

## Intangible Cultural Heritage Convention: 10 Years of Implementation



Every convention is a product of its time and its context. It reflects the priorities of the international community at the time of its adoption, in terms of values, science and politics. Yet it also has the potential to influence, even transform, global understandings and to determine priorities for the future. This is all the more true of the 2003 *Convention for the Safeguarding of the Intangible Cultural Heritage*, which looks resolutely forward in its commitment to ensuring that coming generations will continue to be able to practise the cultural expressions that we enjoy today.

Although it was drafted over a period of barely two years, the 2003 *Convention* built upon almost sixty years of concern by UNESCO for the protection of heritage in general, and resulted from three decades of reflection on living traditions in particular. Early landmarks such as the *Convention concerning the Protection of the World Cultural and Natural Heritage* (1972), the *UNESCO/WIPO Model provisions for national laws on the protection of expressions of folklore against illicit exploitation and other prejudicial actions* (1985), the *Recommendation on the Safeguarding of Traditional Culture and Folklore* (1989) and the programme of *Masterpieces of the Oral and Intangible Heritage of Humanity* (1997) created reactions, discussions and knowledge that ultimately led to the 2003 *Convention*\*.

Ten years have passed since the adoption of the 2003 *Convention*, including seven years of actual implementation at the international level. Looking back on that decade may help us to reflect on the *Convention's* function, role and value, while also looking forward to its future.

### Changing the discourse of ICH and implanting new concepts

During the preparation of the *Convention*, experts discussed the meaning and understanding of several key terms in order to create an internationally viable vocabulary for the *Convention*. In parallel to this exercise, a more profound understanding of the core characteristics of intangible cultural heritage was also established, requiring, for many, a fundamentally different way of thinking and acting than had previously prevailed.

One of the clearest examples of the *Convention's* global impact is the now-universal use of the term 'intangible cultural heritage'. The terms 'traditional culture' and 'customs' had created misunderstandings and difficulties, and the term 'folklore' was perceived as having negative connotations of pastoralism, colonialism and domination. 'Folklore' was typically constituted or identified by persons other than its bearers, while 'intangible cultural heritage' signified self-empowerment, reserving the right to define their heritage to the cultural creators and bearers themselves. Another indisputable achievement of the *Convention* is the widespread adoption of the term 'safeguarding' instead of 'protection'. The understanding of this term required other notions of the dynamism of cultural expressions and the necessity of ensuring their viability, emphasising a procedural approach, inclusive of cultural creators and bearers as active participants in the process.

'Safeguarding' embraces a broader and more holistic understanding, changing the focus from products and manifestations to processes and people, and is in strong contrast to static or defensive notions of 'protection' and 'preservation' which are coloured by an objectified view of culture and have strong paternalistic connotations.

### **Inventoring and listing**

Bolivia's initial proposals in 1973 to UNESCO concerning international measures for the *protection of the folk arts and cultural heritage of the various nations of the world* already called for the establishment of an International Register of Folkloristic Cultural Property. Through the three decades of study and discussion that resulted in the 2003 *Convention*, the advantages and disadvantages of different systems of registering, cataloguing, listing and inventoring were debated at length. Grounded both in the preceding centuries of folklorists' efforts to collect and catalogue the expressions of oral heritage, and in the model of listing that was established under the 1972 *Convention*, the impulse to create an international system of registration was a powerful one, despite numerous cautions and critiques that were expressed along the way. Some, indeed, cautioned against the listing mechanism, while others defended it as an efficient system to boost broader safeguarding strategies at the national level and to increase the visibility and expanded understanding of the specific character and scope of living heritage. Even if the *Convention's* lists have, as anticipated, proven to have shortcomings as well as successes, the *Convention* has clearly established the principle that the process of identification and definition through inventoring, with the full participation of the communities concerned, is an essential component of any broader safeguarding policy.

### **Parallel universes: intellectual property, world heritage and cultural goods and services**

Questions concerning intellectual property rights have been an important part of UNESCO's discussions on the conservation of culture since the early 1950s, even if the 2003 *Convention* specifically excludes intellectual property from its scope. Already during the 1970s some experts doubted that it was possible, in a single instrument, both to protect intellectual property and to ensure the viability of living traditions, and during the preparation of the 2003 *Convention*, despite productive cooperation between UNESCO and WIPO over the decades, it was decided to focus on safeguarding. WIPO's efforts to elaborate intellectual property protections for *Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions/Folklore* are making steady progress and promise to create a strong normative framework to complement the 2003 *Convention*.

Similarly, the 1972 *Convention* has continued to thrive during the first decade of the 2003 *Convention*. The 1972 *Convention* has in a sense been the older sibling, serving both as inspiration and model, but also as a rhetorical foil against which the younger sibling rebelled. Since 2003, however, the concepts and orientations of the *ICH Convention* have also influenced the practices of tangible heritage protection. For instance, in 2012, the

40th anniversary of the 1972 *Convention* was celebrated under the theme *World Heritage and Sustainable Development: the Role of Local Communities*. Reports from last year's celebrations, such as the *Kyoto Vision*, show that work with World Heritage, to a much larger extent than before, will increasingly seek to achieve the effective involvement of local communities.

The third parallel domain of action is that of cultural goods and services, as covered by the 2005 *Convention*. The emphasis that the 2003 *Convention* places on the dynamic nature of intangible cultural heritage and its continuous transmission and re-creation, is echoed by the concerns of the 2005 *Convention* with promoting favourable conditions for cultural creativity. Moreover, there are many cultural expressions that can be considered both as intangible cultural heritage and as cultural goods and services, even if the domains of action of the two conventions are different, and they would approach the same expression from different perspectives. Some States have ratified both conventions and seek to integrate them side by side in their policies and programmes; other States have cast their lot with one while rejecting the other; a few States have rejected both.

### **Safeguarding experiences in the States Parties**

The 2003 *Convention* has seen an unprecedented rate of ratification among UNESCO's complement of cultural conventions, with more than 150 States Parties becoming signatory to date. In some States, ratification has been accompanied by long-term policies and strategies for safeguarding intangible cultural heritage or has been part of a national legal and policy strategy for integrating culture into larger development agendas. The implementation process has also been differently defined and developed in different States. Some have started with awareness-raising and information campaigns; others, by focusing directly on national inventories and other safeguarding efforts. Yet others have plunged immediately into nominations for the international lists. The *Convention* also provides an opportunity for States to cooperate at an international level, bringing their own national experience to benefit other countries and learning from them through taking part in the *Convention's* international mechanisms.

### **Open questions and future directions**

Looking towards the future, what will the *Convention's* second and third decades look like? What are the pitfalls that should be avoided? And what are the opportunities and avenues that ought to be pursued in greater depth than has been possible thus far? Each of these large questions in turn opens up many different questions:

- How can the close relation between intangible cultural heritage and sustainable development be more effectively highlighted and strengthened in the future?
- What is the place of intangible cultural heritage in mitigating the effects of climate change, for instance by offering time-tested methods of environmental adaptation or community-based institutions for mediating questions of access to resources that may become increasingly scarce?
- What are the implications for the *Convention* of recent developments in international human rights such as the 2006 *Convention on the Rights of Persons with Disabilities* and the 2007 United Nations *Declaration on the Rights of Indigenous Peoples*?
- How have concerns with gender equality and gender diversity figured in the implementation of the *Convention* to date and how might they be integrated more centrally in the future?
- How can intangible cultural heritage play an even more important role in conflict avoidance, conflict resolution and peace-making, and in the prevention of and recovery from natural disasters, than it has done so far?
- What is the place of languages in the 2003 *Convention* and how can the *Convention* contribute to the promotion and safeguarding of linguistic diversity, even if that is not explicitly its goal?

And finally: what are the questions yet to be asked in order to ensure that the 2003 *Convention* continues to move in the right direction to realise most effectively the hopes of its framers and justify the confidence that has been placed in it by the people of the world?

Answers to some of those questions are suggested in the contributions to the present issue of this journal. An important conference to be held in Chengdu, China, from 14 to 16 June 2013, on the occasion of the tenth anniversary of the UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage*, will also explore the life of the *Convention* so far and address these and many other questions.

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\*The website of the *Convention* provides access to the working documents of the UNESCO meetings and activities concerning intangible cultural heritage from 1973 to the present: <http://www.unesco.org/culture/ich>.