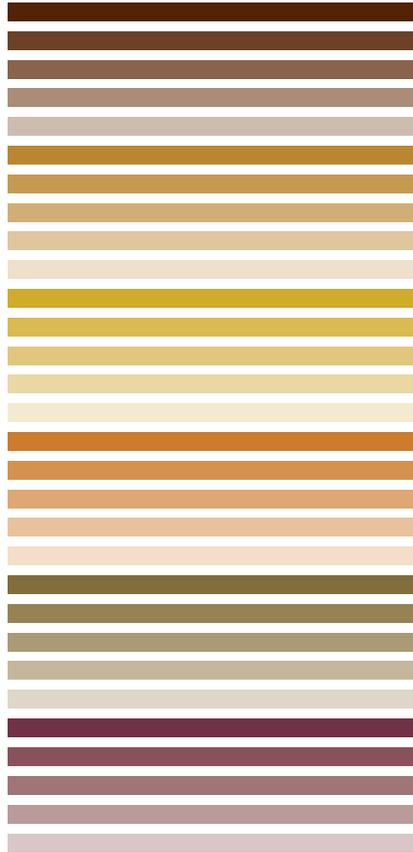


The First ICH-Researchers Forum

The Implementation of UNESCO's 2003 Convention

FINAL REPORT



3 June 2012
Paris, France



Organised by
Maison des Cultures du Monde, France
and
International Research Centre for Intangible Cultural
Heritage in the Asia-Pacific Region (IRCI)

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Foreword

Toshiyuki Kono

Professor of Kyushu University, Japan

Member of IRCI Governing Board

International Research Centre for Intangible Cultural Heritage
in the Asia-Pacific Region (IRCI)

As can be understood from the fact that Article 6 para.7 of the Convention for the Safeguarding of Intangible Cultural Heritage (herein after referred to as “the Convention”) states that “States Members of the Committee shall choose as their representatives persons who are qualified in the various fields of the intangible cultural heritage”, the Convention is predicated on the assumption that not diplomats, but experts in various domains of the intangible cultural heritage will be the key players in the practice of implementing the Convention. Ideally we should aim to connect the practice and research on the Convention, not be distorted by politics, and implement the Convention soundly and suitably for the intangible cultural heritage. In fact, many experts in a variety of fields are attending both the General Assembly of States Parties and the Intergovernmental Committee in official and unofficial capacities. However, spending time on the draft and revision of operational guidelines or deliberations about whether or not inscription of elements into the Lists should take place and other issues, discussions related to the essential nature of the intangible cultural heritage has been very rare at these meetings until now. This situation is highly regrettable. It would be ideal to build a virtuous cycle mechanism in which researchers exchange views focusing on the Convention and reflect their findings obtained through cutting-edge research in the practice of the Convention, while obtaining research seeds from the practice of the Convention. In order to achieve this, the Forum of ICH Researchers was organized and held its first meeting on June 3, 2012 in Paris (<http://www.ichresearchers-forum.org/>).

This forum has at its core experts who have been continuously involved in the convention from its drafting process until today, and is jointly organized by the International Research Centre for Intangible Cultural Heritage in the Asia-Pacific Region in Japan and La Maison des Cultures du Monde in France. Even though this was the first meeting of the forum and we did not do much promotion for the event, nearly 80 people participated and lively discussions were held throughout the day. This is an evidence that the goals of this project were precisely on target. This report collects together the papers submitted at the forum in order to share them widely with researchers in fields related to intangible cultural heritage. Going forward we plan to hold the forum in Paris once every two years in conjunction with the General Assembly of

States Parties to this Convention, and to hold follow-up meetings at locations other than Paris to deepen problem areas and develop the research. The Convention is a young convention that will at long last celebrate the 10th anniversary of its adoption next year. Researchers in fields related to intangible cultural heritage are required to support it over the long term and contribute to its development. I would like to continue this forum long into the future, so I would be grateful to receive your long-term support of this project.

Proceedings





Proceedings

The meeting was opened by Toshiyuki Kono, Professor, Kyushu University (Japan), who welcomed the participants and speakers. He thanked La Maison des Cultures du Monde and the International Research Centre for Intangible Cultural Heritage in Asia and the Pacific Region (IRCI) (Japan) for organizing the meeting. He also thanked the UNESCO ICH Section for their support.

The meeting was sponsored by the Estonian National Commission for UNESCO, the Flemish Commission for UNESCO, the French National Commission for UNESCO, the Moroccan National Commission for UNESCO, the Japanese National Commission for UNESCO, the Commission on Intangible Cultural Heritage of the International Social Science Council (ISSC), and the Flemish Interface Center for Cultural Heritage (FARO).

Cécile Duvelle

The first speaker was Cécile Duvelle, Chief of the ICH section, UNESCO. She noted that in the last four years there have been tangible results in implementing the Intangible Heritage Convention and that States Parties have begun to focus on safeguarding at the national level, decreasing the number of nominations to the Convention's lists. Researchers played an important part in the development of the Convention and subsequently in national delegations and through expert meetings. Research continues to be very important in the implementation of the Convention. Specific attention should be paid to generating data that shows how ICH contributes to sustainable development.

Chérif Khaznadar

Chérif Khaznadar, President, La Maison des Cultures du Monde (France), welcomed participants to La Maison des Cultures du Monde and gave a review of trends in the implementation of the Convention during the last decade. The Convention brought recognition to forms of heritage that had previously been poorly recognized, and provided a critique of the definition of heritage in the 1972 UNESCO World Heritage Convention. A broad debate could reveal

certain contradictions and one absurdity in the working of the Intangible Heritage Convention, however. The Convention foregrounds community definitions of intangible heritage value but it does not define community. The Convention also gives communities all of the rights to their heritage but if this heritage is inscribed on one of the lists of the Convention, it no longer belongs to the community concerned but rather to humanity as a whole. The community thus dispossessed of its heritage nevertheless remains responsible for its safeguarding and answerable to the international community for the safeguarding measures that it plans to take. Critical thinking about these issues is necessary, and it does not always find a place at the Intergovernmental Committees and General Assemblies of the Convention. This underlines the need for a Researchers Forum.

Lourdes Arizpe

Lourdes Arizpe is President of the Technical Committee, National Commission on Intangible Cultural Heritage of Mexico; and the Chair of the Commission on Intangible Cultural Heritage of the International Social Science Council, a NGO accredited by the General Assembly of State Parties to the Intangible Heritage Convention in 2010. She made the point that since the Convention text was negotiated, there has been a focus on the implementation thereof, rather than on reflection. The richness of thinking in the academe should again be brought to bear on the issue of ICH safeguarding, assessing what has been done and identifying conceptual and methodological problems in implementing the Convention. Researchers can help create methodological tools for safeguarding, inventorying and nominating ICH at different levels, which could relieve controversies over authenticity. Attention should be given to the ways in which ICH is commodified, and communities are being sidelined by intermediaries. Researchers should ask how the needs and wants of communities in safeguarding their ICH could be better met, and how this can contribute to development, both social and environmental.

Rieks Smeets

Rieks Smeets, former head of the ICH section of UNESCO (the Netherlands), noted that the implementation of the Convention at the international level is also increasingly used for monitoring and guiding its implementation at the national level. The decisions of the Intergovernmental Committee contain many recommendations and instructions to the States Parties. The Committee has spent most of its time over the last few years on the examination of files received from the States Parties, including numerous nominations to the Lists. The Committee's meetings are relatively short, not all representatives of its States Members are experts in the field of ICH and not all of them have the time to study all working and information documents prepared for their sessions in detail. The large and important body of guidance that has been produced by the Committee and, under its responsibility, by its two special Bodies, should now be carefully analyzed. Smeets suggested that perhaps the Committee should examine fewer nominations to the Lists for one or two years, and instead discuss at its leisure recent developments concerning the implementation of the Convention on the international and the national level, and consolidate part of its hundreds of instructions and recommendations in the form of draft Operational Directives. In this work it could be supported by some expert

meetings that it may ask the Secretariat to organize.

The discussion after Smeets' presentation highlighted the problems associated with evaluating the information provided by the States Parties, particularly in nomination files for the Lists of the Convention; at the moment that information is taken at face value.

Öcal Oğuz

Öcal Oğuz, Professor, Gazi University (Turkey) underlined the point that the objective of the Convention was safeguarding the ICH with the communities concerned. Inventorying at the national level is a process requiring community participation. A number of nomination files to the Lists of the Convention were rejected or referred by the Committee because they did not comply with criteria 4 (community participation) and 5 (inventorying). He proposed the revision of the Operational Directives to create a temporary list for both the Representative List and the Urgent Safeguarding List. Nominations to these temporary lists would include a short description of the five criteria, and elements would be placed on the lists for a year before consideration for inscription on the Representative List or the Urgent Safeguarding List.

The discussion on this paper highlighted the lack of clarity in guidance from the Committee on whether community participation is required in the process of inventorying itself or simply in the preparation of content for inventories.

Ahmed Skounti

Ahmed Skounti, Anthropologist, Institut National des Sciences de l'Archéologie et du Patrimoine (INSAP) (Morocco) said that when the Convention was drafted there were three main positions on the question of listing. Some people were against lists of ICH altogether; others were in favour of the Lists and the Register; and others were in favour of listing for a limited period of time. The criteria for inscription on the Lists were adopted in Chengdu in 2007. In the debates in the Committee on these criteria since then, there have been three main positions taken. Some members say criterion R.2 needs revision; others argue for maintaining criterion R.2 because it defines the Representative List; and others argue for keeping all criteria stable for the time being. The interpretation of the criteria is problematic, and they need clearer explanation.

The discussion on this paper highlighted the importance of focusing on the broader vision of the Convention, not just the criteria which will always be work-in-progress. This vision should not turn into a race for nominations. The discussion also highlighted the difficulties posed by listing items that constantly change and whose interpretations differ. The creation of cultural management structures often forces ICH elements into being more static and fixed.

Wim van Zanten

Wim van Zanten, Ethnomusicologist, University of Leiden (the Netherlands) made the point that the films submitted with nomination files to the Lists of the Convention should express the relationship between the community concerned and the ICH element being nominated.

They should speak to each of the criteria for inscription and should enhance awareness and create better visibility for the element among young people, teachers and policy makers for ICH in the state(s) concerned. Information provided in subtitles should not obscure the visuals and spoken voice-over should not prevent viewers from hearing the sounds of music or other relevant aspects of the video material. Many videos focus too much on academic researchers or on the products of ICH practice, rather than on the relationship between an ICH practice and the communities concerned. Film-makers should seek community feedback about the films and improve the quality of the films accompanying the nominations.

Discussion about this paper emphasized the importance of tailoring films to the characteristics of the element being nominated, the need for an expert meeting on films of nominated elements, and the need for film-makers and photographers to be involved in the capacity-building process.

Kristin Kuutma

Kristin Kuutma, Professor, University of Tartu (Estonia) spoke about the way in which a Convention that recognizes the state as the main actor might reduce community ownership over their ICH. Defining membership of a community might create tensions through exclusion as well as inclusion; it could affect the ways in which people have agency in local or national politics. Cultural forms, codified as ICH, could become symbols used in local politics, and vehicles for activism. Seto singing was brought into the public domain through academic research and gained international recognition as ICH. This helped Seto communities to find a political voice at the national level. The role of individuals within ICH practices (such as the role of the Seto solo singers) has changed – it is now seen as collective ICH practice, and the personal dimension has been somewhat lost.

Marc Jacobs

Marc Jacobs, Director of the Flemish Interface Center for Cultural Heritage; Professor, Free University Brussels (Belgium) asked whether the 2003 Convention and its Operational Directives were up to the task of safeguarding the ICH. He underlined the need to share ideas about action plans for safeguarding ICH, and to help communities concerned to benefit from this process through market participation. A new Flemish online platform for sharing information about safeguarding measures is being launched this year. The most innovative research on ICH will come not from standard academic work but from practice-oriented booklets and guidelines, work that transcends disciplinary silos, and draws from work on brokerage and intercultural competence. A chapter on cultural brokers should be included in the Operational Directives, and the Urgent Safeguarding List. Article 18 proposals should be excluded from the limitation on the number of nominations examined by the Committee every year.

Antonio Arantes

Antonio Arantes, Professor, State University of Campinas (Brazil) was not at the meeting but his paper was presented by a colleague. He wrote in the paper about the ‘patrimonialization’

of ICH, the way in which selected aspects of real life are ‘dressed up’ by the state and become assets for official representation, addressing social development problems and staging heritage in the world media. The framing of ICH depends on complex cultural dialogues, contestations and interests in specific social situations. There is no simple match between local understandings and customs on the one hand, and legal frameworks adopted by states on the other. He used as an example the experiences of the Wajapi community whose ICH was inscribed on the Representative List in 2008 – a former Masterpiece of the Oral and Intangible Heritage of Humanity. The Wajapi community wished to control the use of photographic and video images of them by outsiders, as they believe a photographic image is the double of a person. Researchers working with such communities should understand not just the mechanics of the process of research within the law, but also the cultural dimension of rights and access.

Misako Ohnuki

Misako Ohnuki, Deputy Director, International Research Centre for Intangible Cultural Heritage in Asia and the Pacific Region (IRCI) (Japan) spoke about documentation as a tool for safeguarding community ICH. Changes in social and environmental contexts and problems with transmission threaten many of the elements on the Urgent Safeguarding List of the Convention. IRCI’s objectives included enhancing safeguarding of the ICH in the Asia-Pacific region, while developing and mobilizing research as a tool to this end. Among the projects approved in the period 2012-2020, IRCI has been exploring the use of various methodologies for documenting the ICH. IRCI therefore organized a meeting to discuss the development of guidelines for documenting the ICH with communities in March 2012 in Tokyo. Participants at the meeting proposed a framework for the development of these guidelines. IRCI is currently involved in a community documentation project of the Ogi Festival in Japan. The aim is to produce audiovisual documentation manuals that could guide communities in documenting and safeguarding their ICH.

Harriet Deacon

Harriet Deacon, Hon. Research Fellow, University of Cape Town (South Africa) spoke about existing research on ICH and the development of a database to track and analyze current work. The database created by Deacon and Bortolotto is based on entries in Google Scholar in English, French, Italian and Spanish so far. Although still incomplete it has been useful in identifying some trends in the field. Research on ICH and the Convention is increasing, but tends to be focused on certain issues, which are identified in the paper. The literature seems to be becoming more self-referential as it gets larger. Regional differentiation remains high and there is too little cross-citation across language groups. The literature on managing heritage resources is still largely separate from the literature on critiquing the concept of heritage and analyzing its political dimensions. Thus it is important to include the work of NGOs and practitioners alongside academic research in the database.

Chiara Bortolotto

Chiara Bortolotto, Marie Curie Fellow, Laboratoire d'Anthropologie des Mondes Contemporains, Université Libre de Bruxelles (Belgium/ Italy) outlined some key areas for future research, based on a gap analysis of the database and on suggestions from ICH researchers. These are identified in the paper: key areas of work include community participation and sustainable development. Researchers need to become more self-reflexive and think about the need for training new heritage professionals. Assistance is needed from various organizations and other researchers to ensure that the database can be made freely accessible as soon as possible. The bibliographic data gathered so far needs to be placed into the same format and given an interface so that people can search it and enter new material. In the medium term the database also needs to become much broader (covering more regions and languages): regional coordinators might be needed.

Closing

The meeting closed with a discussion about the way forward. It was agreed that further meetings should be held, preferably annually. Every second year a meeting would be held the day before the General Assembly of States Parties to the Convention, in Paris.

Key Note Speech



Ten Years after – Pandora’s Box

Chérif Khaznadar

President of Maison des Cultures du Monde, France

The Convention for the safeguarding of the intangible cultural heritage played a significant role in redefining the notion of heritage. It not only brought prestige to forms of heritage that were often poorly recognized, it also encouraged critical thinking about cultural and natural heritage as defined in the Convention of 1972. It now seems necessary to review and to give an appraisal of this process of recognition of heritage.

In doing so, it is important to observe that an ever larger number of experts, researchers, thinkers, academicians, practitioners, etc, are focusing on these issues and that our initiative today of creating this “Forum of researchers on the intangible cultural heritage” is not occurring in isolation. Other study and research groups are being formed around the world.

If, as we will see, not just today, but in the days and years to come, the Convention of 2003 offers multiple possibilities for interpretation which the operational directives make every effort to define, it has had, as a first indirect and immediate effect, the challenging of the very concept of heritage limited to physical heritage, and the fragilizing of the sacrosanct exceptional universal value of the Convention of 1972. I can cite in this regard Francesco Bandarin who, in his opening speech at the conference that we organized with the French National Commission for UNESCO and the Maison des Cultures du Monde on these same issues on April 2nd and 3rd at UNESCO, said in particular: “What we have acquired with the notion of intangible heritage is also that the value of heritage is not necessarily determined based on a scale of universal value, but rather by the value assigned to it by the communities that identify such heritage as something that gives them a feeling of identity and continuity.”

Communities. Indeed, the Convention of 2003 broadly contributed to the promotion of this term, a term which was defined in a Glossary adopted by an international meeting of experts for ICH in June 2002.

The experts¹ who defined community made a point of supplementing this definition with two other ones: indigenous community and cultural community.

Communauté: *Individus qui se sont dotés d'un sentiment d'appartenance à un même groupe. Ceci peut se manifester par exemple par un sentiment d'identité ou un comportement commun, ainsi que par des activités et un territoire. Des individus peuvent appartenir à plus d'une communauté.*

Community

People who share a self-ascribed sense of connectedness. This may be manifested, for example, in a feeling of identity or in common behaviour, as well as in activities and territory. Individuals can belong to more than one community.

Communauté autochtone: *Communauté dont les membres se considèrent comme originaires d'un certain territoire. Ceci n'exclut pas l'existence de plus d'une communauté autochtone sur le même territoire.*

Indigenous community

A *community* whose members consider themselves to have originated in a certain territory. This does not exclude the existence of more than one indigenous community in the same territory.

Communauté culturelle: *Communauté qui se distingue des autres communautés par sa propre culture ou approche culturelle ou par une variante de la culture de référence. Parmi d'autres acceptions possibles de ce terme, une nation peut être une communauté culturelle.*

Cultural community

A *community* that distinguishes itself from other *communities* by its own *culture* or cultural design, or by a variant of the generic *culture*. Among other possible extensions, a nation can be a cultural community.

The very fact that the “glossary” was not appended, as it normally should have been, to the Convention², opened the way to all possible interpretations of the word “community” and of its role on the level of the Convention, some of these interpretations going as far as making community the very core of the Convention and the holder of the intangible heritage over which it would have all of the rights. It would be worthwhile to open a broad debate on this issue, which could reveal a certain number of contradictions and one absurdity: a Convention which gives communities all of the rights to a heritage which, by the mere fact that it is recognized and classified on one of the lists of the convention, no longer belongs to this community but rather to humanity as a whole, and that the community is dispossessed of its heritage but nonetheless responsible for its safeguarding and answerable to the international community for the measures that it plans to take to protect, in a sense, the thing of which it has been dispossessed.

1 By the way, four of them are taking part in this Forum.

2 The haste with which the Convention was drafted and adopted (one year rather than the two years that are usually necessary for such a project) did not allow for the submission of the glossary to the General Assembly for discussion, amendment and adopting.

Today, given the evaluation of applications as practiced by the two bodies designated for this purpose, we don't know, for example, what each of the members of these bodies means by the term "community", how it is interpreted and whether or not there is a dangerous confusion between the notion of community and that of communitarianism.

"Community" will therefore be one of the foremost concerns of our Forum.

Another concern of ours will be the criteria according to which the elements of the ICH that are submitted are selected for registration on one of the lists of the Convention.

Our Forum does not intend to worry about various organizational issues of the Convention, it merely seeks to contribute to thinking regarding the fundamental points of this Convention, but we are aware, unfortunately, that this thinking does not always find a place at General Assemblies and Committee Meetings.

Experts' Paper

Antonio A. Arantes

Lourdes Arizpe

Harriet Deacon and Chiara Bortolotto

Kristin Kuutma

Öcal Oğuz

Misako Ohnuki

Ahmed Skounti

Rieks Smeets

Wim van Zanten



Beyond Tradition: Cultural Mediation in the Safeguard of ICH¹

Antonio A. Arantes

UNICAMP -State University of Campinas, Brazil



©APINA – Conselho das Aldeias Wajãpi

This is not the place to review the outstanding results achieved in the field of safeguarding intangible cultural heritage by UNESCO or by national institutions, with the active support of non-governmental organizations and academic specialists. But it seems timely and appropriate to focus on a certain *malaise* that is often manifested in academic milieu about so called “*patrimonialization*” of ICH. So, what is at stake?

Safeguarding can be interpreted as a mechanism through which selected aspects of “real life” are dressed with patrimonial value by governmental agencies, thus becoming meta-cultural realities. In other words, they become official representations of vernacular practices and as such, they acquire special status in the competition for the symbolic and material benefits that are made available by safeguarding policies and programs. Some ICH elements become assets for social development programs and provide inputs for the creative industries. A consequence

1 An extended version of this paper was presented at the Research Planning Meeting for the IUAES Commission on Intangible Cultural Heritage, hosted by CRIM, in Mexico on February 2012. It is based on “The problem: from the Wajãpi point of view”, chapter 2 of ARANTES (2009), originally published by the World Intellectual Property Organization (WIPO), on its official website at <http://www.wipo.int/tk/en/culturalheritage/surveys.html>. The Secretariat of WIPO, copyright owner, assumes no liability or responsibility with regards to any transformation of this material.

of these interventions is that ICH elements and holders are engulfed by processes that take place beyond the social spaces regulated by tradition.

Documentation and promotion, which have proved to be very useful tools for safeguarding ICH, can also be interpreted – anthropologically speaking – as ways of *staging* or *enacting* heritage in the world media. They are interpretations of cultural elements made in languages (photography, film, audiovisual recordings) that are foreign to traditional repertoires.

Departing from these premises, and because I believe that images and registers of social life are not fully dissociable from their referents, I join the skepticism of some of my anthropological colleagues for whom safeguarding does not simply contribute to the continuity of practices that “*communities, groups and, in some cases, individuals recognize as part of their cultural heritage*”.² To my view, it is potentially transformative and my aim in this paper is to inquire – particularly in relation to small scale cultural communities, living at the borders of national societies – how the dissemination of documents and registers produced by researchers and media people affect the feelings, sentiments and beliefs that nurture the senses of belonging and the identity of heritage holders.

This approach is based on the idea that the framing of ICH elements by policies, programs and projects (documentation included) depends on complex intercultural dialogues, conflicts and negotiations that take place among preservation institutions, researchers and cultural communities in specific social arenas. It is, consequently, pertinent to ask what are the meanings, values and implications of the elements in play in such negotiations, whether from a legal perspective or from the point of view of local custom, economics and politics. What strategies are built by heritage holders in this blurred space of uncertainty created by safeguarding, beyond the limits of tradition?

There are political, pragmatic, moral and cognitive issues involved in this matter. From the point of view of my argument, it is relevant to remember that there is no simple match between custom and law, and that customary regulations and sanctions fail to be effective outside the immediate social environment of cultural communities. Legal parameters adopted by nation states do not usually find simple equivalents in customary practices, as well as indigenous practices and categories of thought often do not find direct equivalents in institutional cultures and state bureaucracies. To confront these structural difficulties is an obvious and inescapable challenge to safeguarding.

These are themes about which perhaps only the rough and rugged ground of ethnographic experience can offer some light, and it has been with these concerns in mind that I conducted a brief fieldwork among the Wajãi, a Tupi speaking people living in the Brazilian border with French Guiana.³ They are holders of the graphic language named *kusiwa*, which was registered

2 Cf. ICH Convention, art. 2,1.

3 The people self-denominated as Wajãpi live in three locations on the border of Brazil and French Guyana. They do not constitute a culturally homogeneous community. My fieldwork took place during a workshop

in 2002 by the Brazilian Institute of Historic and Artistic Heritage – IPHAN as an element of Brazil’s cultural heritage. It has also been proclaimed – together with the corresponding orally transmitted knowledge – a Masterpiece of the Oral and Intangible Heritage of Humanity by UNESCO, in 2003, and included in the ICH Representative List in 2008.

The initiative of applying for the listing of kusiwa by the National Historic and Artistic Heritage Institute (IPHAN) as well as the proposal for its proclamation as a Masterpiece of Oral and Intangible Heritage of Humanity by UNESCO were motivated by this community’s felt need of empowerment to control the improper use of their printed image by outsiders. The episode that triggered those demands was the unauthorized use of their images on billboards by Amapá State government and of a photo, in a promotional shirt, of an Indian woman who had committed suicide.

Intercultural understanding

Wajãpi researchers explicitly question the increasing use of Portuguese words when argued about what they consider as the most important domain of their traditional culture. As was stated in an interview, “*we have difficulty in translating our language; so we use the language of the whites and are unable to make a correct translation of what we want to say*”. However, the Wajãpi have had for decades intense and diversified contact with non-Indians, as well as with state officials, national and international cultural and finance agencies, and with academic researchers. This circumstance makes it necessary for them to have a good knowledge of the Portuguese language. However, they frequently use and actively seek to strengthen their traditional language.

Difficulties in communication and with intercultural understanding are not limited to the sphere of language. They are often targets of harassment, prejudice and discrimination in Macapá, the capital city of Amapá State, and usually try to avoid humiliating remarks made by non-Indians by using western clothes and shoes (principally bras, pants and sneakers) or by adopting their styles and mannerisms (haircuts, makeup or cologne). Assuming the stereotypes by which they are discriminated, some prefer to not “dirty their body” with *jenipapo* or *urucum*, as non-Indians refer to drawing kusiwa on their bodies, principally when they are not in their forest dwellings.

In contrast with the praise of the *kusiwa* as an ICH masterpiece or a Brazilian cultural heritage in preservationist circles, there is no public recognition and very little information in the media about their being the stakeholders of this patrimony. The formal education programs developed locally are also very reluctant to accept the need to include information about their culture, their right to difference or other issues that they consider of practical or political interest.

for training indigenous researchers, which is a regular activity of the Wajãpi Program created in 1992 by NGO Iepé Institute.³ At the time of my visit, nearly twenty indigenous researchers were staying at the *Kwapo’y wryy* village, next to the Aramirã Post. Some women attended this activity, but most workshop participants were men, from 20 – 30 years of age, coming from various villages and accompanied by their immediate families.

On the other hand, they have been developing for more than 10 years, with the collaboration of academic anthropologists and supporting institutions, the training of indigenous teachers, researchers and video-makers. These activities, mainly developed through Iepé Institute⁴ – that might well be distinguished as a good practice in the field of ICH policies – have contributed significantly to strengthening Wajãpi culture, and to creating two-way access routes both with Brazilian and international communities. *Kusiwa*'s candidature to IPHAN and UNESCO has been long matured within these activities before being officially submitted.

There is no time in this round-table to review the information gathered in my fieldwork and in the documents produced in these workshops. An extended version of this paper is expected to be published in the near future. But let me very briefly point out some issues that I find particularly relevant for this session.

Origin, possession and transmission of *kusiwa*

Their narrative about genesis states that the ancestors became possessors of *kusiwa* and left it as a legacy to the Wajãpi. Their ancestors “learned” *kusiwa*, as well as songs and celebrations, from “the owners of things”, and this knowledge became “available” to them because they have practiced it and strengthened it over time. What they seem to be saying is that they legitimately possess this cultural expression thanks to the creative and continued practice of many generations.

The “owner” is the one who not only conceived and gave life to things, but one that also raises, protects, cares, cultivates. This being so, in their view, the creator remains linked to the creation, even when others are allowed access to these. The concept of “owner” includes the idea of “guardian”, and “possession”, implies *commitment* to continuity and *punishment* of nonauthorized appropriation. In their terms, the practice of *kusiwa* is a way of creatively “imitate” pre-existing motifs, whose symbolic power is controlled by *Ijã*, the “owner” of things.

Kusiwa is used both as a decoration and as a protection. The proper and legitimate way of practicing it is referred to as to doing it “with knowledge”. “Knowledge” has at least three meanings here. It refers to: (1) technical skill, which is transmitted among members of the same families in local groups; (2) the correct understanding of the meanings of the graphic motifs, which have their full explanation in Wajãpi cosmology; and (3) observance of the interdictions, which are crucial for the maintenance of *kusiwa*'s symbolic power, as it has been established in time immemorial by the “owners of all things” (*Ijã*).

4 According to anthropologist Gallois, since 2000 indigenous chiefs, researchers or teachers are being encouraged by outside facilitators (anthropologists or others) to explain in their own language – and later to translate to Portuguese – what they judge to be important to say about their culture to non-Indians. In this dialogical context they use written scripts and illustrations. In other words, they increasingly appropriate formats that are commonly used by non-Indians in their own forms of expression. Important sources for my research resulted from workshops previously organized by Iepé for that purpose as well as from written texts that were collectively produced in response to issues raised by me in their workshops.

Jane'ã and *a'ãga*: vital principle, image and the double

The Wajãpi say that a mystic dimension of people and animals – which they translate as their “*vital principle*” – are not dissociable from the “*imitations*” made about them. The issue is even more sensitive when referring to photographic or audiovisual images. The explanation they gave me was that “*the photo and the image in the film are like a double of the person. There is i'ã behind the photos, which is invisible. (...) When we take an image ta'ãga of the person to send to some place, i'ã goes with it and also opiwarã. (...) When we record a person's speech, i'ã and opiwarã go with the recording*”.

This comment is as valuable to understand the limits established by the Wajãpi about audio and visual recordings produced by non-Indians, as to understand their motivation for learning to use audiovisual technology.

The regulation of intellectual rights: between the custom and the laws

During my field work, as was expected, difficulties arose on sharing the notions related to intellectual property and intellectual rights. Following the usual strategy of the workshops, they collectively constructed the synthetic phrase “*I jarã omarã kuwa rupi te oinõ momae'ko*”, which can be interpreted as: “the owner is one that makes things with knowledge, in the route of experience”.

In terms of my previous comments, this statement seems to condense the following basic ideas about intellectual rights. The phrase “*to make things with knowledge*” implies, as I have argued earlier, having legitimate access to the sources of knowledge (i.e., belonging to a kinship group), being committed with the group's cosmology and observing the socially approved interdictions. As to the phrase “*in the route of experience*” they seem to refer to the idea that tradition can creatively meet with innovation, through the experience of living in a changing world.

The process of collective decision-making with reference to requests of researchers, photographers and movie-makers does not appear to be – in itself – a particularly significant problem. The villages and the two existing and active political organizations (APINA and APIWATA) with central offices in Macapá are interlinked by a radio system. Formal contact with the Wajãpi is made through APINA, who contacts APIWATA and the chiefs of the various villages. After consultations with villagers, they discuss the matter among themselves on radio and send their decisions back to APINA. If there are conflicting positions, the tendency is not to decide by majority, but by consensus. When there are material benefits involved, these are received by APINA that distributes them according to ad hoc deliberation.

Considering the limited character of my field work, it was not possible to determine to what extent this system effectively works and how the conflicts that certainly occur are resolved. But my impression was that this network system is effective enough for their current needs.

Closing remarks

A few comments should be made before concluding this brief presentation.

Evidently these notes are not a complete version of the facts; or the expression of a supposedly community consensus on the subject. My intention in this forum is (1) to delineate some themes that give a particular shape to this zone of uncertainty that is faced by ICH holders beyond the borders of tradition in matters concerning the safeguarding of their heritage, and (2) to highlight some topics that seem particularly relevant for a research agenda on the topic, when looked at from the point of view of indigenous heritage holders.

More comparative work must be done before any generalizations on this topic are made. However, the present case suggests that sometimes the greater difficulties in intercultural decision making does not concern the mechanics or the politics of such process, as has often been suggested, but in understanding and taking seriously into account the deeper cultural issues related to what is called, in western juridical jargon, rights to the image, of interpretation and of self-determination of ICH holders, as subjects of rights.

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The Need for Research on Intangible Cultural Heritage

Lourdes Arizpe

Technical Committee of National Commission
on intangible cultural heritage of Mexico

In his 2011 book entitled “Anthropology Confronts the Problems of the Modern World”, Lévi-Strauss states what every anthropologist knows, namely, that “...always and everywhere, scientific explanation is based on what may be termed good simplifications. Given this relationship, anthropology turns necessity into virtue”¹. Such virtue is closely assessed on the basis of scientific theories and discursive metonymies. In contrast, the texts of international normative instruments must answer to a very wide range of types of discourses, cosmovisions and political maneuverings, to name only the most salient factors intervening in international policy negotiations. In spite of this complexity, an international convention, such as the 2003 Unesco Convention for the Protection of Intangible Cultural Heritage, must be based on consensus about a most succinct and prudent text.

As everyone knows who has been involved in negotiating policy texts, each word goes through very intricate filters of varied knowledge and predictions of political outcomes. Indeed, the great achievement of the United Nations and Unesco is achieving consensus amid such diversity. Placing an idea and a text up for scrutiny by representatives of so many peoples and governments gives such policy texts an underlying richness and a political legitimacy that no other kinds of documents can claim. However, when the “free flow of ideas” which is Unesco’s primary mandate is thinned out, for many different reasons, words and proposals may lose reflexivity and their contradictions increasingly complicate operational practices. Scientific research broadens the space for a creative “foaming” of ideas but also of negotiations. Thus, research is needed to systematize assessments of experiences on intangible cultural heritage and to encourage innovating in a rapidly evolving world.

At present, the surge of interest in culture is creating new possibilities for safeguarding cultural heritage as a major component in building a sustainable cultural vision for the world. Claude Lévi Strauss, in the recent lecture he gave in Japan, pointed out that “since the Western type of civilization no longer finds in its own resources that which would allow it to regenerate

1 Lévi-Strauss, Claude. 2011. “L’Anthropologie Face aux Problemes du Monde Moderne”. Paris:Seuil, pg. 21.

and take off towards a new flourishing, may it learn something...from those humble and, for a long time, disdained societies which, until recently, had escaped its influence? These are the questions that are being posed, after several decades, by thinkers, scholars and men of action and which incites them – since the other social sciences, more focused on the contemporary world, do not provide an answer – to interrogate anthropology². Indeed, in the last few years anthropology is once again being approached to fill in the gaps to deal with cultural movements involved in political and economic restructuring for a new world order. Importantly, other social sciences, especially geography, political science and sociology, have been moving into research on topics and fields related to culture.

Reconnecting Intangible Cultural Heritage

In my view, the richness of current research and debates on culture has not been brought to bear on the work of the ICH Convention. The view that scientific knowledge, traditional expertise and the knowledgeable experience of Unesco staff should only be filtered through government delegations in negotiating and operationalizing the Convention has been very restrictive. By so doing, the conceptual, methodological and operational structure of the Convention has advanced only through ad hoc changes, allowing particularistic interests to come to the fore. There has been no systematic examination about the outcomes of inscriptions to the Lists and no reaching out for the practical knowledge being developed in research centers, curatorial institutions and enterprises to re-place the thinking and management on the work of the Convention in current world trends. It was only in 2010 that the Assembly of State-Parties to the 2003 Convention changed the statutes to encourage with such institutions. Since then the Social Science Council has mobilized in organizing the networks and planning for research on intangible cultural heritage. The Research Planning Meeting held in Mexico in February 2012, in its Report, shows how profuse the issues on intangible cultural heritage are at present, and which need clarifying and rethinking to advance in this field.

One of the major issues is that, while the Convention we all worked, for places local communities as the central actors in safeguarding intangible cultural heritage, so many intermediaries have now emerged that in many cases local communities are being dispossessed of the cultural wealth which is the last asset that many impoverished people now have. The Assembly of State Parties to the Convention urgently needs to give clarity to the outcomes of the Convention's applications since cultural practices, performances and images have acquired a new monetary value in what is being called "cultural capitalism". If the local groups themselves, ethnic, cultural or social, are able to organize and manage to their intangible cultural heritage, or link up to appropriate institutions so as to generate income and create employment, this will be highly welcomed as one way of safeguarding such heritage. But when other intermediaries take over, local groups will get neither the recognition nor the economic benefit that the Convention intended for them.

2 Lévi-Strauss, 2011:17.

Proposals for research

Finally, I would like to suggest the following areas for research on intangible cultural heritage so as to facilitate both the rethinking of the aims and goals of the ICH Lists in the current world situation and strengthening the coherence and integrity of its operational practices:

1. **To analyze the safeguarding of intangible cultural heritage in current development processes.** The main three issues are sustainability – intangible cultural heritage is very important in many instances for environmental, social and political sustainability – , the redefinition of what makes us human – several new theories show the relevance of cultural practices to the way societies achieve negotiated conviviality and pluralism – and the repositioning of nations, traditional regional cultures, ethnic and religious groups – in the new world order. Research on these issues will make visible underlying currents in proposals for inscriptions on the ICH Lists and would make such work more relevant in the world today.
2. **To examine intangible cultural heritage in terms of the needs and wants of local communities,** as expressed in cultural idioms and in the context of economic crises and policy trends. Such an analysis must take into account the different levels of decision-making – say, municipal, state and national – in the inventorying and proposing of candidatures on ICH.
3. **To create methodological tools for inventorying, registering and promoting ICH in multiscalar models,** that is, taking into account that local cultures are always related to larger “cultural areas”: micro-regional, national and even macro-regional or even sub-continental. This may help ease the controversies arising from different groups claiming that only they have the “authentic” way of performing a intangible cultural heritage practice, and falling out with other groups when that practice is included in the Representative List.

The Convention to Protect Intangible Cultural Heritage has opened up the imagination of many local peoples to possibilities of remembering, being recognized, fostering enterprise and strengthening social resilience by participating in broader political processes. We need the knowledge from research to understand and enhance these possibilities.

Charting A Way Forward: Existing Research and Future Directions for ICH Research Related to the Intangible Heritage Convention

Harriet Deaconⁱ and Chiara Bortolottoⁱⁱ (joint paper)

ⁱ The Archival Platform South Africa

ⁱⁱ Université Libre de Bruxelles (Belgium/ Italy)

Meeting of ICH Researchers, 3 June 2012, Paris

By ratifying the Convention, States Parties undertake to try and encourage research about ICH that may contribute to its safeguarding and increased awareness about it (Articles 13(c), 14(a)(iii), Operational Directive (OD) 107(k)), including the development of research methodologies. States Parties undertake to facilitate access to the results of this research both by communities concerned (OD 85), and by researchers in other States (OD 87), as well as encouraging cooperation, collaboration and networking between communities, researchers and other stakeholders (OD 79 ff.). Research on UNESCO, its Conventions and issues like intangible heritage can of course be encouraged by universities or independent agencies as well as by States Parties. It can be done in various ways, for different purposes and with different results and impacts.

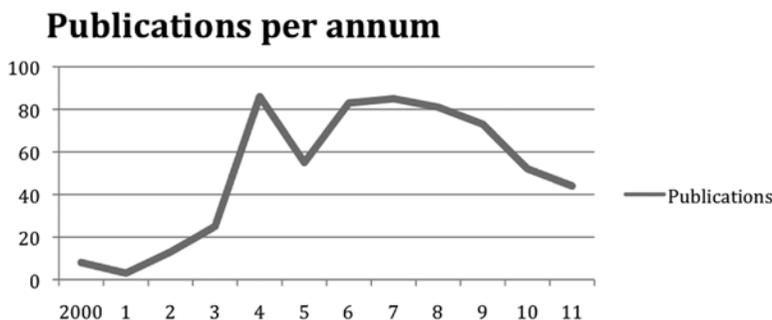
This paper explores the range and depth of existing research that relates to the UNESCO Intangible Heritage Convention before discussing themes that could be explored as priorities for future research. The survey of existing research is based on database of existing literature collected using online reference databases (Google scholar and journal databases) as well as through our academic networks. Some possible research areas deserving further attention have been identified from the gaps in the database as well as from ideas suggested by researchers.

Towards a database of existing research

For the purposes of this paper, a database was compiled from Google Scholar, Thomson Reuters Web of Knowledge and JSTOR using the search terms ‘intangible’ and ‘heritage’, ‘intangible heritage convention’ and ‘2003 convention’ in English. Google scholar was by far the best source of references because books, grey literature – and humanities publications in general – are poorly indexed in the other databases. Searches were conducted in a few other languages (Spanish, Italian and French) using the appropriate terms for ‘intangible cultural

heritage' in those languages. Further references were received from various researchers in our networks.¹ (ICOMOS keeps a database about ICH-related publications but this we found was particularly focused on intangible values associated with sites.) There are currently about 660 entries on the database and a similar number to be added, currently not in database format.

The number of publications in the database is charted below by year (43 items have no date indicated yet).



This decline since 2009 will be partly a result of biases in the database, including the fact that about 90 items published in China probably come from a literature review translated into English that focuses on the period 2005-2009. The more limited view of the literature given by an analysis of the Thomson Reuters Web of Knowledge, which tracks 90 journal articles on intangible heritage, suggests that publications in the field have generally risen since 2005, after an upward blip in 2004.

There are still significant gaps in the database. It mainly consists of references that specifically mention ICH or the Convention in the abstract or title, so some sources that discuss the impact of the Convention in a less direct manner may have been overlooked at this stage. The work to date has mainly focused on academic publications; institutional reports, and analyses from cultural agencies and NGOs doing ICH-related work are underrepresented. Research about ICH management or safeguarding methods, and practical guides for it, may be more readily available from these underrepresented sources, in the grey or unpublished literature, or on project websites.

The database is currently biased towards English-language sources. Major English language journals represented in the database include the *International Journal of Intangible Heritage* and the *International Journal of Heritage Studies*, *Museum International* and the *International Journal of Cultural Property* (on legal issues).

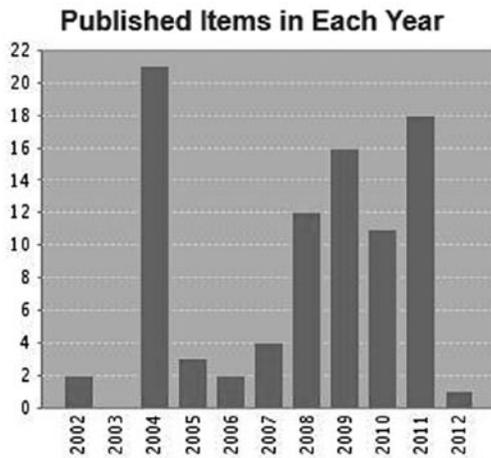
¹ Thanks to Valentina Zingari, Janet Blake, Laurier Turgeon, Rieks Smeets, Shubha Chaudri, Rahul Goswami, Regina Bendix, Caroline Bodolec, Panayiota Andrianopoulou, James Early, Maria Luisa Ciminelli, Sabrina Urbinati, Susan Keitumetse, Patrick Effboley, Cherif Khaznadar, Luciana Mariotti, Florence Graezer Bideau, Alessandra Broccolini, Marilena Alivizatou, Pietro Clemente, Lauso Zagato, Fulvia Caruso, Ana Carvalho, Cyril Isnart, Lorena Querol, Elsa Peralta, Noel Salazar and others for their comments and contributions.

Thomson Reuters Web of Knowledge citation report

Citation Report Title=(intangible heritage)

Timespan=All Years.

This report reflects citations to source items indexed within All Databases.



Results: **90**

Analyzing the database

This database is work-in-progress. It does not represent all research on ICH and the Convention in all languages but it does illustrate some interesting trends.

Topics already under investigation by researchers

There is a clear emphasis in the database on certain topics rather than others. To some extent this may be due to biases in the search techniques, but those who work in the field will know that there are also certain kinds of research have been prioritised to date for various reasons.

The following topics were reasonably well represented in the database:

- The convention, its history and philosophy / politics
- ICH and the law: national and local legislation, IP, cultural rights, UNESCO/WIPO.
- Economic development / Tourism and ICH
- Museums and ICH (although much of this is about intangible values associated with objects rather than ICH practices)
- Management of ICH associated with sites (although much of this is about intangible values associated with sites rather than ICH practices)

Much of the research that has been done to date on the Convention itself has focused (not surprisingly) on the birth of the Convention and its early relationship to other instruments such as the World Heritage Convention or WIPO work on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. There has been quite a bit of focus on the text and spirit of the Convention although less so on the Operational Directives. There is little current analysis on how the Convention has been working since 2009 and on the evolution of its priorities, although some interesting case studies are starting to appear.

At the international level, ICOMOS, ICCROM and ICOM have shown an interest in ICH and this has stimulated work on ICH in museums or intangible values in sites. This kind of interest, and associated conferences such as the ICOM conference on museums and ICH in 2004 in Seoul or the 16th General Assembly of ICOMOS on intangible values of monuments and sites held in 2008 in Québec, seem to have stimulated publications on sites or museums and ICH. Museums are always looking for new ways to engage their publics, and the discourse on ICH presents such an opportunity. Much of this work is mainly about representing the intangible values associated with objects in museums, but some of the museum and ICH research refers explicitly to safeguarding ICH practices associated with collections and would therefore fall within the ambit of the Convention. Several publications address the intangible values of sites. This reflects the growing importance of criterion (vi) in the World Heritage List and the interest of local stakeholders in staging traditions for identity, tourist or commercial ends.

Other topics that were covered in the database to some extent but will probably see growth in the future include:

- Researching ICH: methods and case studies
- Digital technologies and ICH management/promotion
- Case studies of inscriptions on the Lists of the Convention including former Masterpieces
- Inventorying ICH
- Communities and ICH safeguarding under the Convention

Performing arts, festivals, craft and music were reasonably well represented, but not all domains were as well covered: this may partly be due to research bias and partly a product of sampling bias. There were a few papers on traditional games as heritage, and even fewer on food as heritage but more publications can be expected in this area.

Regional differentiation

Research on ICH shows significant regional differentiation, both according to the database and from our own experience in the field. National interests and regional experiences play a role in the funding and development of ICH research. For example, research from Asia and Africa often focuses on the development potential of ICH. Also, academics and heritage professionals in different regions have different kinds of relationships with each other, with communities, and with the State. This can affect what research is done on ICH and the Convention, who does it

and how they do it. For example, research from Australia and Latin America often emphasizes community participation. Different theoretical traditions popular in different regions naturally inspire different reactions to the Convention and the notion of ICH.

Major countries represented in the English-language corpus are Australia, the UK and US, and South Africa. The western English-language literature seems to be reasonably well referenced in the Spanish, French and Portuguese corpus. It is not clear whether the same works are being used and referenced in Eastern Europe or Asia; from our preliminary investigations it seems that the western debate on ICH remains relatively separate from the Eastern European and Asian debates. Meanwhile, looking at citations of some of the key items in the database through Google Scholar one can gain a rough indication of who is citing whom. For example, Laurajane Smith's edited volume *Intangible Heritage* (2009) has had 23 citations. Of these, only three were not English-language works – and these were Italian and German. (Not all the works citing Smith's volume were specifically about ICH, so this trend may be characteristic of all heritage work.) Citation patterns can be analysed in depth once the online databases allow for more analysis thereof in the humanities.

The database gives only a very rough indication of what is happening in Eastern European, Latin American and Asian ICH publishing at present. Regarding Asia, the large Japanese and Korean literature, and other regional literature, still needs to be added. However, the Chinese titles already translated into English confirm that China is producing a considerable amount of research about uses of ICH in tourism and economic development; ICH law and local case studies. Much of this is managerial and legal in focus, rather than analytical or community-focused- this is the case in Chinese heritage literature more generally. Western and Asian heritage research and practice have different perspectives on issues like authenticity and community participation in heritage studies in general, and ICH in particular (Bodolec, forthcoming). There has been too little dialogue to date between these diverse perspectives, although some efforts are being made in this regard. Cross-citation will be difficult without translation of the texts or the efforts of more multi-lingual scholars.

Research is being done on ICH in Africa, generated both from inside the continent and from outside it. It speaks to the western literature on the subject, although it does not distinguish as firmly between the management of tangible and intangible heritage. Although research funding in Africa itself is quite weak, ICH is being promoted by governments and presents an opportunity for researchers to propose models for implementation of good practices such as the integration of sustainable development in heritage management (Keitumetse 2011) or to discuss the challenges faced by government or heritage practitioners in implementing participatory approaches (e.g. Katsamudanga 2003, Chirikure & Pwiti 2008).

Disciplinary differentiation and the critical – managerial divide

The perspective from which major ICH research emanates can also influence the kinds of work that is done. The published literature on ICH – as in heritage studies more generally – can best be characterised as coming from two main perspectives: those of the cultural critic and the

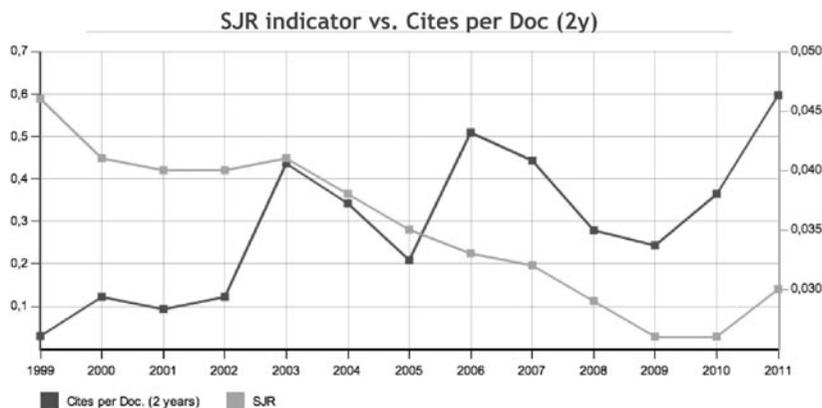
practitioner / manager. The divide between these two approaches is not primarily a disciplinary division, but it is expressed in disciplinary clusters. The disciplines best represented in the ICH database are law, anthropology, cultural and heritage studies, history, museum studies, heritage management, and tourism. The anthropology, heritage studies, cultural and history perspective tends to be primarily critical and the law, tourism, museum studies and heritage management perspective tends to be primarily managerial.

The history, anthropology and critical heritage studies literature in the English-language ICH literature (and the western literature more generally) provides critical commentaries on ICH and the Convention following the ‘invention of tradition’ paradigm (Hobsbawm & Ranger 1983), or focuses on the difficulties inherent in the construction of notions of ‘community’, ‘identity’ and ‘authenticity’. This approach is not specifically concerned with improving the actual implementation of the Convention, except in a broader sense by challenging some of its assumptions and questioning the outcomes of its work. By contrast, research work emanating from disciplines such as law, tourism or heritage management is far more focused on practical issues, trying to explore how best to implement the ideas in the Convention or State-led ICH initiatives.

In the first case the job of the researcher is that of analysing the making and the implementation of ICH policies as a research object, in the second the job of the researcher is to use their expertise to take part in such process. Very rarely do the two research perspectives seem to refer to each other; they use different terminologies, hold separate conferences and publish in different journals. Their assumptions and perspectives affect their findings. In spite of the fact that the critical perspective might be well known to some of those interested in applied research, and vice versa, it is difficult to encourage a dialogue between the two camps and to have a common understanding of the goals of the work at hand.

International Journal of Heritage Studies citation data²

The key critical heritage journal, International Journal of Heritage Studies, has for example over the last ten years seen a reduction in the SJR Indicator, which tracks citations of its articles by papers in other prestigious journals, at the same time as citations per paper have increased overall.



2 <http://www.scimagojr.com/journalsearch.php?q=5700154545&tip=sid>

One worrying trend in the literature seems to be that as the critical perspective grows, it may be coming more self-referential.

Future priorities

How would one identify research priorities for the future?

There are various ways of doing this. One could look for example at areas emphasised by the Convention and its Operational Directives; one could look at the issues raised and problems faced currently by governments and heritage professionals in implementing the Convention; and at the issues raised and problems faced by communities in safeguarding their ICH. Taking the above issues into account, as well as existing research and the suggestions provided by several colleagues, we identified some priority research areas:

Community participation in heritage programs

Gaps in existing research and the inputs of several researchers identify community-based safeguarding and management of heritage as a key future research field.

‘Participation’ and ‘communities’, key concepts of the 2003 UNESCO Convention, convey the idea that heritage interventions are no longer the exclusive area of a profession or scientific and technical experts but are part of a social process of empowerment. Various stakeholders such as States, NGOs and researchers are encouraged to assist the communities concerned in safeguarding their ICH according to their own priorities rather than establishing heritage programs according to outside interests and concerns. Research institutes, centers of expertise, museums, archives, libraries, documentation centers and similar entities are encouraged to develop participatory approaches to ICH research in line with the Convention (OD 109).

Political and social stakes in heritage authorization are made evident in the shift towards participatory heritage: whose criteria are used in selecting cultural elements to be transmitted? On behalf of whose interests? From which perspective? Enlarging the circle of actors and changing their field of intervention transforms the notion of heritage and public interaction with it. This shift towards participatory heritage arouses widespread controversy: welcomed on one hand as part of a broader democratic trend towards considering ethical issues, it is criticized, on the other, for using a romanticized idea of ‘community’. Communities wonder about their agency in the process of identification and safeguarding of their ICH, while heritage institutions, often based on discourses of technical and scientific heritage authorization (Smith 2006), are often uncomfortable with the establishment of participatory heritage programs.

Systematic and applied research is needed for a better understanding and fuller implementation of participatory heritage approaches. This involves investigations about collaborative research, documentation, design and management in order to test new tools and methods to facilitate participation of all the stakeholders. It is important to analyze all aspects of participatory experiences and to learn from their impact on local situations. Researchers may thus understand

what ‘participation’ and ‘community’ mean to the different stakeholders; how community-based projects are concretely established and implemented; and what the impact of such an approach might be on the different players (heritage bearers, heritage experts, institutions, etc.).

The need to address this issue is not merely scientific but also social and institutional. Ratified by more than 140 Countries in less than ten years, the Convention has an impact on local representation of culture and identity as well as on national institutions.

ICH and mobility

Several researchers stressed the need to focus on ICH and mobility, both in the historical *longue durée* and in contemporary society.

Existing research mainly deals with the link between heritage and a specific territory. While monuments and sites are rooted in a territory, ICH has always been moving and a same, or similar element of ICH, may thus have been existing for a long time across national borders. Besides, in the actual social and historical context people move at unprecedented rate and take their ICH with them. The recognition of such cultural expressions as ICH (they can be included in national inventories) is a new situation that overthrows the assumption that heritage is rooted in a territory.

This new situation is under-investigated. We need to ask what is the impact of this new relationship between heritage and territory, both on the level of identity representations and on the level of heritage institutional management? What are the political implications of the institution of a transborder or diasporic ICH? Does ICH have a role in the integration of ‘new citizens’ in their host society? Does the recontextualization of ICH involve a form of revitalisation?³ According to Laurier Turgeon, this kind of investigation may lead to a re-theorization of heritage studies as it draws on intercultural studies, going beyond the idea of heritage as national identity.

ICH and human rights

Researchers in international law underlined the need for further research on the relationships between safeguarding ICH, the implementation of the Convention and human rights. This needs much more exploration in an inter-disciplinary perspective, according to Janet Blake, bringing together the perspectives of specialists in human rights law and the humanities.

ICH and sustainable development

Many heritage stakeholders, especially in developing countries, see ICH as an opportunity for sustainable development. Researchers and experts have suggested investigating the relation between ICH and tourism (Noël Salazar), development (Rahul Goswami) or the role of ICH in periods of economic crisis (Panayiota Andrianopoulou). What does ‘sustainable’ and ‘development’ mean to all the ICH stakeholders? How are such development programs implemented? What are their long term results? What is the impact of such processes on ICH

3 Inputs from Noel Salazar and Panayiota Andrianopoulou

elements and on the communities concerned? Research can help to understand these issues in order to link ICH safeguarding more effectively with social and economic development.

ICH and the State

The DFG Research Group on Cultural Policy noted that the ratification of the ICH Convention brings to the attention of States Parties cultural expressions that were previously relevant only for local institutions and administrations, economy and politics. State intervention has different impacts depending on the nature of governance and on the kind of intervention. It is therefore crucial to understand how state institutions work, what are their interests in ICH management, and how they can and do intervene in identification and safeguarding. Researchers may be independent or they may be employed by state institutions or heritage agencies. It is important to have commentaries on the role of the State and its agencies in ICH safeguarding from both participant-observers within state institutions and independent commentators from outside these institutions.

Reflexivity

ICH involves the negotiation of new roles, not only for NGOs and state agencies in community-driven projects, but also for researchers. The DFG Research Group on Cultural Policy underlined the importance of a reflexive analysis of the role of researchers and of their work in heritage programs. How are heritage researchers trained in different countries? How do heritage professionals, trained in an applied perspective, interact with critical heritage researchers? What roles do heritage researchers perform in the preparation of nominations for the international Lists or in the inventories of ICH? How does their contribution influence the inventory or nomination process? How does their training (focused on heritage management or on critical analysis) influence the outcome of their work?

Comparison

Although the text of the Convention acknowledges a new role for social actors, in different countries the interpretation of the notions of ‘participation’ and of ‘community’ varies widely and depends on cultural, political and institutional frameworks (Bortolotto forthcoming). Comparative analysis is thus a key methodological tool allowing researchers to analyze the real conditions for implementation of the Convention in different contexts. Extensive comparative analysis is necessary to understand the impact of the Convention in different States including effects of listing on the USL, RL and Register after 2009 as well as ICH inventorying. Comparative analysis can also be deployed in examining legal frameworks for ICH in different countries (Janet Blake).

Regional differences characterize ICH research as well as ICH safeguarding approaches. Different kinds of heritage professionals are involved in assisting communities in the nomination process in different countries. Heritage researchers are also trained in specific ways in different regions, and ask different kinds of research questions. Researchers need to understand these regional differences, and to explore the impact thereof on the implementation of the Convention.

The database as a tool for scientific collaboration and review

We believe that to facilitate a conversation about research and ICH safeguarding under the Convention, it is important to understand what research is being produced in different contexts, for what reasons, and how it is being disseminated and engaged with. One of the characteristics of the ICH field, and probably the heritage field in general, is the existence of several regional research traditions (that seem from cursory analysis to be largely self-referential) and a major division (at least within the English-language literature) between a critical perspective and a practitioner perspective. Thus although the ICH field is multidisciplinary and internationally well represented in different regions it is not actively interdisciplinary nor do we benefit yet from sufficient cross-regional dialogue about the various experiences of ICH safeguarding and the implementation of the Convention in these different regions.

An expanded analysis of the literature can encourage a deeper dialogue between different regional research contexts, methods and priorities. The work being done by civil society organizations and NGOs on ICH safeguarding is extremely important and should be included in the database to help address the division between critical and managerial approaches in the field. The database thus needs to be extended to fully represent all languages and regions, and to include more articles, reports and grey literature from practical case studies in the field. The database can play a key role not only in facilitating comparative research but also in cross-disciplinary collaboration. The network of South-East European Experts on Intangible Cultural Heritage,⁴ recently stressed the importance of joint research projects to reinforce cooperation on the cross-border and multinational dimensions of intangible cultural heritage.

Conclusion

Researchers can play an important role in the implementation of the Convention (in the preparation of nomination files, in inventory making, in developing safeguarding plans with communities and cultural agencies). They can also offer important critical perspectives on the Convention and its implementation, as well as practical suggestions for the management and safeguarding of the ICH. Some research work will identify good practices as well as challenges and thereby contribute to the implementation of the Convention and/or to better ICH management and safeguarding. Other work will analyze the implementation of the Convention, refining our understanding of contextual differences and offer constructive criticism (or simply criticism) of the ideas and methods of doing so. Research also has a crucial impact on the implementation of the Convention because it is the basis for the training of ICH professionals.

The Convention and its ODs recognize the need for States Parties to encourage research that supports implementation of the Convention. Having a comprehensive view of what research is being done, and the different regional traditions or disciplinary approaches in this research,

4 Sixth Annual Regional Meeting on Intangible Cultural Heritage in South-East Europe, 'Promoting a shared vision of intangible cultural heritage in South-East Europe', Athens, 10-11 May 2012

is an essential step for researchers and research funders in understanding what has been done, what research can be most useful and what priorities can be identified for the future.

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Communities and the Contested Politics of Representational Ownership¹

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The construction and identification of cultural heritage is always an act of politics and power, it depends on who defines cultural heritage and who has the control to conceptualize its stewardship. Cultural heritage, as a value-laden project of ideology plays on the category of time while making claims for ownership, purity, and restitution. The management of the heritization process, the employment of past repertoires and expressive practices for identifying and celebrating intangible heritage lumps together different periods, entails exclusions and renders communal cultural experience homogeneous. When elaborating on the UNESCO ICH programs approach to communities, one cannot but deduce the community involvement of being predestined to be weakened by the national validation process that is necessary for heritage authorization in the UNESCO system, which via its legal instruments addresses only a 'state party'. To what extent would protecting or safeguarding mechanisms go beyond securing the interest of state parties, in order to be capable of addressing localized needs and deliver culturally appropriate mechanisms of safeguarding on the grassroots level? In the field of heritage policy, authority is accorded to expert knowledge and precedence given to professional interventions that create in turn particular communities of interest, involving stakeholders and stewardship. The discursive impact of the concept and perception of cultural heritage paves the way for a battleground of celebration and contestation among those entangled in the process of heritage production.

The identification and the evaluation of cultural heritage are inevitably surrounded by contestation. Programs for preservation and safeguarding pertain simultaneously to the politics of inclusion and exclusion: about who matters, who is counted in, who defines. The veneration of heritage tends to overshadow social inequalities (Bendix 2000). Heritage is selected or appointed in a complex process that involves particular politics where different groups simultaneously select and promote their symbols (cf. Klein 2006). Communities are not homogeneous and neither is their heritage; disjunctions occur, and heritage-claims may not

¹ This research was supported by EU through the European Regional Development Fund (Centre of Excellence in Cultural Theory CECT), and the Estonian Science Foundation, Grant No. 7795. Part of the research introduced here has been discussed also in Kuutma 2009.

be consensual. Cultural heritage has reformative and powerful organizational and economic significance. Decisions and judgements are cultural, and they produce cultural reverberations. For example, while a communal practice like Seto singing or a cultural space like Kihnu Island in Estonia have been deemed ‘cultural heritage’ by the state nomination on the UNESCO ICH representative list, my research continues to observe how various actors in Seto and Kihnu communities operate, negotiate with, or contest this status, which has been incorporated into their self-identification (cf. Kuutma 2009).

On the other hand, defining the notion of community is problematic in universalist terms as it has become more complex in a diverse and globalized world. Community refers to social cohesion based on mutuality, affiliation, proximity or propinquity, but implies by default also to the immanent agenda of contestation and exclusion (cf. Hoggett 1997). Communities may be linked by a range of social and cultural experiences; criteria range from objective (ethnicity, language, etc.) to subjective ones (self-identification, solidarity, etc.); communities are segmented into those of culture, of location, of interests, etc. The denotation of community has broadened, but it brings with it layers of historical meaning and carries varied political significance in international settings. For example, the 2003 ICH Convention does not define ‘communities’ in its text, which has caused recurring elaborations on the matter (see, e.g., Blake 2009, Kono 2009). During my participation in the meetings of expert bodies and of the Intergovernmental Committee of this Convention between 2006 and 2011, I’ve repeatedly observed the tensions that the urge or dismissal for such a solid categorization creates. The matter of ascribing the quality of ‘community’ seems to depend on whether it happens within or is it a prescriptive act by outsiders, whether it’s an affiliation by choice or a result of an external organizational agenda, particularly in reference to state politics. The choice as to how we define community membership can have serious social, political and economic impacts on individuals and groups within the state.

Tony Bennett (1998) has illuminated the relation between culture and the social while examining the organization of contemporary cultural life through the various levels of engagement in policy-making. He looks at the triangle of community, culture and government, to bring out the potential tensions between autochthonous community and government, where the latter is observed from the position of cultural critique with indignation as external and impositional, being indifferent or antagonistic to the creative cultural life. Yet it is “precisely from within the practices of government that ‘community’ acquires this paradoxical value of something that is both to be nurtured into existence by government while at the same time standing opposed to it as its antithesis” (Bennett 1998: 201). This becomes particularly apparent in the context of making cultural policies where local communities find outlet to activism, and seek to create an operational mechanism that provides them with agency in the instrumentalization of local cultural policies. Policy-making functions for and activates on community level, depending on the inclusion (as well as exclusion) of community representatives. Therefore, it is reasonable to investigate how people act, create positions, and find new potential in such interaction – with the tacit aim of recognizing the empowering or latent moments for agency and dialogue.

In the current contribution, my vantage point of the community acknowledges the role and position of community activists in the framework of policy-making, while the argumentation stems from the observation that the described mapping and identification of ‘intangible heritage’

as the formational premise of cultural politics signifies a phase of reformativ² modernity where shared experience and practices are transformed into political assets both on local and global arena. This process inevitably involves codification of cultural practices into manageable symbols of representation and argumentation. On the other hand, the necessity for easily identifiable, promotional and exemplary cultural expressions tends to exclusively celebrate the past, whereas consequently lived elements of culture may become overshadowed by the veneration of passed repertoires. It may also dislocate the previous status of the members of the community, by granting them new positions in reference to cultural expertise – which may now become governed by outside regulations. For example, the previously recognized expertise in communal practices may be overridden by another community member holding a local administrative office. The rules of power play have shifted, endorsing communicative skills with the outside world. The project of maintaining intangible heritage denotes interventions that complicate explicit or implicit hierarchies inside the communities involved, whereas lived expressive forms are reconfigured into codified symbols implemented in cultural policy making, and mediated on national and international level through various agencies and organizations.

My example of the role of the community in negotiating their position in cultural politics in the following is based on the relatively marginalized Seto community in Estonia. The Seto are a tiny ethnic group³ in the border zone between Estonia and Russia. Today most of the Seto live in Estonia, but their historical settlement area spread further to the east, to the territory of the present Russian Federation (about 1,700 km² on the southern and south-western shores of Lake Peipsi⁴ and of Lake Pskov⁵). The Seto region (Setomaa) is divided between Võru and Põlva counties of south-eastern Estonia, and Pechory administrative district of north-north-western Russia. Similarly to Estonian, the Seto language falls into the Balto-Finnic group of the Finno-Ugric language family. Seto traditions have been defined by an agrarian village community and the Russian Orthodox Church. The social and political changes of the twentieth century have caused the Seto to move outside their historic region but they have largely remained in good contact with it. The total number of the Seto in Estonia is estimated around 10,000–13,000, with about 3,000–4,000 in the historic Seto area. Although the 2000 census of the Republic of Estonia did not provide a possibility for the Seto to register separately, their indigenous representative body, the 6th Seto Congress of 2002 proclaimed the Seto “a nation” (see Sarv 2008). The contemporary Seto carry a double Seto-Estonian identity. Their Seto identity is predominantly defined by ancestral descent; it becomes manifest in their usage of the Seto language, relations to the historical habitat, their maintenance of communal and family traditions, and the veneration of their passed ancestors, but also their skills in and understanding of the traditional singing style. Today one of the most visible elements of Seto culture is their traditional singing, called *leelo*.

Seto identity construction that has been identified and celebrated in the process of heritage studies has transformed today into an empowering asset by different agents both

2 Agents in representational ownership.

3 Scholars of Seto origin stress their descendance from a Finno-Ugric tribe (e.g. Hagu 1999).

4 Peipsi järv in Estonian; Chudskoye Ozero in Russian.

5 Pskovskoye Ozero in Russian; Pihkva järv in Estonian.

inside and outside the community. The Seto have been the object of cultural policy making from the early twentieth century onwards when their rich poetic repertoire was identified as the cultural reservoir of pristine heritage. The Seto identity construction emanates from a combination of versatile liminalities, rising from the geographical border zone placement. A complex interplay of continuous social and political marginalization on the one hand and an active idolization of Seto cultural heritage on the other define their cultural expression (see Kuutma 2006). Those powerful external constraints have produced significant internal response, revealed in the sentient traditionalization of Seto culture, which empowers particular groups, rhetorics and interests. Among them traditional *leelo*-singing⁶ and *leelo*-choirs⁷ have acquired increasing recognition. The value-laden connotation implied by reference to heritage alludes to preservation and celebration of past elements of reified culture that is intended to manifest ethnicity, locality, and history; and yet the cultural politics involved with heritage proposes to address the concerns of the present, with a perspective to the future. In Estonia, the Seto have functioned for about a century as the imaginary folklore reservoir (Kuutma 1997), nurtured by the interaction of ethnographic research with heritage production and cultural policy making, and including a discursive impact on local communities and their cultural expression.

The following analysis looks at the ramifications, constraints and contingencies of identifying cultural heritage like the Seto singing practices and repertoires as property, both on local and national level. By far, discussions on ownership in the context of intangible heritage are quite problematic. The questions emerging in this article have been articulated with the help of interviews with community representatives. Ownership is a product of interests; the possession or appropriation of something is grounded in the perception of established social and political domains. Private ownership is related to the individual, and yet it implies social relationship and cultural ramifications, complicating the implied homogeneity in this association that is embedded in western capitalist perception of ownership. Ownership reflects the nexus of specific relationships, but it appears to be easier to understand rights over things than rights between people. We should observe particular ideologies of distribution and sharing, complemented by analysis of position in status hierarchy, control and power. There is a clear clash in addressing the issue of ownership in post-industrial societies when juxtaposed with indigenous groups and their regulations. But from the perspective of cultural expression, we should not only focus on capitalist interests in contrast to individual or communal ownership. Among the important factors regulating property rights and managing policy making that influence them subtly, the role of the state should be analysed, which in certain conditions overrules other interests involved. My drawing in the constitutive capacity of the state regulative system should also lend an opportunity to extend the discussions of ownership rights that involve government programmes and policies targeted on cultural expression, particularly

6 *Leelo* is a Seto vernacular term for song, with a verb derivative to denote the act of singing. In the current context it refers to a traditional way of singing where music (a specific polyphonic melody and timbre of voice) is combined with texts that follow particular poetic rules and structures, and which are defined by particular occasions and singing situations.

7 The practice of singing features an alternation of solo and choral parts: a lead singer performs a verse-line; the choir (of at least two persons) joins in for the last syllables of the line, and then repeats the whole line. Modern organized choirs usually include around 10 singers.

in the context of claiming significance for heritage. Those ramifications are of special concern in the Seto case, where the community has been subject to different property relations under different political rules: their cultural practices have been subjected to outside concepts of ownership, and then also governed by state-ruled regulations under the Soviet domination.

The analysis of cultural expression's interrelations with ownership entanglements needs to include both the individual level and the communal context. The "culture carriers" should be identified as members of the community who are framed either as subjects or objects of cultural policies manifested by local authorities or the state, which may concur or manifest contradiction. My reference to this level of geopolitical organization draws here from the argumentation by Anna Tsing who perceives the state to ascribe the "aspects of governing, administrative, and coercive apparatus that are experienced as external yet hegemonic" (Tsing 2002: 334). Her formulation and conceptualization of body politics enables me to expand the analysis of political negotiation by including the "out-of-the-way-people", and it seems relevant also to pose the question together with Tsing in the present context whether one could simultaneously be inside and outside the state (*ibid.*). In the current examination, this position proves to be relevant in the discussion of the dynamics of community, and the cultural politics exercised by authorities, be they local or national. In the context of Soviet cultural politics the issue of property rights existed as a state-ruled "one-way-street" of hegemony and domination. In the last decade, the Seto have acquired significant cultural and political activism, which is seeking an outlet on national and international level, with clear intention of providing means and support for the advancement of autonomous recognition.⁸ They have found the manifestations and mobilizations of their historical cultural practices, based on communal lifestyle, particularly instrumental. For that end, the Seto have sought and identified the instrumental significance of the Unesco programmes, particularly on state-level policies regarding intangible cultural heritage. Thus we should consider the role of the community in negotiating, establishing or rejecting cultural politics, defined and imposed by the state.

This lends me a perspective to analyse property relations in cultural expression from the vantage point of the community involved, which acknowledges the role and position of community activists in the framework of policy making. Thus one can refrain from the usual labelling of the "target"-community members as passive recipients of a hegemonic system – a frequent academic outsider's perspective that seems to be blind to the potential agency. However, the individual-constrained concept of mental ownership and the contingencies of intellectual property appear to be a complicated sphere of interests and conflict zones, where definitions and regulations based on universalities and statutory rulings may not always, in every place and in every circumstance serve the common good. Here I would rather pinpoint the particularities, and identify the interests of the community in its overarching significance in the matter discussed. Furthermore, the community requires instrumental agency in this context, because its understanding of mental ownership may not correspond to the official legislation or the conception of western capitalist regulations concerning authorship.

⁸ Since 1993, the Seto Congress convenes regularly, and also elects a representative body of the local and diaspora Seto communities, the Board of Elders.

Seto leelo and communal ownership

The issue of property in cultural expression in the modern complex society concerns immanently the Seto singing. With a prominent impetus from the Estonian affiliation with the UNESCO ICH Convention, the Seto community activists convened a representative body to debate and launch activities for identifying viable elements of cultural practice for the survival of their heritage (cf. Kuutma 2007). They utilized inside and outside resources for attaining recognition, in implementing previous scholarly research, and in employing concurrent socio-political advantages, with an eventual goal to draw up a candidature file for the intangible heritage representative list. This process identified the Seto *leelo*-singing tradition as a cultural expression that involves music, verbal lore, ritual practices, communal celebration at festivals, handicraft practices and worldview to define the Seto heritage in a nutshell. Several cultural and political activists have acquired both personal and communal symbolic capital in this undertaking, though their position as heritage practitioners or representational capacities may appear contradictory. The eventual setting of authorities and the creation of hierarchies inside the community pronounced the fact that communities are not homogeneous, nor are they conjoined in their practice and perception of their cultural heritage.

Let me turn to the question about the ownership of Seto songs in the emergent representative situations, and what kind of agency does it lend to the Seto singers in the modern cultural politics. In the context of mapping the issues involved and the position of singing practices for the Seto today, a number of interviews were carried out with some of the most active *leelo*-choirs, to collect and communicate the singers' reflections on the dynamics and significance of traditional singing practices. Although these interviews – where the modern Seto singers were asked to elaborate on mechanisms to safeguard their cultural practices – did not address “property issues” directly, several ideas and concerns that the *leelo*-choir members repeatedly bring forth in their discussions indicate the complicated nature of the role of an individual and the community of singers, or the Seto community in general, in respect to the question of cultural practices and their ownership. These discussions resonate the role of scholars in shaping the argumentation about the significance of their singing traditions, but juxtapose also the personal experience of those growing up in the Seto village community to the reflection of those representing the diaspora (urban) Seto in other regions of Estonia. Particularly the Seto in diaspora were concerned about the qualifications defining a Seto, recollected in the context of the encounters with stigmatization: hesitance to use Seto language or manifest customary practices. While most of the interviewees were middle aged and older, the experience rendered dated back to the post-war⁹ period from the nineteen forties to the nineteen sixties. However, these painful memories were counterbalanced by the recent turn of the tables, when being a Seto is idealized by the outsiders and occasions of re-discovering one's Seto roots have become popular. Such a distanced approach to singing tradition, though, has engendered also the acquisition of Seto repertoire from published sources. The question about the ownership of songs was implicitly related to the discussions about who has the authority or obligation to teach Seto singing in modern times, when the familial or communal regulative instruction is dominantly substituted by the national educational system. It was reiterated by

9 World War II.

the interviewees that in olden times everybody sang naturally (*tavaliselt*) when nowadays people need to “learn” to sing.

It also appears that the concept of “authorship” is rather confusing, depending on the ambivalent nature of the individual–collective interaction in the Seto singing. The Seto singing tradition involves the interaction between the lead singer and the choir: the lead singer defines (composes or chooses) the lyrics for the verse line that the choir repeats. In the traditional settings, those lines were mostly composed on the spot, and highly dependent on the occasion, while strictly following the poetic rules. Only in ritual context (e.g., at weddings) more strict rules applied to the creative license. On the other hand, all those compositions were at the same time predominantly formulaic, which rendered them unquestionably rooted in the tradition. The judgement of the talent of the lead singer was particularly based on the qualities of the composed lyrics, whereas the variation in melodies was much more limited, being mostly fixed to the occasion of singing.¹⁰ Therefore, the question of ownership applied indirectly to individual singers, with complex relevance.

One repeated concern discussed in the interviews was the ownership of songs performed by renowned lead singers in the case of accessible dissemination by modern technologies. Actually, it should be admitted that an abundance of recordings with modern Seto choirs is available only since the end of the 1990s. Previously, the sound recordings released were predominantly based on archive material from the pre-World War II period. The interviews state that in the village community, one did not perform the compositions of another lead singer, though being inspired by them would be natural. Today, largely due to the published (academic) song collections and the general demise of being fluent and well-versed enough in the Seto vernacular, talented singers rely on the modern standard of being “gifted” by resorting only to musical talent when they perform songs learnt via publications. On the other hand, the suitable settings for performing Seto songs are today mostly limited to recreational and celebratory performances, due to the differences in working and ritual practices, as well as in lifestyles.

What is significant is that the modern perception of ownership of a cultural practice and its representational value has been largely defined by scholarly practices and concepts, whereas due to the folkloristic collections and publications, Seto songs are no longer ‘personal properties’ but function in the public domain of general dissemination. If previously a talented singer and composer of Seto lyrics found recognition inside the community according to her creative capacities, then today the prominent spotlight of public awareness shines more on a choir as a collective performer. The interviews made with Seto singers clearly indicate that in the framework of the UNESCO project, the ‘cultural heritage’ celebrated eventually foregrounds and relies upon the collective practice of Seto singing. It is based on the practice of Seto *leelo* in fixed choral groups who have become the epitome of Seto singing traditions: the guardian and nurturer of *leelo* is the choir, which suggests that the previously venerated and functionally significant and creative lead singer has lost the central position. Thus the discursive impact of the concept and perception of intangible heritage embracing its celebration or contestation is ambivalently based on previous ethnographic research that has entered the sphere of public domain. There appear frictions based on cultural competence, conflicts

¹⁰ The Seto melodies fall into separate categories according to the occasion of singing: working in the field, calendar ritual, herding song, wedding song, groom’s family song, etc.

between conservationists and innovators, hierarchies of authority. The claims for intangible heritage involve policy making embedded in framing of culture, its history and expression. These major interventions combine insider activism with interests from the outside involving political gain.

The awareness of cultural heritage has loaded Seto singing with the task to manifest a difference for the community and an aspiration to integrate it, which reflect the agenda of cultural selfhood in the margin. Seto *leelo* has been transformed into a codified symbol performed at larger public venues or disseminated via contemporary technologized mediation and reproduction, emanating from the interplay of communal tradition and subjective creativity. This process of formalization and ritualization is a reaction to an alteration of circumstance, when the swift social transition has weakened or destroyed previously established social patterns (Hobsbawm 1983). It is tacitly geared towards creating a unified cultural expression, with an eventual goal of establishing representative cultural symbols. Objects and elements of previous cultural experience are transformed into heritage as fragments that are decontextualized, in order to recontextualize them in a novel situation of representation that transforms them into national or ethnic symbols (cf. Kirshenblatt-Gimblett 1998). The verbal and musical performance called singing, an important element of expressive culture, has powerful social functions both on personal and communal levels besides the observable aesthetic ones. It is a mobilizing mechanism at targeted social gatherings but also a means to manifest codified symbols, and to construct or express identities.

The UNESCO-related project eventually foregrounds and relies upon the collective practice of Seto singing. It is based on the practice of Seto *leelo* in fixed choral groups which has become the epitome of Seto singing traditions: the guardian and nurturer of *leelo* is the choir, which suggests that a lead singer alone could not function in this capacity. The awareness of cultural heritage has loaded Seto singing with the task to manifest a difference for and to integrate their community, reflect the agenda of cultural selfhood in the margin. Seto *leelo* has been transformed into a codified symbol performed at larger public venues or disseminated via contemporary technologized mediation and reproduction, emanating from the interplay of communal tradition and subjective creativity. The notion of ‘collective ownership’ in respect to Seto singing has concurred with the modern process of documenting and promoting past repertoires and practices. However, it leaves out the single performer who is simultaneously the creative poet in the process. Seto *leelo* is traditionally a complicated framework of collective practice of collective heritage in a collective learning process. Even if this phenomenon can be interpreted as an implied homogeneity – with the collectiveness being defined by folklorists – the recent UNESCO initiated framework that has become operational in the community leaves out the agency of an individual singer. The individual asset of creative communication has been turned into the communal Seto property, and simultaneously also a ‘national property’ of Estonia to represent national heritage on the international level.

Conclusion

The recent mapping and identification of “intangible heritage” as the formational premise of cultural politics signifies a phase of *reformative* modernity¹¹ where shared experience and

practices are transformed into political assets both on a local and a global arena. This process inevitably involves codification of cultural practices into manageable symbols of representation and argumentation. On the other hand, the necessity for easily identifiable, promotional and exemplary cultural expressions tends to exclusively celebrate the past, whereas consequently lived elements of culture may become overshadowed by the veneration of passed repertoires. It may also dislocate the previous status of the members of the community, by granting them new positions in reference to cultural expertise – which may now become governed by outside regulations. For example, the previously recognized expertise in communal practices may be overridden by another community member holding a local administrative office. The rules of power play have shifted, endorsing communicative skills with the outside world. The project of maintaining intangible heritage denotes interventions that complicate explicit or implicit hierarchies inside the communities involved, whereas lived expressive forms are reconfigured into codified symbols implemented in cultural policy making, and mediated on national and international level through various agencies and organizations.

This article analysed property relations in cultural expression in the ambivalent process of heritage production, and considers the implementation of intangible heritage by communities and individuals in the framework of cultural policy-making. Ownership reflects an entanglement of interests, grounded in the established social and political domains. There appear moments that sustain or contest agency in property ownership, while modern cultural politics may dictate conflicts between individual or communal property rights in the context of claiming significance to heritage. The Seto *leelo* that has become a nationally and internationally celebrated representative cultural heritage is today a collective cultural practice where singers are the objects, subjects but also agents in the global reconfiguration implied by the interventions that are invoked in ‘heritage production’. The concept and perception of intangible heritage arising from previous ethnographic research alongside its contestation and celebration has entered the sphere of public domain. There have occurred frictions and conflicts based on cultural competence, between conservationists and innovators, and while establishing hierarchies of authority. The claims for intangible heritage involve policy making embedded in framing of culture, its history and expression. These major interventions combine insider activism with outside interests involving political gain. These discrepancies point to the complex problems involved in the implementation and the contested potential of cultural policies of ownership, of representation or appropriation in the context of intangible heritage.

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Inventaire National et le cinquieme critere d'inscription sur les deux listes du patrimoine culturel immateriel

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Avant de parler des critères d'inscription sur les listes du patrimoine culturel immatériel, il ne faut pas oublier que le but de la convention du patrimoine culturel immatériel est la sauvegarde du patrimoine culturel immatériel au niveau national et la transmission de génération en génération du patrimoine culturel immatériel qui a été défini dans le texte de la convention. Dans ce cas, je peux vous dire que l'établissement des listes internationales est une formulation de la coopération pour assurer la visibilité du patrimoine culturel immatériel au niveau international et pour encourager les Etats à sauvegarder leurs patrimoines.

D'après cette idée et l'esprit de la convention, la sauvegarde est un processus qui commence premièrement au niveau national. Les articles 11,12, 13, 14 et 15 de la convention parlent de la sauvegarde du patrimoine immatériel à l'échelle nationale. Selon ces articles, la première étape de la sauvegarde est la préparation *un ou plusieurs inventaires avec la participation des communautés, des groupes et des organisations non gouvernementales pertinentes*. En particulier, selon les articles 11 et 12, si un État a ratifié la convention, tous d'abord, il doit commencer à préparer l'un ou plusieurs inventaires pour identifier le patrimoine immatériel présents sur son territoire. On comprend que la préparation de l'inventaire nationale est la première étape pour la sauvegarde du patrimoine culturel immatériel.

La préparation de l'inventaire national ne sera pas facile si nous voulons partager l'esprit et la formulation de la convention : A savoir, le respect du patrimoine culturel immatériel des communautés concernées, la sensibilisation aux niveaux local et national, la viabilité du patrimoine immatériel y compris l'identification, la documentation, la recherche etc.

En gardant l'importance de la préparation de l'inventaire national, si on parle du cinquième critère de deux listes on va voir les liaisons entre eux. Les critères 5 de la liste représentative du patrimoine immatériel de l'humanité et la liste du patrimoine immatériel nécessitant une sauvegarde urgente sont suivants : « *L'élément figure dans un inventaire du patrimoine culturel immatériel présent sur le territoire de(s) (l') État(s) partie(s) soumissionnaire(s), tel que défini dans les articles 11 et 12.* »

Vous voyez qu'il y aurait une liaison directe entre l'inventaire national et les listes internationales. Selon la formulation du cinquième critère des deux listes, qu'est-ce que cela signifie la figuration dans un inventaire national du patrimoine culturel immatériel? Je pense que cette question n'est profondément définie ni au sein de l'organe subsidiaire ni du comité intergouvernemental ni de l'assemblée générale des États parties. J'ai plusieurs fois rencontré ce problème tandis que j'étais le membre de l'organe subsidiaire entre 2008 et 2010. Après cette expérience j'ai bien compris que l'inventaire ne serait ni une liste, ni un registre. Si l'élément est figuré dans l'inventaire national du patrimoine culturel immatériel, il faut comprendre que cet élément a obtenu tout le processus national pour la sauvegarde. A savoir, premièrement l'État concerné a garanti la sauvegarde de cet élément tel qu'il est défini dans l'article 2 paragraphe 3 de la convention disant « *On entend par "sauvegarde" les mesures visant à assurer la viabilité du patrimoine culturel immatériel, y compris l'identification, la documentation, la recherche, la préservation, la protection, la promotion, la mise en valeur, la transmission, essentiellement par l'éducation formelle et non formelle, ainsi que la revitalisation des différents aspects de ce patrimoine.* » Deuxièmement, l'État a fait cet inventaire avec la participation de la communauté selon l'article 11 paragraphe 2 de la convention disant « *parmi les mesures de sauvegarde visées à l'article 2, paragraphe 3, d'identifier et de définir les différents éléments du patrimoine culturel immatériel présents sur son territoire, avec la participation des communautés, des groupes et des organisations non gouvernementales pertinentes.* » Troisièmement, la première paragraphie de l'article 12 de la convention veut garantir de la sauvegarde de l'élément qui figurait dans l'inventaire : « *Pour assurer l'identification en vue de la sauvegarde, chaque Etat partie dresse, de façon adaptée à sa situation, un ou plusieurs inventaires du patrimoine culturel immatériel présent sur son territoire.* »

Je veux partager avec vous mes quelques expériences sur certains éléments qui ont été examinés par l'organe subsidiaire entre les années 2008 et 2010 concernant l'application du cinquième critère de la liste représentative du patrimoine culturel immatériel de l'humanité. Vous savez que les étapes d'examen des éléments ont commencé après la création de l'organe subsidiaire au cours de la troisième session du comité intergouvernemental de sauvegarde du patrimoine culturel immatériel à Istanbul. Après sa création, l'organe subsidiaire a examiné plus de 150 dossiers en 2009 et en 2010. Cette période d'examen était la première expérience pour les États soumissionnaires, les membres de l'organe subsidiaire et le secrétariat. Nous avons connu beaucoup de difficultés au cours de l'application du cinquième critère de la liste représentative du patrimoine culturel immatériel de l'humanité. A savoir, certains pays disaient que l'inventaire national serait en cour ou il n'est pas fini. Mais, certain pays avait déjà terminé la première édition de la publication de l'inventaire en papier ou dans le Web. Malgré les trois cas différents, l'organe subsidiaire, en rappelant la difficulté de la préparation de l'inventaire national, a eu une approche relativement positive sur le critère 5 de la liste présentative. Par contre, l'organe subsidiaire a bien examiné le critère 4 disant « *L'élément a été soumis au terme de la participation la plus large possible de la communauté, du groupe ou, les cas échéant, des individus concernés...* » Je voudrais vous rappeler que l'article 11 de la convention parle de l'inventaire national qui aurait préparé avec la participation des communautés. Si l'examineur d'un dossier candidature serait pour le critère 5 et contre le critère 4, on comprend que l'État soumissionnaire a fait l'inventaire national avec la participation de la communauté concernée.

Mais l'État n'a pas préparé ce dossier avec la communauté. Je vois un vrai contradictoire sur le but de la convention que l'État concerné n'a pas bien compris. Dans ce cas, je me pose la question suivante : Est-ce que cet État a vraiment préparé son inventaire national avec la participation de la communauté ? Si je me dis « non » comment je peux réexaminer le dossier concerné de candidature selon le critère 5 de la liste? Pour le moment, je laisse cette question et je passe le dernier examen de l'organe subsidiaire en 2011.

Selon le rapport du secrétariat de la convention, l'organe subsidiaire a conseillé au comité sept dossiers de candidature dans lesquels le critère 5 était le seul non satisfait. Dans ce cas, ces dossiers étaient également acceptables pour le critère 4. A savoir, l'État soumissionnaire n'a pas fait l'inventaire avec la participation des communautés, par contre il a préparé le dossier de candidature avec la participation de la communauté concerné. On ne peut pas arriver à résoudre ce problème. Nous nous rappelons qu'au cours de la sixième session du comité à Bali, les certains États soumissionnaires ont insisté sur l'existence de leurs inventaires national. D'autre part, l'organe subsidiaire a dit que les 10 dossiers dans lesquels le critère 5 était un des critères non satisfaits. Dans ce cas, l'organe n'a pas voulu de l'inscription pour 17 dossiers de candidatures à cause de l'information insuffisante sur l'inventaire national. D'autre part, je dois rappeler que l'organe subsidiaire n'était pas satisfait sur les 12 dossiers de candidature à propos du critère 4 de la liste représentative. Dans ce cas, plus de 20 dossiers n'étaient pas approuvable concernant la participation de la communauté.

Or, l'article 11 de la convention oblige que l'État doit préparer son inventaire national avec la participation de la communauté. Mais, l'examineur du dossier de candidature n'est pas capable de le savoir selon le critère 5 de la liste représentative ou de la liste urgente.

Le comité intergouvernemental de sauvegarde du patrimoine culturel immatériel doit réfléchir sur ce point qui a déjà créé le problème entre l'État soumissionnaire et le système de la convention.

Je propose la préparation de la directive opérationnelle sur les articles 11 et 12 de la convention au comité intergouvernemental de sauvegarde du patrimoine culturel immatériel. Cette directive opérationnelle peut proposer deux listes provisoires (pour la liste représentative et pour la liste urgente) au sein du comité. Les éléments proposés doivent rester une période d'une année dans la liste provisoire concernée après une petite consultation du Secrétariat. Cette liste provisoire doit porter une petite explication écrite, environ 500 mots selon les 5 critères, sur l'élément concerné. Si l'État veut préparer un dossier de candidature, il doit choisir un élément figuré depuis une année dans la liste provisoire du comité intergouvernemental. Pour proposer un élément à la liste provisoire, l'État doit montrer que cet élément est dans l'inventaire national depuis une année.

Si le comité sera d'accord sur cette idée, il peut faire une formulation sur la préparation de l'inventaire national. Il faut définir que comment l'État va montrer la participation de la communauté et des ONG's, la transmission du patrimoine de génération en génération, l'identification et la définition les différents éléments du patrimoine culturel immatériel.

Pour conclure, je peux redire que la préparation de l'inventaire national est un vrai processus de sauvegarde du patrimoine culturel immatériel au niveau national qui facilite les processus international y compris les critères 5 des deux listes. Pour cela, j'insiste sur la préparation de la directive opérationnelle à propos des articles 11 et 12 de la convention.

Documentation as a Tool for Safeguarding a Community's Intangible Cultural Heritage on the Verge of Disappearing

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Background

IRCI is a new institution, established with the agreement of the Japanese government as a UNESCO category II centre for Intangible Cultural Heritage. Its mission is to promote and implement the objectives of the 2003 Convention by facilitating research activities. Medium and long-term programmes approved by Board members focus on five topics, including 'Various methodologies and utilisation of documentation of intangible cultural heritage'. The topic of this article, 'Documentation as a tool for community's safeguarding activities', is the subject of a research project (focusing on our mission) that has recently been initiated by IRCI with a group of international experts.

There have been many instances to date of outside researchers creating records to document intangible cultural heritage (ICH). We launched this project for two reasons. First, many practitioners and community leaders who participated in my community-based project during my tenure of Asia/Pacific Cultural Centre for UNESCO (ACCU) reported, 'No records remain inside the community' (i.e. 'there have been no records from the beginning') or 'as successors are aging, we wish to make a record [of our intangible cultural heritage] before it becomes too late. However, we have no know-how on the recording'. Participants also reported that existing films previously produced by outside researchers and broadcasting media were inaccessible for the following reasons:

- The contents may not be shared.
- The content archives themselves have not built.
- The contents were filmed for a different purpose and do not fit with the desired use.

The second reason for launching this project was our aim to contribute to risk management by providing a very practical methodology to the communities whose ICH is on the Urgent Safeguarding List. We were aware that UNESCO placed a high priority on safeguarding intangible heritage that was on the verge of disappearing at the time the convention was held. The most important list originating from the 2003 Convention was the List of Intangible

Cultural Heritage in Need of Urgent Safeguarding, as prescribed in Article 17. As of May 2012, there were 27 elements on the list, 80% of which were associated with emerging markets and developing countries. Therefore, practical international assistance is a high priority and the specific factors for the elements being at risk need to be carefully analysed through field research activities so that discussions may take place to provide a framework for international cooperation with stakeholders and communities. Table 1 shows a partial analysis that identifies the causes of risk for the 27 elements on the Urgent Safeguarding List (gleaned from nomination forms). External factors are those that come from outside the inheriting community, while internal factors come from within. Also noted is the number of elements corresponding to each type of risk. The risks of greatest interest for the present study are designated in the table by the letters ‘h’ and ‘i’.

Table 1. List of Elements According to External/Internal Risks Found In the UNESCO Urgent Safeguarding List

I. External Factors			II. Internal Factors		
a	Personal/physical disappearance due to war, strife, or natural disasters	3	g	Risk due to internal changes among youth (lessened interest, changes in religious beliefs, etc.)	6
b	Heavy impact due to worldwide globalisation/industrialisation	5	h	Risk due to considerable changes to heirs' environment and circumstances (shrinking and aging population, disappearance of a language, etc.)	8
c	Negative impact due to tourism development	1	i	Risk due to absent or insufficiently constructed system for inheriting (research systems, methods of transmitting knowledge, etc.)	8
d	Impact of geographical changes, etc. due to national government policy	3	j	Risk due to decreased motivation of heirs (decrease in places and opportunities to demonstrate heritage, etc.)	2
e	Risk corresponding to disappearance of tangible cultural heritage	1	k	Risk due to changing values	1
f	Population movements due to structural changes in the economy	7	l	Community depopulation due to poverty	1

Finding two approaches for community’s ICH documentation

Based on the above findings, I have concluded that there is a need for methodology for documenting the records applicable to the successors, as well as for the creation of manuals, which may be prototypes that can be modified. Accordingly, I have launched two related projects to propose shareable approaches through the creation of model guidelines for (a) recording films aimed at the purpose stated at the close of the preceding paragraph that should be undertaken; and, (b) identifying who will manage the filmed contents thus completed and where, and how the contents should be used.

As a first action, we organised a research group in March 2012 to discuss this theme and to create ‘Guidelines on Documentation for Community Safeguarding of Their ICH’, of which a partial extract is shown below. The guidelines target researchers, state officials, and documentation experts. Contents consist of four chapters, including:

- Goals/interests/resources behind documentation,
- Ethics, rights, and relationships,
- Methodologies/media for documentation, and
- Managing data and monitoring access

Table 2. Guidelines on documentation for community safeguarding of their ICH

Guidelines on documentation for community safeguarding of their ICH

Researchers/state officials

Researchers and documentation experts (e.g. AV and legal experts, ethnographers)

Goals/interests/resources behind documentation

- Identification of the communities, groups, and individuals concerned is important.
- Documentation should meet the needs of communities for safeguarding.
- Documentation should be facilitated by communities, state officials, researchers, or documentation experts. Documentation projects should be financially sustainable and contribute to sustainable ICH practices.
- Capacity building for communities, researchers, or documentation experts needs to be part of every project; traditional means of documentation should be used.

Ethics, rights, and relationships

- Sensitivity to voice (different researcher or documentation expert/practitioner perspective) is required.
- Capacity building is needed to encourage community direction and participation in the documentation process.
- Documentation institutions/researchers must not become the authorities through the documentation process. ...

Methodologies/media for documentation

- Negotiations regarding what should be documented should take place with the practising community (performance, transmission, preparation); determination on how to contextualise documentation for various uses should also be made. Negotiations are needed to specify the language of documentation to maximise use for safeguarding.
- Timing and place of documentation should be negotiated.
- Communities must be empowered to document their own practices to enable safeguarding.
- Capacity building among researchers or documentation experts, and in communities, should be utilised so that community interpretations and perspectives are foregrounded in the documentation. ...

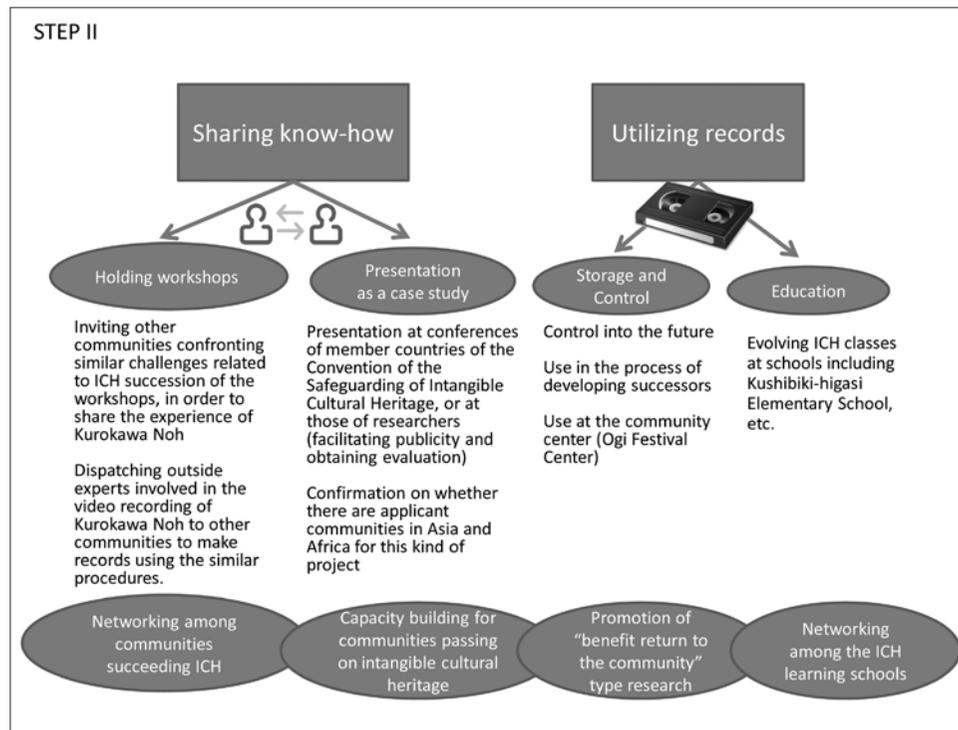
Managing data and monitoring access

- Access needs of different audiences for a variety of documentation media must be considered, and collections should be organised accordingly.
- Customary restrictions on access to ICH documentation should be taken into account.
- Community members should have ongoing access to documentation as needed. For example, appropriate documentation language is necessary to maximise access by communities and other users, as negotiated. The need for decentralised documentation centres serving communities should be explored.

Regarding a different perspective, one of UNESCO's earlier recommendations was that documentation be community-led, since many recommendations seem to be directed at researchers who explain how to involve communities and fully respect their rights. Therefore, I planned to organise another research project trying to cover this perspective (Approach II). This approach would offer a practical alternative for producing manuals through field studies, while focusing on making a film recording.

We imagined situations that would require an immediate response for assisting a community in keeping records of ICH to accurately pass down to the next generation. I subsequently drafted a two-step project. Step 1 aims at identification of the record to be made. Then, film contents are to be recorded and edited based on elaborate validations and discussions between successors and researchers. We also envisioned the implementation of an experiment designed to use the created contents, and our ultimate aim is to create manuals that contain the film contents and documentation of the procedure/process itself. In order to create a sample manual, the cooperation of a Japanese community placed under similar circumstances was enlisted. The community that agreed to cooperate with us is the one succeeding Kurokawa Noh in the Yamagata prefecture, while the target ICH is 'the Ogi Festival', their biggest event/ritual. Kurokawa Noh is a traditional performing art (theatre) that retains a high profile among other expressions of Japanese ICH. Accordingly, many visitors, Japanese TV crews, overseas media, photographers, and researchers come to the hamlet where the theatricals are performed to gather news and produce programs. Nonetheless, while discussing with some people in the community found that such productions are produced based on different purposes-to attract audiences or focus on only a specific part of the festival. Therefore, this community wishes to pass down a record (film) which shows the complete sequence associated with the Ogi Festival, including the provenance and significance of each ritual, to younger generations.

Following the filmmaking, Step 2 aims at sharing know-how by inviting other communities and utilising the film contents. First, utilisation of the completed documentation record should be considered, discussed, and carried out in the Kurokawa hamlet. Secondly, the recording method used for the hamlet should be presented as a case study, while sharing the recording methodology with other similar communities across the globe through workshops. Through the two projects explained above, I hope to use the findings to form 'the guidelines + manual'. Furthermore, I would like to finalise the compilation as a legitimate record and tool to protect the ICH of the community.

Table 3. Sharing and utilising outcomes

Sustained implementation of the processes above will naturally bring about the accumulation of records, techniques, and transmission know-how related to folk performing arts. Consolidating such information for each community and performing art and then making that information available to a broad audience will facilitate a deeper awareness and appreciation of the arts on the part of other communities; in addition, it will create networks among communities. The creation of institutions, organisations, and facilities to serve as centres of these functions is needed to facilitate these developments.

Réflexions sur les critères d'inscription sur les listes de la Convention du patrimoine culturel immatériel

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L'élaboration d'un instrument normatif international dans le domaine du patrimoine culturel immatériel¹ a longtemps trébuché sur la spécificité de cette composante de l'héritage des générations passées. Tout d'abord, il s'agit d'un patrimoine difficile à identifier du fait même qu'il soit vivant, porté par des êtres humains, traversant les frontières des Etats, les couches de la société, les communautés locales ou diasporiques, etc. De ce point de vue, il s'agit d'un patrimoine différent du patrimoine matériel en ceci que sa survie dépend de sa pratique et non pas d'une quelconque mesure de conservation ou de muséification. Il est donc soit lié à la vie des communautés et se déroule à diverses occasions quotidiennes, régulières ou périodiques de la vie sociale, soit investi de nouvelles fonctions par la société d'aujourd'hui qui en fixe les modalités de pratique et/ou de performance. Cela suppose aussi un principe anthropologique consistant en l'égalité entre les diverses manifestations du patrimoine culturel immatériel. Il ne peut y avoir de « petit élément », sauf d'un point de vue politique. C'est à la communauté tout entière que revient la décision de la place à attribuer aux éléments qu'elle considère comme faisant partie de son propre patrimoine. Le choix d'une hiérarchie entre ces éléments s'avère toujours difficile et le consensus nécessaire à une telle démarche ne peut être facilement atteint. Pour l'être, il faudrait qu'il s'appuie sur des critères compris et acceptés par les différents protagonistes : aussi bien les organes de la Convention que les Etats parties, les communautés, les organisations non gouvernementales, les experts, les centres d'expertise, les instituts de recherche, etc. Deux séries distinctes de critères ont donc été adoptées conformément à la Convention et président aujourd'hui à l'inscription des éléments proposés par les Etats parties sur les deux listes de la Convention : la Liste représentative du patrimoine culturel immatériel de l'humanité et la Liste du patrimoine culturel immatériel nécessitant une sauvegarde urgente. L'interprétation et l'application des critères aux premiers cycles d'inscription ne manquèrent pas de soulever la difficulté de l'exercice. Un débat se fit jour quant à la pertinence de leur révision. Dans le présent article, je m'arrête d'abord sur la question de la création des listes

1 Après la Recommandation pour la sauvegarde de la culture traditionnelle et populaire de 1989 et le programme des Chefs-d'œuvre du patrimoine oral et immatériel de l'humanité de 1997, la Convention pour la sauvegarde du patrimoine culturel immatériel a été adoptée par l'UNESCO en 2003.

dans le cadre de la Convention de 2003. Ensuite, j'interroge l'interprétation et l'application des critères d'inscription des deux listes à la lumière des examens qui ont eu lieu au sein du Comité ces trois dernières années avant de donner mon avis à ce sujet.

Le principe du listing

Dans un tel contexte, l'élaboration d'un instrument pour sauvegarder ce type de patrimoine posait une question fondamentale : fallait-il ou non adopter un principe de listing de ce patrimoine ? Fallait-il prévoir une procédure d'inscription d'éléments du patrimoine culturel immatériel sur une « liste » internationale ? Cette question a été longuement débattue au moment de la rédaction de la Convention pour la sauvegarde du patrimoine culturel immatériel de 2003². Deux considérations étaient en toile de fond de ce débat : ne pas reproduire la convention du patrimoine mondial et le précédent des Chefs-d'œuvre du patrimoine oral et immatériel de l'humanité³ (Skounti 2009 : 80 sq.). Le commentaire écrit de la France était clair à ce sujet : « Il s'agit ici de sauvegarder et non pas de créer un palmarès en établissant une liste de 'valeur universelle exceptionnelle' ... Notre pays considère, lui aussi, que les ressources qui pourront être mobilisées pour la mise en œuvre de la future convention gagneront à être affectées directement à des projets concrets de sauvegarde d'éléments du patrimoine culturel immatériel »⁴.

Ainsi, au cours des trois sessions du Groupe de travail intergouvernemental sur l'avant-projet de la Convention du patrimoine culturel immatériel⁵, deux positions principales s'étaient exprimées. D'un côté, des Etats qui, récusant la reproduction de la Convention du patrimoine mondial ou contestant l'approche « élitiste » du programme des Chefs-d'œuvre, ont insisté sur la nécessité de sauvegarder le patrimoine immatériel comme priorité ; de l'autre, des Etats qui, invoquant cette même priorité de sauvegarde, ont insisté sur la valeur de visibilité et de motivation qu'une « liste » ou un « registre » pouvait représenter pour les communautés détentrices ainsi que pour les Etats et leurs citoyens. Dans le premier groupe, on pouvait voir des Etats comme Grenade, Sainte-Lucie, Saint-Vincent et Grenadines, la République Dominicaine, le Danemark, l'Uruguay, la Grèce, l'Australie, la Suède et l'Islande. Dans le second groupe, on comptait le Bénin, le Honduras, la Colombie, le Nigeria, l'Inde, le Brésil, l'Espagne, le Japon, le Panama, l'Ouganda, le Sénégal, le Maroc, la France, la Turquie, le Chili, le Vietnam, le Niger, la RD du Congo, l'Ethiopie, le Rwanda, le Togo, le Congo, le

2 Vladimir Tr. Hafstein, *Intangible heritage as a list : from masterpieces to representation*, Laurajane Smith and Natsuko Akagawa, ed., 2009, *Intangible Heritage*, New York, Routledge, pp. 93-111.

3 Ahmed Skounti, *The Authentic illusion : humanity's intangible cultural heritage. The Moroccan experience*, Laurajane Smith and Natsuko Akagawa, ed., 2009, *Intangible Heritage*, New York, Routledge, pp. 74-92.

4 Commentaire écrit de la France en prévision de la Deuxième session de la réunion intergouvernementale d'experts sur l'avant-projet de Convention pour la sauvegarde du patrimoine culturel immatériel, Unesco, Paris, 24 février – 1^{er} mars 2003 (voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012.

5 Les trois sessions de cette réunion avaient eu lieu au siège de l'UNESCO à Paris : la première du 23 au 27 septembre 2002, la deuxième du 24 février au 1^{er} mars 2003 et la troisième du 2 au 14 juin 2003.

Cambodge et la Centrafrique. Parmi ce dernier groupe, de loin plus nombreux, certains Etats reconnaissaient la justesse des arguments du premier groupe tout en considérant qu'ils ne contredisaient point un principe de listing. En fait, il fallait trouver le moyen de mettre en place une « liste » ou un « registre » (certains ont proposé un « inventaire ») tout en veillant à ne reproduire ni le modèle de la Convention du patrimoine mondial ni le programme des Chefs-d'œuvre. Adoptant une position moyenne, les Pays-Bas ont suggéré que si une « liste » devait être établie, « l'inscription pourrait ne se faire que pour des périodes limitées »⁶.

Il serait difficile de refléter dans les limites du présent texte toute la richesse du débat qui eut lieu pendant ces trois sessions, sans parler des réunions des groupes restreints intersessions. Notons que si des pays comme l'Australie ont exprimé des réserves à l'endroit du principe du listing en invoquant « l'inadéquation d'un système de listes »⁷, une tendance lourde s'est dégagée en faveur de l'adoption de l'inscription sur une « liste » ou un « registre ». Ainsi le Brésil a proposé que l'inscription d'un élément du patrimoine culturel immatériel ne soit pas basée sur « le caractère exceptionnel » mais sur « la représentativité ». Moi-même en tant que délégué du Maroc, j'eus à reconnaître le bien-fondé des réserves sur le principe du listing tout en insistant sur la nécessité d'éviter toute hiérarchisation des éléments du patrimoine culturel immatériel et de mobiliser des moyens pour sauvegarder ceux d'entre eux qui se trouvent en péril. Le Groupe Afrique fut seul à exposer par écrit une position collective en ces termes : « Dans tous les cas, une liste du Patrimoine Culturel Immatériel en Péril sera nécessaire ... Pour éviter certains problèmes de déséquilibre et de représentativité inadéquats de la Liste observés au niveau de la mise en œuvre de la Convention de 1972, peut-être serait-il souhaitable d'avoir un Jury International, en tout cas une instance qui ait droit de regard sur les décisions du Conseil international du Patrimoine Culturel Immatériel. On pourrait, à cet effet, s'inspirer de certains organes du MAB [L'Homme et la biosphère ndlr] »⁸.

Un consensus se dégagait ainsi le 7 juin 2003 sur l'adoption d'une « liste du patrimoine culturel immatériel nécessitant une sauvegarde urgente ». Ce fut la base de l'article 16 de la Convention. L'intérêt porté par les rédacteurs au patrimoine menacé de disparition semble avoir réduit les écarts entre les positions antinomiques exprimées auparavant sur la pertinence ou non d'un principe de listing. On décida donc de placer la sauvegarde au cœur du nouvel instrument en cours d'élaboration, ce qui ne manqua pas d'ailleurs de se refléter dans le titre même de la convention. En second lieu, occupant donc le futur article 17, figura la liste qui devait accueillir des éléments du patrimoine culturel immatériel dont l'état de sauvegarde est satisfaisant. On hésita entre des dénominations telles que « Trésors », « Exemples typiques », « chefs-d'œuvre », « liste illustrative », « liste du PCI le plus saisissant », pour finalement se mettre

6 Commentaire écrit des Pays-Bas en prévision de la Deuxième session de la réunion intergouvernementale d'experts sur l'avant-projet de Convention pour la sauvegarde du patrimoine culturel immatériel, Unesco, Paris, 24 février – 1^{er} mars 2003 (voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012.

7 Commentaire écrit de l'Australie... Idem. (Voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012.

8 Commentaire écrit du Groupe Afrique ... Idem. (Voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012.

d'accord sur une « liste représentative du patrimoine culturel immatériel de l'humanité »⁹.

Le principe des critères

Le principe du listing a été lié au niveau international de la mise en œuvre en en faisant un prolongement de la mise en œuvre au niveau national qui occupe une place importante dans le texte de la Convention tant en ce qui concerne l'inventaire que la sauvegarde (voir articles correspondants). Les deux listes sont ainsi adoptées en assignant à chacune et aux deux des fonctions bien précises : à la liste du patrimoine culturel immatériel nécessitant une sauvegarde urgente (désormais LSU) une position première et à la liste représentative du patrimoine culturel immatériel de l'humanité (désormais LR) une position seconde. À l'une la fonction de sauvegarde, à l'autre la fonction de visibilité. L'une doit parer aux situations exceptionnelles et d'urgence, l'autre doit accueillir les 90 chefs-d'œuvre inscrits dans le cadre du programme du même nom avant la mise en œuvre de la Convention (voir Clauses transitoires). Les deux listes sont indépendantes l'une de l'autre comme le stipulent les Directives Opérationnelles (para ???). Ainsi, la candidature d'un élément figurant sur une liste pour inscription sur l'autre liste doit suivre la procédure d'inscription propre à cette liste.

L'adoption du principe de listing de cette manière quelque peu bicéphale¹⁰ conduisit de manière tout à fait attendue à la question suivante : sur la base de quels critères l'inscription d'un élément du PCI sur l'une ou l'autre liste sera faite ? Dès avant la Deuxième session de la réunion d'experts, le Maroc posait ainsi le problème par écrit : « Nous nous devons (...) de définir des critères permettant d'apprécier, de reconnaître les éléments du PCI, tout en déterminant les références épistémologiques et les modalités de leur application tant au niveau national qu'international ». Il ajoute qu'il « souhaite (...) qu'une place centrale soit dévolue au critère de danger de disparition du PCI »¹¹.

D'autres délégués posaient la question avec encore plus de circonspection. L'Australie par exemple souligne : « l'absence de toute norme reconnue à l'échelle internationale quant à l'identification, la définition, la conservation, la préservation et la gestion du PCI, et le manque de critères pour en évaluer l'importance », considérés comme le « noyau central de toute convention internationale »¹². Bien que cette question devait être réglée par la suite dans le

9 Troisième session de la réunion intergouvernementale d'experts sur l'avant-projet de convention du PCI, tenue au siège de l'Unesco, 2-14 juin 2003, Rapport du Secrétariat, page 2, cf. <http://unesdoc.unesco.org/images/0013/001312/131274f.pdf>

10 Même tricéphale si l'on prend en compte le Registre des bonnes pratiques de sauvegarde du PCI institué par l'article 18 de la Convention.

11 Commentaire écrit du Maroc en prévision de la Deuxième session de la réunion intergouvernementale d'experts sur l'avant-projet de Convention pour la sauvegarde du patrimoine culturel immatériel, Unesco, Paris, 24 février – 1er mars 2003 (voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012).

12 Commentaire écrit de l'Australie ... Idem. Voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012.

cadre des Directives Opérationnelles censées expliquer le fonctionnement de la Convention, certains Etats comme l'Inde proposent des critères : l'universalité, l'excellence, la valeur éprouvée par le temps, et l'adéquation à la société dans son contexte contemporain »¹³. D'autres lui emboîtent le pas comme la Turquie qui écrit : « le respect de la "dignité humaine", le respect de "tout être humain détenteur d'un patrimoine culturel", la conformité avec non seulement les "principes universels des droits de l'homme" mais aussi avec le "savoir" pourraient être de bons critères pour définir le "patrimoine culturel immatériel" »¹⁴.

L'adoption de critères d'inscription pour les deux listes étant admise, l'on renvoya leur élaboration aux Directives Opérationnelles. On admit également qu'une fois élaborés par le Comité du patrimoine culturel immatériel, leur adoption revenait à l'Assemblée générale des Etats parties. La réunion d'experts à New Delhi, Inde, du 2 au 4 avril 2007 permit d'avancer sur la mise en place des critères d'inscription sur les deux listes de la Convention. Elle discuta une série de cinq critères pour chacune des deux listes et discuta de la relation entre elles¹⁵.

Une application problématique des critères ?

1. Application des critères pour inscription sur la Liste représentative

Les critères élaborés pour la Liste représentative n'ont pas été appliqués aux 90 chefs-d'œuvre du patrimoine oral et immatériel de l'humanité qui avaient été inscrit au titre du programme de même nom créé en 1997 et mis en œuvre entre 1999 et 2005 (Aikawa-Faure 2009 ; Skounti 2009).

Les trois premières sessions du Comité qui ont vu l'examen de candidatures pour inscription sur la Liste représentative ont montré la diversité des situations dans lesquelles les critères étaient appliqués. Pour juger de cette situation, voici ce qui a été écrit dans le Rapport de l'Organe subsidiaire de 2011 : « parmi les 32 candidatures qui n'ont pas reçu de recommandation favorable, 10 n'ont pas pu être acceptées du fait d'un critère unique non rempli, le plus souvent le critère R.5. En 2009, 13 dossiers n'ont pas été recommandés en raison d'un critère unique, tandis qu'en 2010, il n'y avait pas de dossiers dans lesquels un critère unique était le seul facteur empêchant l'inscription. Dans de nombreux cas, cependant, les dossiers qui n'ont pas été recommandés pour inscription l'ont été du fait de deux critères ou plus non remplis plutôt que d'un seul critère. (Rapport de l'Organe subsidiaire sur ses travaux en 2011. ITH/11/6. COM/CONF.206/13. p. 10). Si nous prenons les critères d'inscription sur cette liste, il ressort

13 Commentaire écrit de l'Inde ... Idem. Voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012. Cet intérêt de l'Inde pour la question des critères se trouve derrière l'organisation d'une réunion d'experts à New Delhi du 2 au 4 avril 2007 sur les deux listes de la Convention et les critères d'inscription sur l'une et l'autre liste.

14 Commentaire écrit de la Turquie ... Idem. Voir : <http://www.unesco.org/culture/ich/doc/src/04550-FR.doc>. Consulté le 9 mai 2012.

15 *Directives Opérationnelles pour la mise en œuvre de la Convention pour la sauvegarde du patrimoine culturel immatériel*, 2010, chapitre I, paragraphes 1 et 2.

de la pratique les observations suivantes qui sont loin d'épuiser l'ensemble des questions soulevées :

- Critère R1 : les descriptions sont trop générales, trop historiques ou trop techniques là où elle devaient expliquer la signification actuelle de l'élément pour sa communauté. Quelle place pour le religieux au sein du champ du patrimoine culturel immatériel ? Réponse de l'Organe Subsidaire : les pratiques canoniques ou orthodoxes se situent en dehors du champ de la Convention contrairement à des coutumes religieuses populaires qui peuvent être considérées comme relevant du PCI¹⁶.
- Lien entre R.1 et R.2¹⁷ : contribuer à la visibilité du PCI (R.2) suppose d'abord de faire partie de ce même PCI au titre de la Convention (R.1). Il s'agit souvent d'un problème de rédaction claire du R.1 qui, de facto, se répercute sur l'évaluation du R.2.
- Critère R.2 : en cas d'un élément en danger, il est difficile de prouver sa contribution à la visibilité du patrimoine immatériel. L'Organe subsidiaire en a conclu cependant qu'une viabilité faible ne peut être un argument contre l'inscription d'un élément qui, par ailleurs, satisfait aux cinq critères. La visibilité se pose aussi dans le cas de candidatures portant sur des éléments « similaires »¹⁸. Ici, il s'agit de s'entendre sur le sens du mot « visibilité » : est-elle quantitative ou qualitative ? De plus, entre des éléments circonscrits et des éléments généraux, quelle peut être l'échelle raisonnable d'un élément ? Une mesure possible est de recommander aux Etats d'encourager les communautés en leur sein et au-delà à proposer des éléments « génériques » pour inscription. Mais comment définir un élément « générique » ?
- Critère R.3¹⁹ : les mesures de sauvegarde sont souvent décrites au futur (rien ou presque n'a encore été amorcé) et dans des termes généraux et indéfinis. Les fonds ne sont pas garantis ou cette garantie n'est pas suffisamment explicitée ; les fonds sont souvent attendus de l'Unesco, la candidature étant perçue comme une demande d'assistance. Par ailleurs, un lien évident est établi par les Etats Parties entre les mesures de sauvegarde et la commercialisation via le tourisme, entre autres, ce qui peut nuire à l'élément et compter parmi les effets négatifs potentiels de l'inscription. La question que pose ce critère : où s'arrête la sauvegarde ? où commence la sur-commercialisation ? Comment établir une frontière entre un PCI contribuant au développement durable et un PCI poursuivant des objectifs exclusivement commerciaux ? Les plans de sauvegarde sont parfois identiques pour des éléments du PCI faisant l'objet de candidatures distinctes émanant d'un même Etat Partie, ce qui peut être disqualifiant.
- Critère R.4²⁰ : les Etats Parties ne décrivent pas clairement les modalités, les cadres et les processus par lesquels les communautés, les groupes et, le cas échéant, les individus sont impliqués dans toutes les étapes de la préparation des candidatures, depuis l'inventaire jusqu'au consentement préalable à la soumission. Il est aussi parfois

16 Rapport de l'Organe subsidiaire 2011, p. 11.

17 Idem, p. 12.

18 Idem, p. 12.

19 Idem, p. 13.

20 Idem, p. 13.

difficile d'identifier les signataires au nom des communautés (leur nom, affiliation, rôle...). Parfois les communautés qui signent ne correspondent pas à celles identifiées comme détentrices. Les documents portant consensus et signés ne sont pas traduits en anglais ou en français tout en conservant leur forme originale en langue locale. Cette question de l'implication des communautés comme celle relative à l'inventaire au titre de la Convention sont parmi les plus difficiles. Le renforcement des capacités devrait leur consacrer davantage de temps et d'effort.

- Critère R.5²¹ : les Etats Parties n'informent pas suffisamment et clairement de la manière dont ils ont conduit l'inventaire du PCI présent sur leur territoire conformément aux articles 11 et 12 de la Convention. L'Organe subsidiaire a considéré en 2009 et 2011 que l'inclusion d'un élément du PCI à l'inventaire « n'est pas une simple question technique, mais une obligation importante pour les Etats soumissionnaires – et un préalable à la candidature ». Sur 49 candidatures évaluées en 2011, 7 n'ont pas satisfait au critère R.5 seul (suivi du R.3 (2 dossiers), du R.1 (1 dossier) et des R2 et R4 (0 dossier). L'Organe subsidiaire ne peut juger les inventaires des Etats Parties, chacun les élaborant à sa façon. Les rapports périodiques fournis tous les six ans par les Etats parties peuvent contenir toute l'information requise sur l'élaboration et les usages des inventaires.

D'autres questions relatives à l'application des critères sont soulignées par l'Organe subsidiaire à l'adresse du Comité et des Etats parties. Tout d'abord que la non inscription ne signifie pas que l'élément est jugé comme ne justifiant pas de la qualité de patrimoine immatériel mais simplement que les critères ne s'appliquent pas à cet élément. Cette position entendait atténuer la réception par les Etats soumissionnaires des résultats de l'examen au moment où le Comité n'avait que deux possibilités : inscrire ou ne pas inscrire. En 2011, le Comité a eu la possibilité, pour la première fois, de renvoyer des candidatures jugées insuffisantes. Ce qui n'était pas possible aux deux cycles 2009 et 2010. Ceci permet aux éléments ainsi renvoyés d'être proposés de nouveau. Face au manque de consensus sur les critères, l'Organe subsidiaire a opté pour la recommandation de deux ou trois options au Comité : critères totalement remplis, critères nécessitent plus d'informations, ou critères non satisfaits²².

Un dernier point de cette liste non exhaustive est relatif aux candidatures internationales. Dans le cas d'une candidature de ce type, les critères peuvent s'appliquer à l'élément d'un ou des Etats et ne pas l'être pour celui ou ceux d'un ou des Etats participant à la même candidature. Que faire dans ce cas? La solution adoptée par le Comité en 2011 a été la suivante: séparer les éléments répondant aux critères du ou des autres qui n'y satisfont pas. Les premiers sont inscrits et les seconds sont renvoyés à l'Etat partie concerné.

2. Application des critères pour inscription sur la LSU

Il n'y a pas eu d'éléments inscrits d'office sur la Liste du patrimoine culturel immatériel nécessitant une sauvegarde urgente (LSU) comme cela a été le cas pour l'intégration des 90

21 Idem, p. 14.

22 Idem, p. 15.

Chefs-d'œuvre du Patrimoine oral et immatériel de l'humanité à la Liste représentative (LR). Par contre, la méthodologie suivie pour examiner les candidatures pour inscription sur la LSU a changé. Pour les deux premières sessions de 2009 et de 2010 qui ont connu les premières inscriptions sur cette liste, l'évaluation s'est appuyée sur des examinateurs individuels nommés par le Comité chaque fois à sa précédente session. A partir de la session de 2011, l'examen des candidatures pour inscription sur la LSU s'est appuyé sur un Organe Consultatif composé de six experts et de six ONG choisis par le Comité en respectant une équitable représentativité régionale.

Comme pour la Liste représentative, l'inscription sur la Liste de sauvegarde urgente se base sur cinq critères. Leur application n'est pas aisée. Elle peut se heurter à des difficultés de natures diverses. Cela peut aller de la non inclusion dans un inventaire ou encore le manque de preuve d'une participation effective des communautés jusqu'à l'adoption de mesures de sauvegarde semblables pour des éléments différents. Cela peut aller de problèmes de rédaction ou de traduction dans les deux langues de la Convention (anglais et français) jusqu'à des plans de sauvegarde inappropriés.

Un exemple peut illustrer le type de difficultés que rencontre l'application des critères. L'une des candidatures examinées par le Comité à sa 5e session à Nairobi en 2010 a été le Meshrep ouïgour du Xinjiang, Chine, un événement culturel complet comprenant des traditions, des arts du spectacle, de la musique, de la danse, du théâtre, de la littérature, des jeux, de l'art culinaire, etc. Soumis à l'appréciation de deux examinateurs désignés par le Comité, ils ont examiné différemment l'élément aboutissant aux résultats suivants :

Examineur/crité	Examineur 1	Examineur 2
Critère U.1	Oui	Oui
Critère U.2	Oui	Non
Critère U.3	Oui	Non
Critère U.4	Oui	Non
Critère U.5	Oui	Oui

On voit bien ici comment les critères U.1 et U.5 n'ont pas fait l'objet de divergence entre les deux examinateurs. Le premier doit démontrer que l'élément est constitutif du patrimoine culturel immatériel tel qu'il est défini dans l'article 2 de la Convention. Le second doit prouver qu'il figure dans un inventaire tel que défini dans les articles 11 et 12 de la Convention. Par contre, les examinateurs ont eu des avis totalement divergents s'agissant des critères U.2, U.3 et U.4. Ces derniers concernent respectivement le péril menaçant la viabilité de l'élément, les mesures de sauvegarde élaborées et la participation et le consentement des communautés.

Un autre exemple est celui d'Enkipaata, Eunoto et Olngesherr : trois rites de passage masculins de la communauté masaï au Kenya examiné par le Comité à sa 6e session tenue à Bali en novembre 2011. Il s'agit de trois rites qui président au passage des garçons des Masai du Sud-est du Kenya de l'âge d'enfant à l'âge de guerrier puis à l'âge d'adulte et enfin à l'âge d'ancien. Cette fois-ci ce ne fut plus des examinateurs qui évaluèrent cette candidature mais l'Organe consultatif composé de six experts et de six ONG établi par le Comité à sa session de Nairobi en 2010. La divergence n'en était pas moins au rendez-vous comme le montre le tableau suivant :

Critères satisfaits	Critères non satisfaits
Critère U.2	Critère U.1
Critère U.5	Critère U.3
	Critère U.4

Trois critères n'étaient donc pas satisfaits y compris le critère U.1 ce qui est disqualifiant d'emblée. Mai en examinant le rapport de l'Organe consultatif, il appert que la non satisfaction de ce critère n'est pas tant dû à ce que les rites de passage masaï qui font l'objet de cette candidature ne rentrent pas dans le domaine du patrimoine culturel immatériel au sens de l'article 2 de la Convention. Ce qui n'a pas été suffisamment démontré par l'Etat partie, c'est la fonction sociale actuelle des rites, leur pratique continue par la communauté et le fait qu'ils fournissent à celle-ci un sentiment d'identité et de continuité. L'évaluation réalisée par l'Organe consultatif a donc recommandé de ne pas inscrire cet élément. Mais au-delà des critères, la question fondamentale que posent les trois rites d'Enkipaata, Eunoto et Olngesherr est la suivante : la pertinence de la pérennisation de pratiques dont les jeunes gens se détournent aujourd'hui et dont l'assise matérielle et socio-économique est ébranlée par les mutations profondes qui travaillent les sociétés contemporaines, à fortiori celles qualifiées de « traditionnelles ». Entre temps, pour éviter qu'elle ne soit pénalisée à l'avenir, l'Etat partie a retiré cette candidature avant son examen par le Comité à Bali en novembre 2011.

L'application actuelle des critères justifie-t-elle leur révision ?

La révision des critères est devenue à l'ordre du jour à partir du moment où les débats au sein du Comité y faisaient expressément référence. Dans les documents de ce dernier, la référence est souvent faite à un seul critère : le critère R.2 de la Liste représentative. Celui-ci concerne la visibilité que doit assurer l'élément une fois inscrit au patrimoine culturel immatériel. Les délégués des Etats parties qui se sont exprimés en faveur de la révision des critères arguaient que la visibilité est assurée après l'inscription et non pas avant celle-ci. Par conséquent, l'interprétation de ce critère R.2 par les organes de la Convention et les Etats parties n'est pas chose aisée. L'Assemblée générale traita cette question en 2010 à l'occasion de l'amendement

des Directives Opérationnelles. Elle demanda donc au Comité d'y réfléchir et de lui faire rapport. Ce débat eut lieu à Nairobi en novembre 2010. Trois positions s'y sont exprimées²³ :

- une position en faveur de la révision des critères, en particulier le critère R.2 ;
- une position en faveur du maintien du critère R.2 car il illustre, sous sa forme actuelle, l'objectif de la Liste représentative du PCI qui réside justement dans la visibilité ;
- une position favorable au maintien de l'ensemble des critères.

J'ai fait partie des délégations qui ont exprimé cette dernière position en apportant deux arguments principaux : (i) les critères des deux listes sont le résultat d'un long et fastidieux travail de concertation, leur révision risquant de donner lieu à des débats aussi longs qui ne préjugent pas de l'atteinte d'un consensus et (ii) les organes de la Convention, les Etats parties et les communautés commencent à peine à se familiariser avec les critères existants et toute révision risquerait de nuire à la bonne marche de la mise en œuvre de la Convention. On peut invoquer d'autres arguments qui militeraient en faveur du maintien des critères. Le plus important est d'assurer une certaine cohérence des procédures d'inscription, des éléments inscrits, des mesures de leur sauvegarde et des archives de la Convention. Il ne faudrait pas ajouter au hiatus déjà introduit par l'intégration des 90 chefs-d'œuvre du patrimoine oral et immatériel de l'humanité qui avaient été inscrits au sein d'un programme antérieur à la mise en œuvre de la Convention puis intégrés de facto à la Liste représentative sans avoir été soumis aux critères nouvellement instaurés par le nouvel instrument. De plus, les difficultés d'interprétation et d'application des critères ne portent, à l'évidence, que sur un critère en particulier, le critère R.2. Or, on se rend bien compte que lorsqu'il est bien compris par les rédacteurs des candidatures au sein des Etats parties, il ne soulève aucune réticence. Il en va de même de tous les autres critères : correctement interprétés, ils s'appliquent parfaitement aux candidatures soumises pour les deux listes. Nous avons donc besoin non pas d'une révision mais d'une interprétation des critères de manière à réduire les appréhensions qui pèsent sur leur utilisation. Les chapeaux explicatifs des critères dans les formulaires utilisés aujourd'hui y contribuent déjà grandement. L'effort qui pourra aller à une révision des critères gagnerait à l'être pour une meilleure interprétation dans le cadre notamment de ma stratégie globale de renforcement des capacités.

23 Comité du patrimoine culturel immatériel, « Réflexion sur les critères d'inscription sur les listes », document ITH/11/6.COM/CONF.206/16, 6e session, Bali, Indonésie, 22-29 novembre 2011.

On the Third Source of Guidance for the Implementation of UNESCO's Intangible Heritage Convention¹

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General guidance and instructions for the implementation of UNESCO's Intangible Heritage Convention, and for the safeguarding of ICH in line with that Convention, are not only found in the Convention itself and its Operational Directives. The Intergovernmental Committee, which has to monitor the implementation of the Convention, and two special Bodies that were created by the Committee, present the States Parties with recommendations and instructions on a wide array of subjects. This paper intends to give an overview of the various places where this additional, valuable and rapidly growing body of guidance can be found. It also discusses some examples of guidance related to various aspects of the implementation of the Convention at the national and international level, as they can be deduced from the decisions and some of the working documents of the 6th session of the Intergovernmental Committee.²

1. Convention

1.1. The first source of guidance: the Convention

Obligations, recommendations and inspiration for the implementation of the ICH Convention, and for safeguarding ICH in line with that Convention, are to be found, in the first place, in the Convention itself. The Convention contains few obligations, and these are generally not

1 Abbreviations and acronyms:

Article: *Article of the Intangible Heritage Convention.*

GA, or General Assembly: *General Assembly of the States Parties (to the Convention).*

CB: Consultative Body.

Committee, or Intergovernmental Committee: *Intergovernmental Committee (for the Safeguarding of the Intangible Cultural Heritage).*

Convention, or Intangible Heritage Convention: *the (UNESCO) Convention for the Safeguarding of the Intangible Cultural Heritage.*

ICH: *Intangible (Cultural) heritage.*

formulated in an explicit way. For instance, a great deal of leeway is left to the States Parties in the interpretation and implementation of the two main obligations concerning safeguarding at the national level:

Article 11 Role of States Parties

Each State Party shall:

- (a) take the necessary measures to ensure the safeguarding of the ICH present in its territory;
- (b) (...) identify and define the various elements of the ICH present in its territory, with the participation of communities, groups and relevant NGOs.

Article 12 Inventories

1. To ensure identification with a view to safeguarding, each State Party shall draw up, in a manner geared to its own situation, one or more inventories of the ICH present in its territory. These inventories shall be regularly updated.
(...)

Articles 12 to 15 (of the Convention) contain various broad recommendations as to how the obligations on the national level may be met (“Each State party shall endeavour to ...”).

Article 5 establishes the Intergovernmental Committee for the Safeguarding of the ICH, which has to promote the objectives of the Convention and to monitor its implementation, largely under the control of the General Assembly (of the States Parties), which is the sovereign organ of the Convention. Article 7(e) requests the Committee to prepare Operational Directives (ODs) for the implementation of the Convention.

1.2. The second source of guidance: the Operational Directives

In November 2006, a few months after the Convention entered into force, the Committee started the preparation of Operational Directives; it took two ordinary and two extraordinary sessions to prepare the first set of them. That set was discussed and approved by 2.GA, the second session of the General Assembly, in 2008, and substantially amended and enlarged in 2010, at 3.GA. At the Assembly’s fourth session (2012), some minor changes were made. At present the ODs deal in a detailed way, among other things, with regulations and procedures for preparing and examining:

Lists: *RL and USL*.

NGO: *Non-governmental organization*.

OD: *Operational Directive (of the Convention)*.

Register: *Register of Best (Safeguarding) Practices*.

RL, or Representative List: *Representative List of the Intangible Heritage of Humanity*.

SB: *Subsidiary Body*.

UNESCO: *United Nations Educational, Scientific and Cultural Organization*.

USL, or Urgent Safeguarding List: *List of Intangible Cultural Heritage in Need of Urgent Safeguarding*.

6.COM: *Sixth session of the Committee*.

2 Thanks to Dr. Harriet Deacon for her comments on an earlier version of this paper.

- Nominations for inscriptions on the Lists of the Convention;
- Proposals for selection by the Committee as Best Safeguarding Practices;
- Requests for financial assistance from the Fund;
- Requests for accreditation from NGOs; and
- Periodic reports by the States Parties.

The ODs do not at present cover every aspect of the implementation of the Convention, and will need to be further tested in practice and accordingly adapted and expanded.

While the Convention is more or less carved in stone (Article 38 offers a procedure for amendments), the ODs may be changed and amended. They present a set of consolidated and indispensable instructions and recommendations, which are as widely disseminated as the text of the Convention itself. Both the text of the Convention and the current ODs are available in the six working languages of the General Assembly, on the website of the Convention (www.unesco.org/culture/ich) and in paper form.

1.3. The States Parties receiving guidance

The Convention became fully operational on the international level only after the adoption in 2008 of the first set of ODs. Many States Parties (and other States) of course have been promoting, inventorying and safeguarding the ICH present in their territory already before 2008, in some cases inspired by the UNESCO 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore – while other countries, such as Japan and the Republic of Korea – have much longer traditions in this respect.

From 2008 on, most States Parties to the Convention have tried to develop their ICH-related activities on the national level in the spirit of the Convention and its ODs, while being increasingly monitored and guided by the Committee. At the same time, they follow a fourth, country-specific source of guidance and inspiration that may include national legislation and regulations, customary practices of the communities concerned, and their own understanding of ICH and interpretation of the Convention, which is a flexible instrument.

Through its examination of reports, nominations, proposals and requests, and by endorsing recommendations and reports of two special bodies, the Committee is increasingly pronouncing itself also on the implementation of the Convention on the national level and on ICH safeguarding within the States Parties, which – by the way – is in line with its functions as described in the Convention.

When partaking in activities foreseen by the Convention and its ODs on the international level, the States Parties have no choice but to follow the regulations in the ODs and the instructions and recommendations by the Committee. These instructions and recommendations that evolve together with the increasing experiences of the States Parties and insights of the Committee, are scattered over a large number of documents of different nature; they form the (unconsolidated and not always easily accessible) third source of guidance for the States Parties.

2. The third source of guidance

2.1. The Committee authorized to give guidance

The Convention explicitly tasks the Committee with promoting, monitoring and guiding the implementation of the Convention on the international and the national level. Article 7 of the Convention indicates various functions of the Committee including:

- Providing guidance on best practices and making recommendations on measures for the safeguarding of the ICH (Article 7(b));
- Preparing Operational Directives for the implementation of the Convention and submitting them to the General Assembly for approval (Article 7(e));
- Examining requests/proposals submitted by States Parties for (i) inscriptions on the lists, (ii) selection as best practices, (iii) international assistance (Article 7(g));
- Examining reports submitted by States Parties on the measures they have taken for the implementation of the Convention, and summarizing them for the General Assembly (Article 7(f)).

2.2. The Committee assisted to give guidance

The Rules of Procedure of the Committee state that it shall meet at least once a year in ordinary session. These sessions, which usually take place in November, take about a week. The Bureau of the Committee meets several times a year.

A considerable part of the activities of the Committee concerns **examination** of different types of files submitted by States Parties.³ In view of the high number and diversity of the files that keep being submitted to the Committee, the expertise present in the Committee, and the limited time available for examination during its sessions, the Committee created two special bodies: the Subsidiary and Consultative Bodies that are requested to evaluate those files and to formulate recommendations for their examination by the Committee. Both the Committee and these Bodies are assisted by the Secretariat of the Convention, which is also held to do a first, technical examination of all files submitted (ODs 48, 54; Article 10). The Bureau of the Committee may examine and take decisions concerning (i) extremely urgent requests for inscription on the USL (OD32), (ii) requests for financial assistance up to 25,000 USD (OD49) and (iii) emergency requests greater than 25,000 USD (OD50).

The periodic reports that States Parties have to send to the Committee are pre-examined by the Secretariat of the Convention, which also prepares the draft version of the report summarizing these periodic reports that the Committee has to submit to the General Assembly (Article 30.1). All examinations by the Committee end in motivated decisions. The Committee's arguments

3 Until the 2012 revision of the ODs, the Committee **evaluated** files, after **examination** by the special Bodies or experts; from the 2012 revision of the ODs on there is new language: the Committee **examines**, while the Bodies **evaluate**.

are often based on the recommendations and reports of the two Bodies. The Committee's decisions, the documents they refer to and endorse, and the forms that States Parties have to use for submitting their files to the Committee, together contain a body of rapidly evolving guidance for all actors that are involved in the implementation of the Convention. The elements that make up that guidance are unconsolidated in the sense that they have not been discussed by the GA and that they can easily be created, adapted or withdrawn.

2.3. The two Bodies

In 2008 the Committee created for the first time a **Subsidiary Body** (SB) for the evaluation of nominations for the Representative List (OD29-30). In 2010 and 2011 this Subsidiary Body was renewed, again with the mandate to evaluate nominations to the RL and to provide the Committee with a report and with recommendations to inscribe or not to inscribe the submitted elements, or – and this is an option included for the first time in the Body's terms of reference in 2011 – to refer nomination files to the submitting States for additional information. The SB is composed of six members of the Committee.

In 2010 the Committee created on an experimental basis, a **Consultative Body** (CB), composed of six individual experts and six representatives of NGOs. This body is requested to evaluate nominations to the USL, proposals for selection as best safeguarding practices, and international assistance requests over 25,000 USD (OD26). The body submitted its first report and recommendations in 2011. In 2011 the Committee renewed the Consultative Body, with the same mandate, though no longer on an experimental basis. The Secretariat proposes two individual experts or two NGOs (from among the NGOs that are accredited under the Convention) for each vacancy in the CB; the Committee selects.

For the evaluations in 2009 and 2010, when the Consultative Body did not yet function, the Committee was assisted, for the examination of the same three types of files, by individual experts, two for each request or nomination, that were selected by the Bureau of the Committee.

So far, there have been three reports and sets of recommendations from the SB and one report and three sets of recommendations from the CB. Before the existence of this Consultative Body, the individual experts that were consulted also prepared recommendations and drew general conclusions.⁴

4 In June 2012 the General Assembly rejected a proposal from the Committee to transfer the task of Subsidiary Body to the Consultative Body and to dismiss the Subsidiary Body although there were good reasons for adopting this proposal: (i) the Committee does not control the level of expertise of the persons who deliberate in the Subsidiary Body, while it appoints the members of the Consultative Body on the basis of their expertise; (ii) entrusting the evaluation of all nominations to one Body would have been cost-efficient; (iii) the original idea was that subsidiary bodies of the Committee would have relatively short durations of office; (iv) the Committee might be less critical towards recommendations from the SB, than towards recommendations from the CB; (v) there seems to be no justification for different procedures for the two Lists that, although being independent, do share the bulk of their inscription criteria.

2.4. Forms that give guidance

Under the control of the Committee, the Secretariat has developed a set of forms that the States Parties have to use for submitting nominations, proposals and requests (see OD17-23); in all, ten ICH forms are available at www.unesco.org/culture/ich – or may be requested from the Secretariat. The forms as a rule contain detailed indications on how they should be completed. When, for instance, OD1 and OD2 request States Parties to demonstrate that an element proposed for inscription on one of the two Lists of the Convention satisfies the appropriate set of criteria that are enumerated in those ODs, then the forms ITH-01 and ITH-02 assist the States Parties by meticulously indicating how they should demonstrate this. OD22 states that the files shall include only the information requested in the forms.

The indications in the forms so far have rapidly evolved, as a result of new and newer indications by the Committee and of adaptations made by the Secretariat in line with decisions of and discussions in the Committee. Changes to the forms can be made by the Committee and need not to be submitted to the General Assembly. The forms, just like most of the other documents that constitute the third source of guidance, exist only in English and French, the working languages of the Committee.

2.5. Committee Reports commenting the implementation of the Convention on the national level

In accordance with Article 29 the States Parties periodically have to submit a report on the measures they have taken for the implementation of the Convention (OD160 ff.). In 2011 the Committee for the first time discussed such reports: five out of the seven States Parties that had to report, had done so. In the near future the number of such reports, may increase rapidly – to 23 in 2012, and 40 in 2013. In the annex to its Decision 6.COM-6, the Committee not only summarized the information provided by Algeria, Central African Republic, China, Japan and Mauritius, but also made general comments on developments concerning the implementation of the Convention in the States Parties concerned.

The Committee adopted its first report on the reports of the States Parties in 2011, which then was sent to the GA in accordance with Article 30.1; it contains an analysis of major aspects of the implementation of the Convention in five States; some of the remarks of the Committee were quite noteworthy.⁵ The GA took note of the report without discussion (Resolution 4.GA-4, paragraph 3) and thanked the Committee for its effective work. Since these reports of the Committee are working documents of the GA, they are available in Arabic, Chinese, English, French, Russian and Spanish.

5 In 2011, the Committee remarked in its analysis of the periodic reports received from five States Parties (paragraph 71 of ITH/12/4.GA/INF.4.2): “*All of the States reporting in the first cycle seem to understand ICH as a component of ‘national’ identity, which is an understanding that is absent from the Convention’s text. This vision of ICH can have several negative implications: disregard and potential marginalization of ICH that is considered alien, but also homogenization of cultural diversity at the service of a ‘national’ culture.*”

2.6. Intermezzo: relevant 6.COM documents

Under “Intergovernmental Committee” the website of the Convention presents links to all sessions of the Committee. For each session one finds, among other things, the agenda, the list of working documents that go with each of the items on the agenda, additional INF documents and the set of decisions taken at that particular session by the Committee. The summary records of the sessions can be found on the page of the next session of the Committee, at which these records are adopted. All these documents are available in English and French only.

The web pages of all Committee meetings present numerous documents that contain instructions and recommendations. As an example, 6.COM documents that are particularly relevant in this respect, are presented here:

ITH/11/6.COM/CONF.206/Decisions (of the Committee);
(Summary records of 6.COM – see the 7.COM web page);
ITH/11/6.COM/CONF.206/6 (Examination of the reports of States Parties on the implementation of the Convention and on the current status of all elements inscribed on the Representative List);
ITH/11/6.COM/CONF.206/7 (Report of the Consultative Body on its work in 2011);
ITH/11/6.COM/CONF.206/8 (Evaluation of nominations for inscription in 2011 on the USL);
ITH/11/6.COM/CONF.206/9 (Evaluation of proposals to the 2011 Register of Best Safeguarding Practices);
ITH/11/6.COM/CONF.206/10 (Evaluation of 2011 International Assistance requests greater than US\$25,000);
ITH/11/6.COM/CONF.206/13 (Report of the Subsidiary Body on its work in 2011 and evaluation of nominations for inscription in 2011 on the RL);
ITH/11/6.COM/CONF.206/15 (Report of the open-ended intergovernmental working group on possible measures to improve the treatment of nominations to the RL by the Committee, its Subsidiary Body and the Secretariat).

2.7. The Committee usually follows the recommendations of the Bodies and endorses their findings

In its examination of all nominations and requests the Committee leans heavily on the findings and recommendations of the two Bodies. In fact, during its sessions the Committee has less than fifteen minutes for each examination and, as a rule, follows without discussion any positive recommendation (to inscribe, or to grant). When it is confronted with two options, and sometimes when it is confronted with a negative recommendation, or intensive lobbying, it does take its time. Over half of the sessions of the Committee are devoted to these examinations, which makes it difficult for the Committee to devote much time to other agenda items, or to discuss in depth general issues concerning the implementation of the Convention.

The Committee has accepted virtually all recommendations of its Bodies. In the few cases that two options were offered, the Committee has selected the positive option. In Bali, the Committee deviated twice from the (in all 57) recommendations of the Subsidiary Body, once by referring a file where the Body had advised not to inscribe, and once by changing a referral into an inscription. It should be noted that many nominations that receive negative recommendations from the Bodies are withdrawn before it comes to their examination by the Committee (OD24). The cases where the Committee deviates from the recommendations of its Bodies deserve a study when their number will have further increased.

The reports of the Subsidiary and Consultative Bodies are rich in comments and recommendations. The Committee endorses the reports of these Bodies, and the States Parties are explicitly invited to take the comments and remarks of the two Bodies into consideration, in particular when completing forms. With each decision to inscribe or not to inscribe, to select or not to select, to grant or not to grant, the Committee explicitly mentions its considerations; these considerations in most cases are taken over from draft decisions prepared by the Secretariat on the basis of the recommendations of the Bodies.

Below follows a quotation from Decision 6.COM-7 (i.e. the seventh decision of the Committee taken at its sixth session, Bali 2011), in which the Committee refers to and endorses the Report of the Consultative Body on its work in 2011 (ITH/11/6.COM/CONF.206/7):

(The Committee)

1. Having examined Document ITH/11/6.COM/CONF.206/7, (...)

3. Expresses its satisfaction with the work of the Consultative Body and the present report and thanks its members for their efforts;

4 Invites States Parties when elaborating nominations to the Urgent Safeguarding List, proposals to the Register of Best Safeguarding Practices and requests for International Assistance greater than US\$25,000 to take careful heed of the observations and suggestions offered by this Consultative Body (...).

At the same session, the Committee (Decision 6.COM-13, paragraph 5) invited the States Parties, when elaborating nominations to the RL, to take the same careful heed of the observations and suggestions offered by the Subsidiary Body and its predecessors. However, the Committee also indicated at its Bali meeting (November 2011) that its own indications and interpretations, as well as those of its bodies, may change over time (Decision 6.COM.13/7).

“The Committee (...) Takes note that the States Parties, Subsidiary Body and Committee are continually gaining experience in the implementation of the Convention and that the standards of interpretation will necessarily evolve, but decides that future examinations and evaluations should nevertheless maintain consistency, to the extent possible, with prior conclusions and decisions of the Subsidiary Body and Committee; ...”

3. Examples of guidance and instructions taken from the third source

3.1. Communities

It is noteworthy that the Committee and its Bodies follow the general tendency to increasingly use the term “communities” on its own, whereas the Convention and the ODs usually speak about “communities, groups and, in some cases (or: where appropriate/if applicable), individuals”.⁶ See, for instance (Decision 6.COM-8):

“The Committee (...) 4. Congratulates the communities whose ICH is inscribed on the USL (...); 5. Further commends the communities and States Parties for their involvement in the nomination of elements ...”.

Although one may assume that in many such instances “communities” stand for “communities, groups and individuals”, there are nevertheless contexts in which leaving out “groups” and “individuals” seems to make a difference and to imply a specific understanding of “community”. See, for instance, Decision 6.COM-13.47, under R.4 (i.e. criterion 4 for the RL):

“Although the nomination includes evidence of the free, prior and informed consent of a number of persons, the submitting State should clearly demonstrate the involvement of a community in the nomination process;”.

This indication concerning the way how to satisfy criterion R.4 seems not to be consistent with the request, earlier on in the nomination form, to “indicate clearly one or several communities, groups or, if applicable, individuals concerned with the nominated element”.

The following quotation from the Subsidiary Body (ITH/11/6.COM/CONF.206/13) shows that that Body, too, is happy to speak about “communities” alone:

“69: (...) Throughout its examinations, the Subsidiary Body returned time and again to the fundamental question of communities. While pointing out that ‘community’ is not defined in the text of the Convention and the notion of the community may differ from region to region or within different political and cultural contexts, the Subsidiary Body nevertheless stresses the importance of a clear identification of the community and those who represent it.”⁷

6 In Articles 2.1 (second sentence) and 11(b) of the Convention the “individuals” are not mentioned.

7 In Committee decisions prepared by the Bodies, the use of terms to refer to communities, groups and individuals concerned, at times is confusing: when Decision 6.COM-13.45, for instance, explains how the criteria for inscription on the RL of the *Weaving of Mosi in the Hansan region of the Republic of Korea* were satisfied, it speaks first about “the community” (R.1), then about “the communities” (R.3 and R.4), to end up (R.5) with “groups and individuals” who back in 1967 requested the designation of the element as Important ICH.

The Committee might consider to instruct the Bodies about the terms to use to refer to the communities, groups and – if appropriate – individuals concerned.

3.2. Complementarity between the Lists

In paragraph 39 of its Bali-report (ITH/11/6.COM/CONF.206/13), the Subsidiary Body drew attention to a number of nominations to the Representative List “in which the description of the element for criterion R.1 emphasized its fragility or endangerment.” The SB, after having provided two possible explanations for this paradoxical situation, concluded, however, that:

“An endangered element could not, a priori, be excluded from the Representative List even if, in some cases, the Body believed that a nomination to the Urgent Safeguarding List would have been more appropriate.”

In the next paragraph of its report, the SB continued in the same vein:

“The Body affirmed that it is the sovereign right of each submitting State to decide to nominate an element for one or the other List, and that elements whose viability is weak might therefore be inscribed on the Representative List if they satisfy all of the requisite criteria for it.”

The Consultative Body, in paragraph 18 of its report to 6.COM (ITH/11/6.COM/CONF.206/8), gave its comments on a similar issue:

“Two nominations encountered problems with criterion U.2, the element’s need for urgent safeguarding (...). For these nominations, the submitting State had not clearly demonstrated that the element warranted inscription on the Urgent Safeguarding List, having emphasized elsewhere in the nominations that the element (or at least aspects of it) was thriving. The Consultative Body reminds States Parties that the Urgent Safeguarding List and the Representative List have distinct and complementary purposes, and encourages them to present nominations that are appropriate to the specific List for which the element is proposed and its respective criteria.”

The Committee reacted through paragraph 12 of Decision 6.COM-13:

“(The Committee ...) Further invites States Parties to consider the complementary purposes of the Representative List of the Intangible Cultural Heritage of Humanity and the List of Intangible Cultural Heritage in Need of Urgent Safeguarding and to ensure that nominations are submitted to the appropriate List, while recalling the possibility provided in paragraph 38 of the Operational Directives for a State Party to request transfer of an element from one List to the other;”

The position of the Committee is clear, and may be expected eventually to lead to a proposal to amend OD38.

In the periodic reports that States Parties have to submit, they have to assess, among other things, the viability of any element present on their territory that figures on the RL (OD157(b)). The same goes – for that matter – for States non party to the Convention on whose territory there is an item (a former Masterpiece) that was included in that List in accordance with Article 31.⁸ In all, 90 former Masterpieces are included in the RL; since one of the cumulative criteria to be satisfied for recognition as a Masterpiece was “the risk of its disappearance”, the Committee will have to pay special attention to these former Masterpieces and to assess, in the sense of OD40, whether they satisfy all criteria for inscription on the RL.

3.3. The non-cumulative character of the criteria for International Assistance

In paragraph 9 of document ITH/11/6.COM/CONF.206/10 the Consultative Body explains that not all criteria for granting International Assistance that are enumerated in OD12 need to be fulfilled for a positive recommendation.

“In contrast to the criteria for inscription on the Urgent Safeguarding List or Representative List, all of which must be fully satisfied before an element is inscribed, the criteria for International Assistance (like those for the Register of Best Safeguarding Practices) are not all obligatory. In the words of the Operational Directives, the Committee is to ‘base its decisions on granting assistance on the following criteria [in Paragraph 12]’ and it ‘may also take into account’ two additional factors in Paragraph 10. The overall recommendation is based not on fully satisfying all criteria but instead on the degree to which the request responds to the criteria in their totality.”

The document of the CB that includes this far from trivial statement was thankfully acknowledged by the Committee in its Decision 6.COM-10. One would like the Committee to come back to the issue of the (non)cumulative character of the various sets of inscription or selection criteria contained in the ODs and to formulate proposals for adapting the ODs concerned if needed.⁹

3.4. Authenticity

It is a fact of life that many communities consider part or all of their ICH as authentic, and sometimes as more authentic than similar elements occurring somewhere else; in some cases they are supported in making such claims by experts and officials.

The ICH Convention and its ODs, as opposed to the World Heritage Convention, do not speak about authenticity as a criterion for selection or inscription, and the Forms do not request submitting States Parties to give proof of the authentic character of elements they propose for inscription, either.

⁸ The Russian Federation is the only State that has former Masterpieces in its territory and that has not yet ratified the Convention.

⁹ If the Committee endorses the Consultative Body’s remark about the non-cumulative character of the criteria for the selection of Best Safeguarding Practices, one expects it to propose an adaptation of OD7,

The so-called Yamato declaration (<http://unesdoc.unesco.org/images/0013/001376/137634e.pdf>) as early as in 2004 stated that, “the term “authenticity” as applied to tangible cultural heritage is not relevant when identifying and safeguarding intangible cultural heritage”. This Declaration, however, was never referred to by the Committee.

The Consultative Body in 2011 made an important contribution to a discussion of the issue when, in 2011, it explained the way in which elements should be described in nomination forms:

“The Convention is not concerned with the question of how ‘original’ or ‘authentic’ an element is or what its ‘ideal’ form should be, rather what matters is how an element figures in the lives of its practitioners today” (ITH/11/6.COM/CONF.206/8, paragraph 23).

The document concerned was endorsed by the Committee which may turn out to be a first step towards an outspoken position of the Committee on this issue that would eventually deserve to be reflected in the forms and – may be – in the ODs.

3.5. Evolving indications in the forms for criterion 5

One of the main obligations the Convention places on the States Parties is drawing up one or more inventories of the ICH present in their territory, whereby the ICH that is to be inventoried should be identified and defined with the participation of communities, groups and relevant NGOs (see section 1.1 above).

The Committee has no means to enforce the obligations that States accept when they become party to the Convention. The Committee, however, uses increasingly the fifth criterion for inscription on the Lists of the Convention as an instrument to make sure and to control that the States Parties make an effort to meet their inventorying obligation, and that they do so in the appropriate way.¹⁰ That fifth criterion is formulated as follows:

“The element is included in an inventory of the ICH present in the territory(ies) of the submitting State(s) Party(ies), as defined in Articles 11 and 12 of the Convention.”

During the first examination of nomination files in 2009, the Committee accepted pretty general information from the submitting States Parties for criterion 5 (“X is included in inventory X.”). In 2010 the following instruction was added on the nomination forms for the Lists of the Convention:

“Demonstrate that the inventory has been drawn up in conformity with Articles 11 and 12, in particular Article 11(b) that stipulates that ICH shall be identified and defined

which now says that “From among the programmes, projects or activities proposed to it, the Committee shall select those that best satisfy **all** of the following criteria (...)” (emphasis added)

10 In 2011, in its analysis of the periodic reports received from five States Parties the Committee noted (paragraph 66 of ITH/12/4.GA/INF.4.2) that full involvement of relevant communities and individuals at all stages of decision-making about the safeguarding of their heritage, is far from being the case in the reporting States.

‘with the participation of communities, groups and NGOs’ and Article 12 requiring that inventories be regularly updated.”

The latest version (December 2011) additionally requires:

“Identify the inventory in which the element has been included and the office, agency, organization, or body responsible for maintaining that inventory.” and

“Attach to the nomination form documents showing the inclusion of the element in an inventory or refer to a website presenting that inventory.”

In 2011 out of 32 nominations to the RL that did not receive a favourable recommendation, 17 had not satisfied criterion R.5; for 7 of them this was the only unsatisfied criterion.

The different wordings used by the Committee in 2011 to describe how this fifth criterion was satisfied, make interesting reading (please note that the Decisions below were adopted before the most recent revision of the instructions provided in the Forms for the fifth criterion); some examples:

Decision 6.COM-13.12: With the active participation of communities and relevant NGOs X was included in the Y inventory;

Decision 6.COM-13.24: With the participation and consent of the concerned associations and individuals, X was inscribed as an Important Intangible Cultural Property on Y.

Decision 6.COM-13.45: At the request of the groups and individuals concerned X was designated as an Important Intangible Cultural Property by the ICH administration of the Cultural Heritage Administration;

Decision 6.COM-13.13: With the consent of the local communities X was included on the list of X;

Decision 6.COM-13.15: X is included in the inventory of Y.

One finds equally important evolutions in the instructions on the Forms for most of the other inscription criteria, in particular for R.2, U.3 and R.4/U.4. To a large extent the changes are meant to assist the States Parties in more readily completing the Forms, and to receive files of better quality.

3.6. Religious practices

Religious practices and – for that matter – languages are widely felt to be at the core of ICH; during the preparation of the Convention the governmental experts preferred, however, not to include religious practices in an explicit way in the non-exhaustive list of domains that is presented in Article 2.2. Many States Parties do include religious practices, such as pilgrimages and processions, in an explicit way in their inventories and many elements already inscribed on the Lists – if not most of them – have religious aspects. Questions remain as to the reception of nominations of religious practices for inscription on the Lists. In paragraph 36 of the 2011

report of Subsidiary Body's (ITH/11/6.COM/CONF.206.13) we find a clear statement in a document endorsed by the Committee:

“Also with regard to criterion R.1, the Subsidiary Body again discussed the question of elements with a religious character. It maintained the position it affirmed in 2009 that even if religion as such fell outside the scope of the Convention, elements concerning cultural practices and expressions drawn from religion could be taken into account under the Convention. In its examination the Body distinguished canonical or orthodox practices, deemed to fall outside the scope of the Convention, and popular religious customs, which could be considered intangible heritage.”

The gist of this statement, if broadly shared, deserves to be brought to the attention of the States Parties in a more explicit way.

3.7. The name and scope of elements nominated for inscription

At the fifth session of the Committee (Nairobi, 2010), it was felt that objects could not be the main focus of an inscription on the Lists of the Convention; accordingly, the name of one of the nominated elements was changed from ‘The Azerbaijani Carpet’ to ‘The traditional art of Azerbaijani carpet weaving in the Republic of Azerbaijan’. This seems to point to an understanding of the term “element (of ICH)” that focuses on the “practices, representations, expressions, knowledge, skills” mentioned in Article 2.1 of the Convention, rather than just the “instruments, objects, artefacts and cultural spaces” that may be associated with those practices, representations, etc.

The names of a restricted number of elements included in the RL (many of them former Masterpieces) focus on objects or spaces (Indonesian Kris, Indonesian Batik, the Cultural Space of Boysun, etc.); OD41 outlines a procedure by which States Parties may request the change of the name under which elements are inscribed. A change of the name “Indonesian Batik” to “Production and Use of Batik in Indonesia”, for example, would do justice to the spirit of the Convention and to the element as described in the nomination file.

3.8. The scale and scope of elements nominated for inscription

The scope and scale of elements nominated to the Lists of the Convention has been discussed on several occasions. In paragraph 26 of its 2011 report the Consultative Body encouraged “submitting States Parties to define elements that are suitably specific on the one hand and suitably inclusive on the other, whose contours can be well described and whose communities can be readily identified”. The Committee expressed itself along similar lines in articles 6 and 7 of Decision 6.COM-8, inviting States Parties to “nominate” (rather than “define”) elements that are suitably specific and inclusive.

The Subsidiary Body tackled similar questions in paragraph 64 of its 2011 report, which ends as follows:

*“While having no easy answer to measure **what the right scale or scope of an element should be**, it (the Subsidiary Body) calls on the Committee and States Parties to give serious consideration to this question”.*

No doubt inspired by this call, the Committee decided during 6.COM (Decision 6.COM-15, paragraph 10) “to convene an open ended intergovernmental working group, to be held at UNESCO Headquarters before the seventh session of the Committee, to discuss **what the right scale and scope of an element would be;**” (emphasis added).

4. Conclusion

The documents of the sessions of the Organs of the Convention contain myriads of observations and indications concerning the interpretation and the implementation of the Convention and its ODs. In this paper only few examples could be discussed. Had space and time allowed, I would have discussed how the Subsidiary Body acknowledges that neither the Committee nor itself are in a position to check the correctness of the information provided in the nomination files and that it therefore concentrates in its evaluations on the completeness, persuasiveness and consistency of the information provided. In fact, the impossibility of verifying the contents of the nomination files had already been brought up in 2010 (5.COM, Nairobi) as a problem by the experts who had evaluated USL nominations.

I would also have wanted to analyze the first experiences with the instrument of referral of RL nomination files to the submitting States for additional information. The SB immediately extensively resorted to this new option, and was followed in that respect by the Committee. Referral seems to have started as a sort of delayed inscription pending further information on an otherwise compliant file. It draws the attention that in two cases the Committee decided to refer files that had failed to provide enough information for as many as four out of the five RL criteria.

The possible implications from the statement *“The Committee (...) 8. Reminds States Parties that each intangible heritage element has its own community and its own situation”*, presented in paragraph 8 of Decision 6.COM-8, also deserves fuller study.

It is unfortunate that Committee members, due to lack of time, have not always been in a position to acquaint themselves fully with all the documents on the basis of which their examinations of nominations, proposals and requests are supposed to take place. There also is little time during the Committee meetings for discussing the reports of the Bodies. This is all the more regrettable as this means that a considerable part of the third source of guidance to the States Parties, which does – of course – also contain debateable indications, was never thoroughly discussed by the Committee, let alone by the GA.

One hopes that the Committee will increasingly request the Secretariat to organize working groups or expert meetings to discuss aspects of the implementation of the Convention that need

clarification (see section 3.8 above for a clear initiative in this direction), or – even better – that it will reserve time on its agenda to tackle certain questions itself. The reports of the Algiers and Chengdu sessions of the Committee indicate that the Committee is able to discuss a number of items in depth within a relatively short time. The results of such meetings and discussions may in certain cases (one does not want to over-regulate) lead to the formulation of draft ODs, discussions in the General Assembly and consolidation of new thinking of the Committee, and in fact of all the States Parties, in the forms of ODs that can then be easily disseminated.

There are various good reasons for seriously limiting – at least for a few years – the numbers of nominations to the Lists of the Convention to be examined by the Committee. One of them is that that would create the opportunity for the Committee to examine the nomination files submitted to it in greater depth, and – equally important – to study and review the body of guidance and the precedents it has itself created since 2008 and to prepare the consolidation of parts of that body that require such action and that eventually might then be made available in the six working languages of General Assembly.

The Relation Between Communities and Their Living Culture as Represented by Audiovisual Files

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Introduction

Items of living culture (or Intangible Cultural Heritage) that have been included in one of the international lists of the 2003 UNESCO convention are represented on the UNESCO Internet site¹ with written texts, 10-20 slides and a short video of 3-10 minutes. The videos are also to be found on YouTube² and therefore very much accessible to the general public with Internet facilities. This greatly contributes to the aims of the 2003 convention: increasing the visibility of living culture that offers possibilities for intercultural dialogue. These audiovisual files also offer scholars an opportunity to analyse cultural politics as reflected by these audiovisual representations. For instance, we may be able to see which communities have been involved in the process of safeguarding and how.

In 2009 the first round of nominations for international lists under the 2003 convention was completed and the accompanying audiovisual files became available on the UNESCO site. Having filmed myself for documentary reasons and also for making documentary films on Indonesian performing arts since 1976, I was disappointed by the quality of some of the 2009 and 2010 films and I have reported on this in international symposia.³ It seemed that some States Parties did not know how to present the audiovisual material and to which public it should be directed.

In their report for the meeting of the Intergovernmental Committee in Bali, November 2011, the Consultative Body pointed out that submitted videos (for items on the Urgent Safeguarding List) should not be 'aimed at promoting tourism'. They recommended to supply videos that are

1 See <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011> with items on the Representative List, Urgent Safeguarding List and the Register of Best Practices.

2 See <http://www.youtube.com/> and type, for instance, 'Representative List UNESCO'.

3 In particular in Hong Kong (16-17 October 2009), Fukuoka (7-8 January 2012) and Tokyo (3-4 March 2012).

supportive to the nomination by explaining ‘what the intangible cultural heritage element is and what its social functions are today, and to illustrate its state of viability.’⁴ In my intervention on 23 November 2011, as representative of the International Council for Traditional Music, I supported this recommendation of the Consultative Body and added:

‘I have seen some video examples of items of the Lists that reminded me of video clips used when promoting pop music: many short shots of about 1-3 seconds. The task of filming of ICH items should be given to people with knowledge about what I call “anthropological filming”.

In the preamble of the convention, intangible cultural heritage is considered as “a factor in bringing human beings closer together and ensuring exchange and understanding among them.”

Understanding can be enhanced by proper representation of the items and that means also that films and photographs should supply proper cultural contexts and a culturally correct flow of time.’

For this presentation I decided to analyse the audiovisual files supplied with the 19 items that were added to the Representative List in November 2011.⁵ Apart from critical remarks below, I also wish to mention that I am very positive about some of the 19 films, such as the Turkish film ‘Ceremonial Keşkek tradition’, the Korean ‘Jultagi, tightrope walking’, the Belgium ‘Leuven age set ritual repertoire’ and the Japanese ‘Mibu no Hana Taue, ritual of transplanting rice in Mibu, Hiroshima’.

Over the last few years many member states to the convention found it particularly important to put many items on the Representative List. That also gives them the responsibility to present proper audiovisual files to be used for the visibility of living culture. In my judgement the general quality of the supplied audiovisual material falls short of what it should be – sometimes very much so. I shall here not comment on the technical qualities of sound and pictures, but rather on the content. How do the audiovisual files represent what the element of living culture is and ‘what its social functions are today’, that is, what is the relation between a community (communities) and the element of their living culture?

4 See ITH/11/6.COM/CONF.206/8+Corr.+Add., p.8, item 24 on <http://www.unesco.org/culture/ich/index.php?pg=00362>.

5 All text and audiovisual material, representing each of the 49 nominated files, may be found on <http://www.unesco.org/culture/ich/index.php?lg=en&pg=411>. This is a more complete overview than on the earlier given UNESCO site of the lists and YouTube in footnotes 1 and 2. On purpose I concentrated on the audiovisual files and I only used the short text introducing the element and not the other text files, like the ‘Nomination form ICH-2’ and the ‘Consent of communities’. A film should contain all necessary information, be it in a different way than in a written text.

The cultural flow of time as represented in videos

Slides and film cannot be as precise and analytical as a written text. However, audiovisual material offers the advantage of presenting a more holistic view of what is at stake, such as movements, spoken words, music, other social interactions, natural surroundings, etc. It may offer relevant information on aspects that cannot easily be described in just a text. As the audiovisual material is part of a nomination, it should also comply with the criteria set for such nomination, that is, for the Representative List the criteria R1-R5 as given in the Operational Directives, article I.2.

Most important is that the audiovisual files demonstrate what the element of living culture is in relation to the community concerned (R1). Further, the audiovisual files could also show what safeguarding measures have been and will be taken in future, how the community participated in this (R3, R4) and how this element of living culture testifies to human creativity in the community (R2). These criteria emphasize the role of the communities and the relation with what they recognize as an element of their living culture.

There are several ways in which we can make a video film, but the basic framework underlying a film for a nomination to the Representative List is to be found in these criteria R1-R5. The general use of the films is also clear. In the UNESCO context films about living culture on the Representative List should enhance 'better visibility' of living culture, 'awareness of its significance' and 'encourage dialogue which respects cultural diversity'.⁶ This can only be achieved, if in the film the cultural flow of time is respected, that is, the social qualities of time as experienced by the participants of the cultural group(s) concerned.

It means that such film should, for instance, not be made by an artist, who presents his/her own vision on the element of living culture and is not interested in whether this is a 'correct' representation of the way the community experiences it. Moreover, many short shots that last only one (or less!) to three seconds, common in video clips used when promoting pop music, are to be avoided. For real understanding it is important to see properly what happens, and it is not just the artistic visual impressions that count.⁷ Time is important in film making and the film maker should respect the qualities of time as experienced by the community concerned. This means that the film maker should proceed by using methods and techniques as used by (visual) anthropologists and ethnomusicologists.

After an element has been accepted for the Representative List, the text and the audiovisual files are put on the Internet sites of UNESCO and YouTube. This means that some thought has also to be given to which public a film or the slides will be directed. As the process of nominating

⁶ Article 16 of the *Convention for the Safeguarding of the Intangible Cultural Heritage*.

⁷ The *tango* film (Argentina and Uruguay, 2009) on the Representative List falls for me in the category of films made without the intention to show the relationship between the element of living culture and the community, but rather presents an individual view of a film maker on *tango*. This film may be an honest tribute to *tango* and interesting from an artistic point of view, but it is unsuitable as additional information about a nomination for the Representative List.

an element for the Representative List is not meant for advertising, the audiovisual files should not be ‘aimed at promoting tourism’, as the Consultative Body remarked. Definitely, the youth and their teachers form a very important section of the general public for these films, but it also includes people more specifically concerned with cultural politics. It should also be taken into account that the greater part of this public consists of non-native speakers of English or French.

Amount of information

Generally speaking, the information in the short film (maximum ten minutes), should be adequate: not too much and not too little. In this respect there is much possibility for improvement.

The captions with the slides may give relevant information and may be found on the complete set of 2011 nominations as given in footnote 5. I regret that these captions have been omitted from the UNESCO site with the international lists (see footnote 1). I think that this could easily, and should, be improved by UNESCO.

It is remarkable that the first eight of the ten slides of the Croatia ‘Bećarac singing and playing from Eastern Croatia’ show pages of music transcription in Western notation. What does this contribute? Is it meant to show that serious academic work has been done on documenting this singing? A reference to a book would be more appropriate in this case, I think, and instead more relevant slides showing the cultural context could be presented.

In films the amount of information given by spoken text (voice-over) is sometimes so abundant, that it is impossible to pay much attention to the images. Especially when there is an English translation projected on the screen, as in the Mexican *marachi* film with spoken Spanish, it is important to realize that such films are shown to a public that consists for the greater part of non-native-English speakers and readers. This film is too crammed with a voice-over in Spanish together with a projected English text. I shall come back to the relation of spoken words and music below.

Larger social context missing

A few films tend to be product-oriented, instead of showing the relationship between the community and its element of living culture. The above-mentioned musical transcriptions on the Croatian slides are a clear example of this: emphasis is laid on the written documentation of the music in the form of transcriptions. In the 4-minute film of the Croatian Bećarac singing we see and hear one male group performing and one female group. However, there are no audiences shown in this film. Does the community that recognizes Bećarac singing as its living culture only consist of these performers? Quite a few films have this shortcoming: the wider social context is missing and the performers/ crafts men and women are presented as the only members of the community. Such films present people performing songs without showing the

audiences and people making something without showing the users and/or buyers of those products. However, for the performing arts the interaction between performer and the audience is an essential element. In safeguarding it is important that performers will be able to find an audience and crafts men and women will find community members who buy their products. This social interaction should be presented in the film.

The Cyprus film ‘Tsiattista poetic dueling’ is all about the poets and their poetry without paying attention to the audience that listens to the poetry. The film ‘Cultural practices and expressions linked to the balafon of the Senufo communities of Mali and Burkina Faso’ is a very special example of a wider social context that is missing. This is a relatively long film of 15 minutes, presenting three music groups that each play several songs. The music is meant for dancing, like almost everywhere in Africa south of the Sahara. However, we only see and hear the musicians performing, without any dancing members of the audience. Only by chance, we see at 7:18–7:22 in the background children dancing to the music! Further it is only the musicians that also dance and perform some acrobatics. It is a pity that this film represents the element of living culture in a much reduced form by showing only what music groups do with the music and ignoring the dancing and other social events during their performances. The social reality is richer than shown in this film.

Music in films; feed-back of communities

In several films the music has not been treated properly. It is surprising that in the film ‘Fado, urban popular song of Portugal’ the English voice-over and *fado* music sound together, almost throughout the film. There is too much spoken information at the cost of hearing the *fado* singing properly. This competition between voice-over and music happens also several times in the Mexican *mariachi* music film and also in the beginning of the Croatian film ‘Nijemo Kolo, silent circle dance of the Dalmatian hinterland’.

A good solution is found in the film of the Japanese rice planting ritual ‘Mibu no Hana Taue’ in which the explanation is only given in a projected, not too elaborate, English text that does not interfere with the local sounds, including music. The Turkish film ‘Ceremonial Keşkek tradition’ is even better in this respect: there is no voice-over and no projected text at all. The film ‘tells the story’ just with the images and the soundscape of the community concerned. This is for me the best video of the 19 discussed inscriptions on the Representative List in 2011.

More complicated is the matter of the music that is not related to the shown visual images, that is, coming from a different community (communities). For instance, ‘national’ music is not always a proper substitute for the music of a particular community. It seems to me that the music in the beginning of the Korean film ‘Weaving of Mosi (fine ramie) in the Hansan region’ has been newly composed and stands in no relation to the music, and generally soundscape, of the Hansan communities. This seems also to hold for parts of the music in the film ‘Taekkyeon, a traditional Korean martial art’.

A partial answer to complicated questions of what constitutes a 'proper' audiovisual representation, may be obtained by showing a concept-film to members of the community concerned and to ask them whether they find themselves and their element of living culture 'properly represented' by this film, including the music. Only after the comments of the community members have been taken into account in the film, it is sent to UNESCO. Such feed-back process, and especially when the comments on the concept-film are also filmed, is very useful for developing appropriate cultural policies.

Conclusion

In this short essay I have argued that the audiovisual files of the 19 items added to the Representative List in 2011 show many shortcomings. This does not hold for all files and I hope that more attention will be paid to these good examples. Especially for the items on the Representative List good audiovisual files are needed. I realize that making a film may sometimes be costly. However, these days it is no longer impossible to make a good film with a modest budget. For the UNESCO purposes the cultural content is more important than the technical qualities.

Annexes

Annex I: List of Participants

Annex II: Programme Schedule

Annex III: Text of the “Convention for the Safeguarding
of Intangible Cultural Heritage”



Annex I: List of Participants

Experts

***Antonio Arantes**

UNICAMP-State University of Campinas,
Brazil

Lourdes Arizpe

Former Assistant Director-General for Culture, UNESCO
President, Technical Committee of National Commission on
intangible cultural heritage of Mexico
Chair of the Commission on Intangible Cultural Heritage of
the International Social Science Council (Mexico)

Chiara Bortolotto

Marie Curie Fellow,
Laboratoire d'Anthropologie des Mondes Contemporains,
Université Libre de Bruxelles (Belgium/ Italy)

Harriet Deacon

Correspondent,
The Archival Platform South Africa

Marc Jacobs

Director of the Flemish Interface Center for Cultural Heritage
Professor, Free University Brussels (Belgium)

Chérif Khaznadar

President,
Maison des Cultures du Monde/French Centre for Intangible Cultural
Heritage, France
President of the Second General Assembly of State Parties to the
Convention for the Safeguarding of Intangible Cultural Heritage

Kristin Kuutma

Professor of Cultural Research Graduate School for Culture Studies
and Arts,
Head of UT programme Institute for Cultural Research and
Fine Arts University of Tartu

Öcal Oğuz

Professor,
Gazi University, Turkey

Misako Ohnuki

Deputy Director,
International Research Centre for Intangible Cultural Heritage
in Asia and the Pacific Region (IRCI), Japan

***Pape Massène Sène**

Professor,
l'Institut Supérieur des Arts et des Cultures
Chercheur à l'IFAN, Laboratoire des Langues et Civilisations Africaines
Université Cheikh Anta Diop de Dakar, Senegal

Ahmed Skounti

Anthropologue,
Institut national des sciences de l'archéologie et du patrimoine (Rabat)
Responsable de l'Antenne de Marrakech
Enseignant à l'Université de Marrakech
Morocco

Rieks Smeets

Consultant for Intangible Cultural Heritage, Linguistic policies,
Caucasus area Former chief, UNESCO Intangible Heritage Section

Kono Toshiyuki

Professor,
Faculty of Law,
Kyushu University, Japan
President,
The third session of the General Assembly of Convention for
the Safeguarding of Intangible Cultural Heritage

Wim van Zanten

Ethnomusicologist,
Department of Cultural Anthropology and Development Sociology
Leiden University, the Netherlands

*They did not attend the Forum, but submitted only the papers.

Annex II: Programme Schedule

Introduction

- 10:00 – 10:30 **Opening:**
Toshiyuki Kono (Japan)
- Opening address:**
Cécile Duvelle (Chief of the ITH section, UNESCO)
- Key note speech:** “Ten Years After – Pandora’s Box”
Chérif Khaznadar
(President, La Maison des Cultures du Mode, France)

1st session

- 10:30 – 13:00 **Interpretation of the criteria for inscription on the lists and the register of the Convention** (chaired by Chérif Khaznadar)
- Speakers*
- Lourdes Arizpe (Mexico)
Rieks Smeets (the Netherlands)
Öcal Oğuz (Turkey)
Ahmed Skounti (Morocco)

2nd session

- 15:00 – 17:00 **Community participation in the safeguarding of their ICH under the Convention** (chaired by Toshiyuki Kono)
- Speakers*
- Wim van Zanten (the Netherlands)
Kristine Kuutma (Estonia)
Marc Jacobs (Belgium)
Antonio Arantes (Brazil)
Pape Massène Sène (Senegal)
- 17:00 – 18:30 **Open Forum: How to identify priority areas for research?**
(chaired by Harriet Deacon)
- Speakers*
- Misako Ohnuki (Japan)
Harriet Deacon (South Africa)
Chiara Bortolotto (Belgium/Italy)

*Venue: La Maison des Cultures du Monde



Toshiyuki Kono (Professor, Faculty of Law, Kyushu University, Japan) facilitating all the discussions



Cécile Duvelle (Chief of the ITH section, UNESCO), giving an opening speech



Chérif Khaznadar (President, La Maison des Cultures du Mode, France), giving a key note speech



Lourdes Arizpe (Former Assistant Director-General for Culture, UNESCO), giving a speech on “The need for research on intangible cultural heritage”



Rieks Smeets (Former chief, UNESCO Intangible Heritage Section)



Sessions and Open Forum

Annex III: Text of the “Convention for the Safeguarding of Intangible Cultural Heritage”

Paris, 17 October 2003

CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE

The General Conference of the United Nations Educational, Scientific and Cultural Organization hereinafter referred to as UNESCO, meeting in Paris, from 29 September to 17 October 2003, at its 32nd session,

Referring to existing international human rights instruments, in particular to the Universal Declaration on Human Rights of 1948, the International Covenant on Economic, Social and Cultural Rights of 1966, and the International Covenant on Civil and Political Rights of 1966,

Considering the importance of the intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development, as underscored in the UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore of 1989, in the UNESCO Universal Declaration on Cultural Diversity of 2001, and in the Istanbul Declaration of 2002 adopted by the Third Round Table of Ministers of Culture,

Considering the deep-seated interdependence between the intangible cultural heritage and the tangible cultural and natural heritage,

Recognizing that the processes of globalization and social transformation, alongside the conditions they create for renewed dialogue among communities, also give rise, as does the phenomenon of intolerance, to grave threats of deterioration, disappearance and destruction of the intangible cultural heritage, in particular owing to a lack of resources for safeguarding such heritage,

Being aware of the universal will and the common concern to safeguard the intangible cultural heritage of humanity,

Recognizing that communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and recreation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity,

Noting the far-reaching impact of the activities of UNESCO in establishing normative instruments for the protection of the cultural heritage, in particular the Convention for the Protection of the World Cultural and Natural Heritage of 1972,

Noting further that no binding multilateral instrument as yet exists for the safeguarding of the intangible cultural heritage,

Considering that existing international agreements, recommendations and resolutions concerning the cultural and natural heritage need to be effectively enriched and supplemented by means of new provisions relating to the intangible cultural heritage,

Considering the need to build greater awareness, especially among the younger generations, of the importance of the intangible cultural heritage and of its safeguarding,

Considering that the international community should contribute, together with the States Parties to this Convention, to the safeguarding of such heritage in a spirit of cooperation and mutual assistance,

Recalling UNESCO's programmes relating to the intangible cultural heritage, in particular the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity,

Considering the invaluable role of the intangible cultural heritage as a factor in bringing human beings closer together and ensuring exchange and understanding among them,

Adopts this Convention on this seventeenth day of October 2003.

I. General provisions

Article 1 – Purposes of the Convention

The purposes of this Convention are:

- (a) to safeguard the intangible cultural heritage;
- (b) to ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned;
- (c) to raise awareness at the local, national and international levels of the importance of the intangible cultural heritage, and of ensuring mutual appreciation thereof;
- (d) to provide for international cooperation and assistance.

Article 2 – Definitions

For the purposes of this Convention,

1. The “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.

2. The “intangible cultural heritage”, as defined in paragraph 1 above, is manifested *inter alia* in the following domains:

- (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
 - (b) performing arts;
 - (c) social practices, rituals and festive events;
 - (d) knowledge and practices concerning nature and the universe;
 - (e) traditional craftsmanship.
3. “Safeguarding” means measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.
4. “States Parties” means States which are bound by this Convention and among which this Convention is in force.
5. This Convention applies *mutatis mutandis* to the territories referred to in Article 33 which become Parties to this Convention in accordance with the conditions set out in that Article. To that extent the expression “States Parties” also refers to such territories.

Article 3 – Relationship to other international instruments

Nothing in this Convention may be interpreted as:

- (a) altering the status or diminishing the level of protection under the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage of World Heritage properties with which an item of the intangible cultural heritage is directly associated; or
- (b) affecting the rights and obligations of States Parties deriving from any international instrument relating to intellectual property rights or to the use of biological and ecological resources to which they are parties.

II. Organs of the Convention

Article 4 – General Assembly of the States Parties

1. A General Assembly of the States Parties is hereby established, hereinafter referred to as “the General Assembly”. The General Assembly is the sovereign body of this Convention.
2. The General Assembly shall meet in ordinary session every two years. It may meet in extraordinary session if it so decides or at the request either of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage or of at least one-third of the States Parties.
3. The General Assembly shall adopt its own Rules of Procedure.

*Article 5 – Intergovernmental Committee for the Safeguarding
of the Intangible Cultural Heritage*

1. An Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, hereinafter referred to as “the Committee”, is hereby established within UNESCO. It shall be composed of representatives of 18 States Parties, elected by the States Parties meeting in General Assembly, once this Convention enters into force in accordance with Article 34.
2. The number of States Members of the Committee shall be increased to 24 once the number of the States Parties to the Convention reaches 50.

Article 6 – Election and terms of office of States Members of the Committee

1. The election of States Members of the Committee shall obey the principles of equitable geographical representation and rotation.
2. States Members of the Committee shall be elected for a term of four years by States Parties to the Convention meeting in General Assembly.
3. However, the term of office of half of the States Members of the Committee elected at the first election is limited to two years. These States shall be chosen by lot at the first election.
4. Every two years, the General Assembly shall renew half of the States Members of the Committee.
5. It shall also elect as many States Members of the Committee as required to fill vacancies.
6. A State Member of the Committee may not be elected for two consecutive terms.
7. States Members of the Committee shall choose as their representatives persons who are qualified in the various fields of the intangible cultural heritage.

Article 7 – Functions of the Committee

Without prejudice to other prerogatives granted to it by this Convention, the functions of the Committee shall be to:

- (a) promote the objectives of the Convention, and to encourage and monitor the implementation thereof;
- (b) provide guidance on best practices and make recommendations on measures for the safeguarding of the intangible cultural heritage;
- (c) prepare and submit to the General Assembly for approval a draft plan for the use of the resources of the Fund, in accordance with Article 25;
- (d) seek means of increasing its resources, and to take the necessary measures to this end, in accordance with Article 25;
- (e) prepare and submit to the General Assembly for approval operational directives for the implementation of this Convention;

- (f) examine, in accordance with Article 29, the reports submitted by States Parties, and to summarize them for the General Assembly;
- (g) examine requests submitted by States Parties, and to decide thereon, in accordance with objective selection criteria to be established by the Committee and approved by the General Assembly for:
 - (i) inscription on the lists and proposals mentioned under Articles 16, 17 and 18;
 - (ii) the granting of international assistance in accordance with Article 22.

Article 8 – Working methods of the Committee

1. The Committee shall be answerable to the General Assembly. It shall report to it on all its activities and decisions.
2. The Committee shall adopt its own Rules of Procedure by a two-thirds majority of its Members.
3. The Committee may establish, on a temporary basis, whatever ad hoc consultative bodies it deems necessary to carry out its task.
4. The Committee may invite to its meetings any public or private bodies, as well as private persons, with recognized competence in the various fields of the intangible cultural heritage, in order to consult them on specific matters.

Article 9 – Accreditation of advisory organizations

1. The Committee shall propose to the General Assembly the accreditation of nongovernmental organizations with recognized competence in the field of the intangible cultural heritage to act in an advisory capacity to the Committee.
2. The Committee shall also propose to the General Assembly the criteria for and modalities of such accreditation.

Article 10 – The Secretariat

1. The Committee shall be assisted by the UNESCO Secretariat.
2. The Secretariat shall prepare the documentation of the General Assembly and of the Committee, as well as the draft agenda of their meetings, and shall ensure the implementation of their decisions.

III. Safeguarding of the intangible cultural heritage at the national level

Article 11 – Role of States Parties

Each State Party shall:

- (a) take the necessary measures to ensure the safeguarding of the intangible cultural

heritage present in its territory;

- (b) among the safeguarding measures referred to in Article 2, paragraph 3, identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant nongovernmental organizations.

Article 12 – Inventories

1. To ensure identification with a view to safeguarding, each State Party shall draw up, in a manner geared to its own situation, one or more inventories of the intangible cultural heritage present in its territory. These inventories shall be regularly updated.
2. When each State Party periodically submits its report to the Committee, in accordance with Article 29, it shall provide relevant information on such inventories.

Article 13 – Other measures for safeguarding

To ensure the safeguarding, development and promotion of the intangible cultural heritage present in its territory, each State Party shall endeavour to:

- (a) adopt a general policy aimed at promoting the function of the intangible cultural heritage in society, and at integrating the safeguarding of such heritage into planning programmes;
- (b) designate or establish one or more competent bodies for the safeguarding of the intangible cultural heritage present in its territory;
- (c) foster scientific, technical and artistic studies, as well as research methodologies, with a view to effective safeguarding of the intangible cultural heritage, in particular the intangible cultural heritage in danger;
- (d) adopt appropriate legal, technical, administrative and financial measures aimed at:
 - (i) fostering the creation or strengthening of institutions for training in the management of the intangible cultural heritage and the transmission of such heritage through forums and spaces intended for the performance or expression thereof;
 - (ii) ensuring access to the intangible cultural heritage while respecting customary practices governing access to specific aspects of such heritage;
 - (iii) establishing documentation institutions for the intangible cultural heritage and facilitating access to them.

Article 14 – Education, awareness-raising and capacity-building

Each State Party shall endeavour, by all appropriate means, to:

- (a) ensure recognition of, respect for, and enhancement of the intangible cultural heritage in society, in particular through:

- (i) educational, awareness-raising and information programmes, aimed at the general public, in particular young people;
 - (ii) specific educational and training programmes within the communities and groups concerned;
 - (iii) capacity-building activities for the safeguarding of the intangible cultural heritage, in particular management and scientific research; and
 - (iv) non-formal means of transmitting knowledge;
- (b) keep the public informed of the dangers threatening such heritage, and of the activities carried out in pursuance of this Convention;
 - (c) promote education for the protection of natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage.

Article 15 – Participation of communities, groups and individuals

Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.

IV. Safeguarding of the intangible cultural heritage at the international level

Article 16 – Representative List of the Intangible Cultural Heritage of Humanity

1. In order to ensure better visibility of the intangible cultural heritage and awareness of its significance, and to encourage dialogue which respects cultural diversity, the Committee, upon the proposal of the States Parties concerned, shall establish, keep up to date and publish a Representative List of the Intangible Cultural Heritage of Humanity.
2. The Committee shall draw up and submit to the General Assembly for approval the criteria for the establishment, updating and publication of this Representative List.

Article 17 – List of Intangible Cultural Heritage in Need of Urgent Safeguarding

1. With a view to taking appropriate safeguarding measures, the Committee shall establish, keep up to date and publish a List of Intangible Cultural Heritage in Need of Urgent Safeguarding, and shall inscribe such heritage on the List at the request of the State Party concerned.
2. The Committee shall draw up and submit to the General Assembly for approval the criteria for the establishment, updating and publication of this List.
3. In cases of extreme urgency – the objective criteria of which shall be approved by the General Assembly upon the proposal of the Committee – the Committee may inscribe an item of the heritage concerned on the List mentioned in paragraph 1, in consultation with the State Party concerned.

Article 18 – Programmes, projects and activities for the safeguarding of the intangible cultural heritage

1. On the basis of proposals submitted by States Parties, and in accordance with criteria to be defined by the Committee and approved by the General Assembly, the Committee shall periodically select and promote national, subregional and regional programmes, projects and activities for the safeguarding of the heritage which it considers best reflect the principles and objectives of this Convention, taking into account the special needs of developing countries.
2. To this end, it shall receive, examine and approve requests for international assistance from States Parties for the preparation of such proposals.
3. The Committee shall accompany the implementation of such projects, programmes and activities by disseminating best practices using means to be determined by it.

V. International cooperation and assistance

Article 19 – Cooperation

1. For the purposes of this Convention, international cooperation includes, inter alia, the exchange of information and experience, joint initiatives, and the establishment of a mechanism of assistance to States Parties in their efforts to safeguard the intangible cultural heritage.
2. Without prejudice to the provisions of their national legislation and customary law and practices, the States Parties recognize that the safeguarding of intangible cultural heritage is of general interest to humanity, and to that end undertake to cooperate at the bilateral, subregional, regional and international levels.

Article 20 – Purposes of international assistance

International assistance may be granted for the following purposes:

- (a) the safeguarding of the heritage inscribed on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding;
- (b) the preparation of inventories in the sense of Articles 11 and 12;
- (c) support for programmes, projects and activities carried out at the national, subregional and regional levels aimed at the safeguarding of the intangible cultural heritage;
- (d) any other purpose the Committee may deem necessary.

Article 21 – Forms of international assistance

The assistance granted by the Committee to a State Party shall be governed by the operational directives foreseen in Article 7 and by the agreement referred to in Article 24, and may take the following forms:

- (a) studies concerning various aspects of safeguarding;

- (b) the provision of experts and practitioners;
- (c) the training of all necessary staff;
- (d) the elaboration of standard-setting and other measures;
- (e) the creation and operation of infrastructures;
- (f) the supply of equipment and know-how;
- (g) other forms of financial and technical assistance, including, where appropriate, the granting of low-interest loans and donations.

Article 22 – Conditions governing international assistance

1. The Committee shall establish the procedure for examining requests for international assistance, and shall specify what information shall be included in the requests, such as the measures envisaged and the interventions required, together with an assessment of their cost.
2. In emergencies, requests for assistance shall be examined by the Committee as a matter of priority.
3. In order to reach a decision, the Committee shall undertake such studies and consultations as it deems necessary.

Article 23 – Requests for international assistance

1. Each State Party may submit to the Committee a request for international assistance for the safeguarding of the intangible cultural heritage present in its territory.
2. Such a request may also be jointly submitted by two or more States Parties.
3. The request shall include the information stipulated in Article 22, paragraph 1, together with the necessary documentation.

Article 24 – Role of beneficiary States Parties

1. In conformity with the provisions of this Convention, the international assistance granted shall be regulated by means of an agreement between the beneficiary State Party and the Committee.
2. As a general rule, the beneficiary State Party shall, within the limits of its resources, share the cost of the safeguarding measures for which international assistance is provided.
3. The beneficiary State Party shall submit to the Committee a report on the use made of the assistance provided for the safeguarding of the intangible cultural heritage.

VI. Intangible Cultural Heritage Fund

Article 25 – Nature and resources of the Fund

1. A “Fund for the Safeguarding of the Intangible Cultural Heritage”, hereinafter referred to as “the Fund”, is hereby established.
2. The Fund shall consist of funds-in-trust established in accordance with the Financial Regulations of UNESCO.
3. The resources of the Fund shall consist of:
 - (a) contributions made by States Parties;
 - (b) funds appropriated for this purpose by the General Conference of UNESCO;
 - (c) contributions, gifts or bequests which may be made by:
 - (i) other States;
 - (ii) organizations and programmes of the United Nations system, particularly the United Nations Development Programme, as well as other international organizations,
 - (iii) public or private bodies or individuals;
 - (d) any interest due on the resources of the Fund;
 - (e) funds raised through collections, and receipts from events organized for the benefit of the Fund;
 - (f) any other resources authorized by the Fund’s regulations, to be drawn up by the Committee.
4. The use of resources by the Committee shall be decided on the basis of guidelines laid down by the General Assembly.
5. The Committee may accept contributions and other forms of assistance for general and specific purposes relating to specific projects, provided that those projects have been approved by the Committee.
6. No political, economic or other conditions which are incompatible with the objectives of this Convention may be attached to contributions made to the Fund.

Article 26 – Contributions of States Parties to the Fund

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay into the Fund, at least every two years, a contribution, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly. This decision of the General Assembly shall be taken by a majority of the States Parties present and voting which have not made the declaration referred to in

paragraph 2 of this Article. In no case shall the contribution of the State Party exceed 1% of its contribution to the regular budget of UNESCO.

2. However, each State referred to in Article 32 or in Article 33 of this Convention may declare, at the time of the deposit of its instruments of ratification, acceptance, approval or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.

3. A State Party to this Convention which has made the declaration referred to in paragraph 2 of this Article shall endeavour to withdraw the said declaration by notifying the Director-General of UNESCO. However, the withdrawal of the declaration shall not take effect in regard to the contribution due by the State until the date on which the subsequent session of the General Assembly opens.

4. In order to enable the Committee to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article shall be paid on a regular basis, at least every two years, and should be as close as possible to the contributions they would have owed if they had been bound by the provisions of paragraph 1 of this Article.

5. Any State Party to this Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the Committee; this provision shall not apply to the first election. The term of office of any such State which is already a Member of the Committee shall come to an end at the time of the elections provided for in Article 6 of this Convention.

Article 27 – Voluntary supplementary contributions to the Fund

States Parties wishing to provide voluntary contributions in addition to those foreseen under Article 26 shall inform the Committee, as soon as possible, so as to enable it to plan its operations accordingly.

Article 28 – International fund-raising campaigns

The States Parties shall, insofar as is possible, lend their support to international fund-raising campaigns organized for the benefit of the Fund under the auspices of UNESCO.

VII. Reports

Article 29 – Reports by the States Parties

The States Parties shall submit to the Committee, observing the forms and periodicity to be defined by the Committee, reports on the legislative, regulatory and other measures taken for the implementation of this Convention.

Article 30 – Reports by the Committee

1. On the basis of its activities and the reports by States Parties referred to in Article 29, the Committee shall submit a report to the General Assembly at each of its sessions.

2. The report shall be brought to the attention of the General Conference of UNESCO.

VIII. Transitional clause

Article 31 – Relationship to the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity

1. The Committee shall incorporate in the Representative List of the Intangible Cultural Heritage of Humanity the items proclaimed “Masterpieces of the Oral and Intangible Heritage of Humanity” before the entry into force of this Convention.
2. The incorporation of these items in the Representative List of the Intangible Cultural Heritage of Humanity shall in no way prejudice the criteria for future inscriptions decided upon in accordance with Article 16, paragraph 2.
3. No further Proclamation will be made after the entry into force of this Convention.

IX. Final clauses

Article 32 – Ratification, acceptance or approval

1. This Convention shall be subject to ratification, acceptance or approval by States Members of UNESCO in accordance with their respective constitutional procedures.
2. The instruments of ratification, acceptance or approval shall be deposited with the Director-General of UNESCO.

Article 33 – Accession

1. This Convention shall be open to accession by all States not Members of UNESCO that are invited by the General Conference of UNESCO to accede to it.
2. This Convention shall also be open to accession by territories which enjoy full internal self-government recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV), and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters.
3. The instrument of accession shall be deposited with the Director-General of UNESCO.

Article 34 – Entry into force

This Convention shall enter into force three months after the date of the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, but only with respect to those States that have deposited their respective instruments of ratification, acceptance, approval, or accession on or before that date. It shall enter into force with respect to any other State Party three months after the deposit of its instrument of ratification, acceptance, approval or accession.

Article 35 – Federal or non-unitary constitutional systems

The following provisions shall apply to States Parties which have a federal or non-unitary constitutional system:

- (a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States Parties which are not federal States;
- (b) with regard to the provisions of this Convention, the implementation of which comes under the jurisdiction of individual constituent States, countries, provinces or cantons which are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

Article 36 – Denunciation

1. Each State Party may denounce this Convention.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of UNESCO.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall in no way affect the financial obligations of the denouncing State Party until the date on which the withdrawal takes effect.

Article 37 – Depositary functions

The Director-General of UNESCO, as the Depositary of this Convention, shall inform the States Members of the Organization, the States not Members of the Organization referred to in Article 33, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, approval or accession provided for in Articles 32 and 33, and of the denunciations provided for in Article 36.

Article 38 – Amendments

1. A State Party may, by written communication addressed to the Director-General, propose amendments to this Convention. The Director-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Director-General shall present such proposal to the next session of the General Assembly for discussion and possible adoption.
2. Amendments shall be adopted by a two-thirds majority of States Parties present and voting.
3. Once adopted, amendments to this Convention shall be submitted for ratification, acceptance, approval or accession to the States Parties.

4. Amendments shall enter into force, but solely with respect to the States Parties that have ratified, accepted, approved or acceded to them, three months after the deposit of the instruments referred to in paragraph 3 of this Article by two-thirds of the States Parties. Thereafter, for each State Party that ratifies, accepts, approves or accedes to an amendment, the said amendment shall enter into force three months after the date of deposit by that State Party of its instrument of ratification, acceptance, approval or accession.

5. The procedure set out in paragraphs 3 and 4 shall not apply to amendments to Article 5 concerning the number of States Members of the Committee. These amendments shall enter into force at the time they are adopted.

6. A State which becomes a Party to this Convention after the entry into force of amendments in conformity with paragraph 4 of this Article shall, failing an expression of different intention, be considered:

- (a) as a Party to this Convention as so amended; and
- (b) as a Party to the unamended Convention in relation to any State Party not bound by the amendments.

Article 39 – Authoritative texts

This Convention has been drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authoritative.

Article 40 – Registration

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of UNESCO.

