (Photo: Author).**

Figure 16. Flajoke Cultural Center. Representation of an old bed frame with straw mattress and a metal bed warmer. (Photo: Author).

Although the initiative also generated positive impacts. One of the outcomes of the municipal project was a partnership with the SEBRAE (Brazilian Service for Micro and Small Enterprises Support), which it is a Brazilian autonomous social service, aiming at helping the community by advising on the development of micro and small enterprises, stimulating entrepreneurship in the country. In addition to consulting work to micro entrepreneurs with regard to several issues: starting a business, selling price, training, financial management, human resources, food, recycling, among others, the SEBRAE supports several special projects. Among them the Credit Guidance Project where through courses conducted by instructors who undergo rigorous selection, micro entrepreneurs learn how to obtain credit or microcredit. Other special projects are also part of the educational structure of the SEBRAE, connected to the association and self-sustainability. The SEBRAE trainers travel the country advising and helping micro entrepreneurs, artisans or classes of workers and explain about the benefits of cooperatives and associations.

Other partners are the ACI (Association of Commerce and Industry) of the municipality, the SENAC (National Service for Commercial Training) that is a Brazilian institution of professional education open to all society. SENAC is a private entity with public purposes, receiving compulsory contribution of commerce companies and similar activities. Its mission is to develop people and organizations to the work's world through education and disseminating knowledge on Commerce, Services and Tourism. Another partners institutions are CAPA (Center of Support and Promotion of Agroecology),

EMATER (Enterprise of Technical Assistance and Rural Extension) and EMBRAPA (Brazilian Corporation of Agricultural Research).

In fact tourism-related activities at the properties participating in the touristic project are secondary and are far from being a fixed source of income for themselves and their families. According to reports written by the municipality and its patterns many of them get much of the economic support through family farming, handcrafts, retirement payment and etc. The partnership and the assistance given by the institutions brought many benefits to the participants of the touristic project, and in return they've had to adapt to the new organizations such as sanitary inspection, recycling, waste products avoidance, while maintaining the simplicity of the site.

From this partnership and in parallel to the touristic Pomerano Route arose the Pomerano Route Association, also created in 2005, that aims to bring together people interested in contributing to the project in various ways. A symbolic monthly fee is charged to members for the purpose of various expenses with the project, such as outreach events, folders printing, etc. The municipal government through the Municipal Program of Agribusiness has provided to the farmers the ability to integrate into the network of producers, where they can exchange products grown between them in order to avoid the wasting. In this trajectory of reorganization and valorization of the rural men, also has emerged a concern to maintain the Pomeranian dialect in the lives of the descendants of immigrants, especially of the children. In municipal schools in the rural area classes in the Pomeranian dialect were introduced, the language that for so long was

prohibited and that has even been a cause of shame for many it is now valorized and happens to be reintroduced into the family's daily lives.

The structure and logistical support given to the farmers are undeniably excellent and highly praised by all participants. The problem focuses on financial support, because the touristic tour does not yield any return, and the lack of youth participation in the continuation of the project of parents and grandparents, as many of them leave looking for new opportunities outside of the countryside. This has motivated some participants to give up of the tourist route project. The lack of participation of the society in general of São Lourenço do Sul also brings a sense of disrepute within the city. Many argue that local people travel too far to promote the prestige of other places but cannot promote the prestige of which is next door.

In this touristic route the stories told at participating properties of the Pomerano Route were inspired and incorporated from other tourist activities of German-Pomeranians from other locations in Brazil, such as Santa Maria de Jetibá in the state of Espírito Santo, and in Pomerode, in the state of Santa Catarina. Through the availability of information and even to direct contact between the communities it was possible to exchange stories, experiences, and ideas. Many stories and practices from other German-Pomeranian settlements were re-introduced as memories and some traditions were recovered. Cities as Pomerode have sought to organize and structure the record of the German-Pomeranians families since the 1970s, through the Immigrant Museum. Folk festivals have also been celebrated since the 1980s. In 2002 a touristic route of 10 miles was inaugurated, entitled "A rota do Enxaimel" or the route of the half-timbered, which

the visitors can see the facades of built homes in the half-timbered architectural style, predominant in the region (Tronco, 2010).

It is also important to mention that the public material from my master's thesis and another authors show the difference between being German and being Pomeranian. The Pomeranians do not speak German and vice versa, unless one has learned the language, but this doesn't happen at home. Many emphasize the difference between being German and being Pomeranian and in the research of Eduardo Iepsen (2008) it is clear that there is even a resentment between the two ethnic groups. It is known that the Germans came to Brazil in better financial conditions than the Pomeranians, and as a result they were able to acquire more land. Many Germans have leased their land to Pomeranians, charging what are considered abusive values. In Eduardo Iepsen thesis (2008) some people mentioned slave work regime, since in many cases there were no other employment alternatives to Pomeranians. The same opinions were registered among the Germans towards the Pomeranians, even in the Jacob Reinghantz figure, a co-founder of the settlement in São Lourenço do Sul and considered by many immigrants as profiteer.

However, an adverse effect of memory and political heritage can be seen in the ruins, the marginalization of the old port area, place whose multiethnic participation was marked by a mix of descendants of Portuguese, Africans, Germans and Pomeranians, and even of these conflicting memories of a past of subordination which now must be reconciled to fit in current discourse.

What we see at last in this case, is the gradual destruction of the heritage linked to other activities within the city, and had full participation in the golden times of prosperity of the immigrant settlement. One such example is the house of the settlement co-founder in São Lourenço do Sul, the owner of the land established for the settlement and the financier of nineteen century project, José Antonio de Oliveira Guimarães (Figures 17, 18, 19). A heritage of people and stories that are doomed to ruin and oblivion because they are not incorporated into the contemporary political valorization of the history and local Pomeranian heritage, solidly based on the economic success of this ethnic group.

Figure 17. José Antonio de Oliveira Guimarães house in 1808. São Lourenço do Sul. Courtesy from the Municipal Digital Archive.

Figure 18. José Antonio de Oliveira Guimarães house in 1998. São Lourenço do Sul. (Photo: Author).

Figure 19. José Antonio de Oliveira Guimarães house. São Lourenço do Sul. (Photo: Author).

5.2 Contextualization of the North American Side

Between the decades of 1930 and 1950, Ysleta del Sur underwent several transformations, and perhaps the most significant of them was the change from a rural society dedicated to the fields and cotton plantation, to a mainly urban environment. As

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a result, the Tiguas were dealing with a huge isolation and widespread poverty. Furthermore, the index of infant mortality reached peaks and many children were fatal casualties of pneumonia. To complete the picture of disadvantages, the adobe houses of the Tiguas did not count with running water, inside bathrooms, gas stoves or electricity. In public schools children also suffered discrimination through racist comments from teachers who sparingly emphasized the themes of health and hygiene causing many indigenous and Mexican students to feel humiliated. In consequence of this, many Tiguas would not reach the third grade of elementary school.

During the decade of 1950, schools in Ysleta del Sur started to be segregated and the number of Anglo-American students was significantly higher due to the high dropouts rates in the Indians and Mexican-Americans students. At that time, the urban area of Ysleta was composed predominantly of Indigenous people, Anglos and Mexican Americans whose families' income ranged from low to medium classes. On the eve of the result of the process of recognition, the average income of the Tiguas families was less than $1,000 a year, usually earned working, in family, with tomatoes, cotton, beans picking and other services related to agriculture (Comar, 2015).

Despite poverty, the Tiguas tried to negotiate the space as they could. While a few Tiguas left Ysleta to seek better opportunities in California, many Mexican Americans remained in Ysleta. In both cases they kept their Tigua identity as opposed to Mexican-Americans.

According to Thomas Green (1976) the annexation of the city of El Paso Ysleta generated a major shift in the Tiguas' perception of identity who responded to external

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threats through a "nativistic movement" that emphasized the history of the Tiguas and that culminated in the biggest legal battle that resulted in a state and federal recognition. Thus, the annexation of 1955 was the catalyst for the promulgation of the recognition process and the cultural resurgence of the years 1960 and 1970. However, the federal recognition process involved much more than political maneuvers and negotiations in Congress. In this process we can also observe the persistence of the cultural renewal movement that began during the decade of 1960, when the Texas Commission for Indian Affairs proposed tourism for self-sufficiency as an economic alternative due to difficulties that the Tigua community was facing.

This economic alternative had already been applied in other indigenous communities in Texas, and appeared as the only viable solution for the Tiguas. This sparked a revival in culture as the Tigua tribe members adopted the speech of self-sufficiency and allowed the opening of their reservation to tourists. While the members of the tribe practiced traditional dances and reignited the practice of crafts such as basketry, they seemed to have adapted to the state and the general public's expectations. The valorization of the Tigua identity also resulted from such cultural articulations. Thus, during the years 1960 and 1970, the impetus of the community to prevent foreclosures and expropriations, culminated in the federal recognition and cultural renaissance that preserved the community and strengthened the indigenous identity (Comar, 2015).

In fact, tourism and the public presentations of indigeneity have rooted in the Tiguas the idea of cultural authenticity within the historical memory of the place to the

point that they received a considerable amount of support from the public, business people and community leaders from El Paso.

Several Native American groups supported the Tiguas, including New Mexico's All Indian Pueblo Council, the Kiowa, and the National Congress of American Indians. According to Apodaca, tribal elders who belonged to these groups came together in common cause for the recognition of the Tiguas after meeting them and realizing that they were in fact "real Indians". This allowed the elders the opportunity to reconcile their stories and clarify the misunderstandings of the past. Tiguas and Kiowas compared oral histories about the 19th-century conflict at Hueco Tanks. The Tiguas explained to the Pueblos of New Mexico that those who migrated to El Paso in 1680 were taken as "slaves and porters of charge" by the Spanish, in order to dispel the myth that the Tiguas had betrayed the rebellion. These meetings resulted in the support of New Mexico's Pueblos to the Tiguas, and this approval was one of the main reasons why the BIA changed its position regarding the recognition of the Tiguas in 1986 (Comar, 2015:349).

However, the community resisted adversity and with the help of Tribal Attorney Tom Diamond and others, who managed to bring them out of historical obscurity and to guarantee the state recognition in 1968 and federal recognition in 1987. In the context of socio-political change, outsiders questioned increasingly the validity of the Tiguas indigeneity. As a result of the recognition, the Tiguas ' community experienced a social and cultural renewal that echoed in the civil rights movements of the moment and awakened the national consciousness about the Native Americans (Comar, 2015).

In the path of the Tiguas' experience, in search of recognition it reflects many issues that unrecognized indigenous communities have faced in the last forty years. In the early 1960's the Tiguas overcame great obstacles to achieve the tribe status as they struggled to keep their tribalism in modern America. Because the group did not have a tribal structure that resembled the "model" stereotypical tribalism defined by non-Indians, the tribe won a federal form of recognition in a simpler era. After that, the Tiguas have transformed this status in a pioneering program, not associated to BIA, which helped the group to survive in a modern urban environment. Despite the gains under the program in Texas, the small tribe came to realize the limits of recognition of the State in relation to non-federal recognition in indigenous status. Hoping to gain the recognition as a result, the Ysleta group ran headlong into debates about indigenous ethnic authenticity and gambling that nearly derailed their efforts. Well positioned to make politics, however, the tribe of El Paso turned their visible indigenous ancestry, their strong political structure and survivors religious ceremonies in support of legislators, not local indigenous and more significantly from other Indians. In the end, the acceptance of the Pueblos Tiguas was a long way to authenticate their racial and cultural "Indigeneity" (Miller, 2004: 254).

After the Tiguas' Restoration Act of 1987, the tribe started to administer indigenous programs in their newly authorized federal reserve. Like other newly recognized tribes, the Tiguas faced new questions and new promising opportunities. Over time, however, the discussions would be based on whether to allow women to vote and to succumb to lucrative casino offers. These discussions generate friction between

members of the tribe but ultimately the Tiguas opened the Speaking Rock Casino in 1993, a company that, by the end of the decade, became the top tourist attraction in El Paso, while bringing in around $60 million in revenue that Tiguas used to finance community programs (Figure 20).

Figure 20. Tiguas Speaking Rock casino façade. (Photo: Author).

Due to the economic support that the casino brought to the region, and that of local charity institutions, the vast majority of El Paso residents supported the Tiguas's business of Speaking Rock. Despite the success, the problems with the state did not cease. From the opening of the casino, the governors of Texas Ann Richards and George W. Bush opposed the gaming company of the Tiguas. Even though the tribe obtained many victories in early processes, the conflict with the state came to light in 1999, when Attorney General John Cornyn of Texas sued to close the gambling hall of Tiguas once and for all. Following its predecessors, Cornyn challenged the tribe, saying that the

group agreed to comply with the state's gambling laws in their recognition legislation (Miller, 2004: 255).

In October 2001, US District Judge Thomas Eisele agreed arguing that Tiguas, unlike other tribes, had made a legally binding contractual agreement to ban gambling in the Restoration Act of 1987. So in February, 2002 the 5th US Circuit of Appeals in the affirmative court ruling ordered the casino closing in El Paso. Since then and according to local newspapers as the *El Paso Times*, the *San Antonio Express News*, and the *Star-Telegram*, the situation of the casino is still hovering between releases and restrictions. As economic alternative the Tiguas installed an amphitheater and promotes big events that have attracted many people to the city of El Paso. Currently this entertainment space is closed and the tribal leaders are still deciding the fate that will give the space.

In addition to the casino and amphitheater at Speaking Rock, the tribe also created the Tigua Inc (Figure 21) which was established as a holding company in order to manage and grow the business of the tribe and promote new opportunities for economic development for the Tiguas. The Tigua Inc. has five companies: Tigua Enterprises, Tigua Construction Services, Technology Services Tigua, Tigua Transportation and Tigua Smoke Shop.

Figure 21. Tiguas Business center façade. (Photo: Author).

The Tiguan Inc and all other subsidiary companies are eligible for the Indigenous Incentive Program (IIP). This program is sponsored by Congress and offers a 5% discount for the main contractor amounting to subcontract an indigenous company owned or indigenous organization. By generating subcontracts Indian owned companies or indigenous organizations, the IIP fulfills its purpose as an economic multiplier for indigenous communities. Despite the recent upward trend in economic activity, indigenous reserves are still suffering from poverty. In an effort to boost the economic development of Native Americans, Congress authorized federal contracting agencies to "encourage" subcontracting under the ownership of Native Americans.

In addition to economic resources, the Tiguas also have cultural resources through the Tigua Cultural Center. It is said that the new Cultural Center was moved to the current location after the installation of the Speaking Rock Casino. On the old Cultural Center still in the mid-1980s people remember that the services offered, especially the restaurant, were very good and used to attract many people to the center. At the time there was much interaction between locals and visitors and more demand and valorization for art, folk performances, cuisine and local products.

In the current place of the Cultural Center, in the last visit in April 2015, people complained about the considerable downfall of visitor numbers. In the building there is room for up to three gift shops, only one was in operation and still the sales were not encouraging. The homemade breads baked in a stone ovens is a known event in the region where locals and visitors used to buy, but it has been suspended for lack of demand and now they only bake them on pre-established dates. In conversation with visitors present at the Cultural Center on the day of the visit, I asked why this drop in the visiting and some attributed to the fact of the Cultural Center address change. Others talked about the lack of interest within the Tigua community. The Cultural Center seeks to promote many activities geared primarily to children in the community, but unfortunately local participation is very low. At the expense of low demand, the tribal government has cut the budget of the Cultural Center which leaves the place in a vulnerable situation, more than it already is.

The Cultural Center includes a museum, a library for children, a multipurpose space with tables and chairs, a video room, gift shop and administration area. On the

outside there are rooms designed for gift shops, warehouse rooms, and stone ovens. The building is very well equipped and maintained (Figures 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35). It is noticeable an intense effort for children to perpetuate the indigenous culture through the teaching of the Tigua language and Native American history at schools, incorporation of new technologies for teaching and absorption of the Tigua's identity. It was mentioned that much of the cultural aspects brought during the cultural reorganization process of Tigua, including the native language, customs, dress, came from the Pueblo residents in Ysleta Pueblo, Albuquerque, New Mexico.

Figure 22. Tiguas Cultural center façade. (Photo: Author).

Figure 23. Tiguas Cultural center advertisement of authentic goods. (Photo: Author).

Figure 24. Museum. Cultural Center. Clothing in exhibition. (Photo: Author).

Figure 25. Museum. Cultural Center. Clothing in exhibition. (Photo: Author).
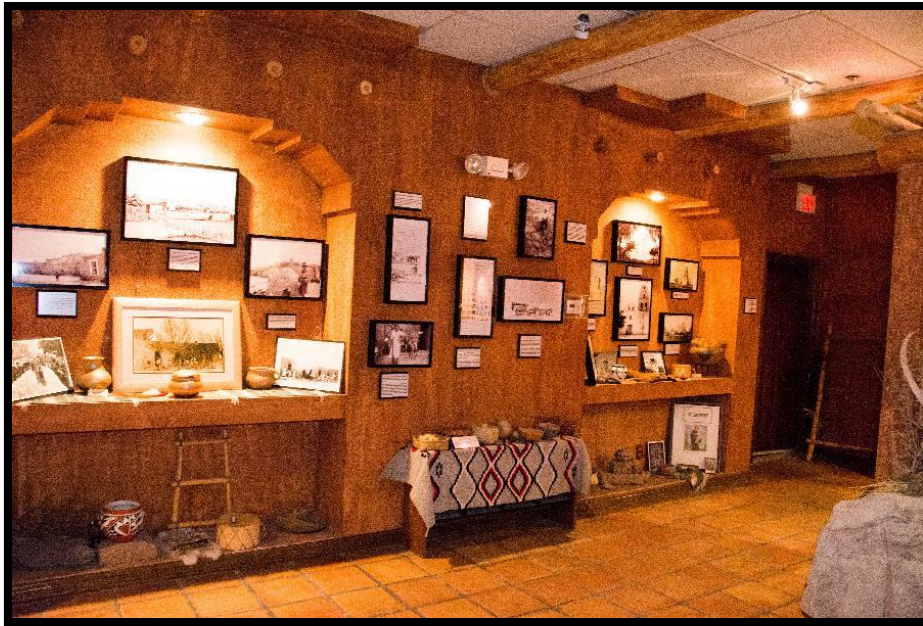
Figure 26. Tiguas Museum. Cultural Center. General exposition. (Photo: Author).

Figure 27. Tiguas Museum. Cultural Center. Pottery in exhibition. (Photo: Author).

Figure 28. Tiguas Museum. Cultural Center. General exposition. (Photo: Author).

Figure 29. Tiguas Museum. Cultural Center. General exposition and pottery. (Photo: Author).

Figure 30. Tiguas Museum. Cultural Center. Multipurpose room. (Photo: Author)..

Figure 31. Tiguas Museum. Cultural Center. Multipurpose room, weaving station. (Photo: Author).

Figure 32. Tiguas Museum. Cultural Center. Reading and multimedia room. (Photo: Author).

Figure 33. Tiguas Museum. Cultural Center. Reading and multimedia room. (Photo: Author).

Figure 34. Tiguas Museum. Cultural Center. Gift shop, art crafts. (Photo: Author).

Figure 35. Tiguas Museum. Cultural Center. Dancing performance. (Photo: Author).

In a documentary produced in 1992, entitled: "People of the Sun: The Tiguas of Ysleta" directed by Leslie Burns and Daniel Frost, which curiously was being shown in the video room at the Cultural Center on the day of my visit, presents the community effort in maintain and restore their cultural identity. People of the Sun is presented in three parts: 1) historical origin of the Indians Pueblos Tigua-speaking in Texas, 2) the legal battle to gain official recognition as an indigenous tribe and 3) the current effort to stay within the Tigua tradition. The film is cut by different takes switching the comments from a wide selection of interviewees, including Tiguas of Texas and also New Mexico, as well as non-Tiguas residents in Ysleta del Sur Pueblo in Texas, the film reaches a direct focus into issues of cultural identity.

The issue about Pueblo Revolt of 1680, and the group's break up that accompanied the Spaniards to where be El Paso nowadays, forced or voluntarily, is something still latent in the history of Tiguas. In contrast to the Tiguas of Texas, the tribe in New Mexico remained in isolation and were thus able to maintain their language and traditions. Otherwise the Tiguas of Texas suffered assimilation into the Spanish-American culture by adopting dress, customs and language. This situation continued until 1958 where they started the legal procedures for obtaining official recognition as a tribe. However, achieving this official sanction proved to be a battle, not only between federal and state agencies, but also against Indian Pueblo in New Mexico. The tribal lawyer Tom Diamond mentions in the film that the federal act to grant tribal status to Tiguas of Ysleta was carried out by the opposition of Pueblo from New Mexico, arguing

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that the ancestors of Texas group "were brujos, witches, and had helped Spaniards during the Pueblo revolt of 1680".

What convinced the Pueblos of New Mexico to support the tribal status of Tiguas of Texas was not a matter of legality or blood quantum. Ray Apodaca, that tribal governor of Ysleta del Sur by the time the film was being recorded, said that this recognition was achieved only when elders and tribal leaders met to discuss religion and culture, "those things that not just another Indian would know, but another Pueblo, and more specifically only another Isleta knows". Apodaca also admits that recognition, though now it is official, it still not totally accepted by other Pueblos. The factors that determine the identification of who is and who is not Tigua are a key part of this film. The tribe governor of Isleta Pueblo at the time of the documentary recording, Vierna Williamson is one that argues that this recognition was given by a councilors not by the whole tribe. One of the problems pointed by her is the interbreeding with other cultures due to the geographical proximity to other groups mostly Mexican-Americans. According to her this miscegenation leads to loss of tradition, and the uncertainty of the origins results the difficulty in establishing who is Tigua and the criteria to do so. According to Ray Apodaca, it is not a matter of blood quantum levels and it is more important to determine the identity according with how people "live, think, keep the values and act as Tiguas... and that can change over time".

The Pueblos were fully granted Mexican citizenship while they were under the Mexican government (1821-1848), and automatically became US citizens when the Southwest was annexed by the United States by the end of the Mexican War in 1848.

The Pueblos were the only Indians in the southwest to become American citizens in this way, but they had to sue to have their status recognized by the United States. In 1916 they've obtained a favorable opinion from the US Supreme Court. In 1924 the US Congress passed the Pueblo Lands Act, which ensures some traditional lands to the Pueblos.

During the fieldwork conversations I could notice something that was also evident in the documentary: the religious syncretism within the Tigua community in Ysleta del Sur. The celebration of Catholic saints as the Feast of St. Anthony is one of those syncretic elements. In the documentary, however, the narrator justifies saying that for Tiguas there is only one God and so there are no conflicts whether praying to God on knees inside the church or dancing outside.

Although inside this dense context of information and events there are also those tribes who shared the same territory and were not included in the recognition processes or even got some benefits from government programs. They are minorities who resist in time, but not as a group anymore. When asked about the reasons for the Tiguas recognition and not another local tribe, the answer is vague and difficult to understand even for those who feel mistreated in this process. Perhaps they were fortunate for attracting Tom Dimonds' attention, perhaps it was just a coincidence in a guess of these people. The fact is that the book that supported the reconstruction of the genealogy of many Tiguas at the time of the legal proceedings came from the Church Socorro Mission and contains the old records of the diocese. In that same book there are records of other people, from other tribes and has never returned to its place of origin.

The archaeological resources in the region have also became a focus of problems for some people which claim that Tiguas representatives knowing about some archaeological discovery take the responsibility and rights to the findings immediately, assigning and repatriating the remains to Tigua culture. The social and economic vulnerability of many families, not only Tiguas, in El Paso and surrounding region have led people to sell their properties cheap.

The study of both cases, despite the differences in historical and geographical contexts, highlights similarities in the effects that contemporary public policies can have on processes of social memory projection and heritage selection. In fact, as suggested by current discussions in Anthropology, remembering and forgetting are playing in a constant battlefield. In this sense, identitary claims, particularly those stimulated in the context of globalization, tourism and mass culture, present with the risk of forgetting to other social groups, and thus to cultural diversity as a whole.

At an international level, several conventions have been adopted for the protection of cultural heritage and cultural diversity through directives promoted by the United Nations Organization for Education, Science and Culture (UNESCO). Consequently, the number of typologies and groups fitting under the Cultural Heritage designation has greatly expanded. Originally linked only to great monuments, historical characters and historical narratives, the designation of historical and cultural heritage now applies also to cities, places, landscapes, cultural practices, traditions and knowledge that carry references to the identity of a particular social group or

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society. These heritage references, tangible or intangible, thus constitute points of support for the objectification of social memory.

Those references, therefore, serve as encouragement for the construction of heritage narratives within the communities, conditioning the transfer of social memory from generation to generation but also conciliating past and present towards a desirable future. In this context, the very sense of heritage undergoes a transformation and is perceived, in essence, as political and controversial. As suggested by interdisciplinary and critical contemporary researchers, cultural heritage is in great measure a social construction. Thus, the recognition of heritage is done through conscious decisions and reasons shaped by contexts and social processes. It is always necessary to examine why and how heritage is valued, and by whom. In this sense, the appropriation of the past - real or idealized – becomes essential to meet current needs.

Moreover, in the contemporaneity, there is also a collective feeling of nostalgia of the past, which promotes the emergence of a heritage market, in parallel with the logic of singularity, stimulated by commercial values. Heritage has become an essential component of the tourist industry with economic and social implications, although the use of heritage for the purpose of mass tourism ends up threatening local identities.

6. CONCLUSIONS

From the discussions presented above, we observe the complexity which underlies the processes of cultural and identitary recognition, thus the importance of studying in depth the interests involved in policy-making regarding the empowerment of certain groups and the selection of cultural elements within heritage projects. It directly concerns the development of legal actions and methodologies towards public policies connected to heritage tourism and preservation.

Considering both studied groups developed their trajectories in quite dissimilar historic and geographic settings, it is surprising the similarities involved in the processes of modern recognition. It became evident during this research that the identification of what constitutes our heritage is subject to a sociopolitical force field which conditions how we look towards the past in search for legitimacy to present decisions and future expectances. This scenario is particularly critical within the context of globalization, tourism and mass culture.

Cultural globalization, understood as a phenomenon by which the experience of everyday life is influenced by commoditization and standardization of global expressions, is affecting how we look at our past, as cultural resources. Fueled by the widespread informational networking of the digital era, travelling and tourism, globalization has been seen as a trend toward homogeneity that will eventually make human experience everywhere essentially the same.

It seems that the cultural past gives a convenient distance for the instrumentalization of political projects, reproducing asymmetric power relations orbiting the ownership of cultural resources. This debate is more sensitive when considering the asymmetrical settings experienced in local, small, or poor communities, where the intrinsic selection biases of social memory might empower certain groups at the expense of others.

Homogenization of the groups before the threats of globalization has also triggered a process of construction/reconstruction of a memory in such way that claims a particular, sometimes recently constructed past. In this sense, different trajectories can generate analogous processes, while they reinvent their imagined past. Analyzing cultural heritage resources through a commodity lens is to impose an offer vs. demand-like dichotomy, which is stiffening the fluid and ever-moldable characteristics of culture and memory, thus affecting our sense of authenticity, legitimacy, moral and ethics.

During the Civil Rights movement of 1960's, the U.S. started to identify trends in workplace diversity and addressed them with legislation. This evolved into a societal change that embraces diversity as both valuable and ethical. In Brazil the diversity issue came through the Brazilian Constitution of 1988. On the other hand, majority cultures have a tendency to create a homogeneous environment, possibly limiting the potential diverse opinions can provide. This hegemony can create tension between different groups, ultimately resulting in the smaller group exclusion or assimilation. Finally, this debate highlights the relevance of cultural heritage and social memory studies within

critical frameworks of research and policy-making towards cultural resources management and diversity themes.

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