

# The Routledge Companion to Intangible Cultural Heritage



Edited by Michelle L. Stefano and Peter Davis

# THE ROUTLEDGE COMPANION TO INTANGIBLE CULTURAL HERITAGE

This collection provides an in-depth and up-to-date examination of the concept of intangible cultural heritage and the issues surrounding its value to society. Critically engaging with the UNESCO 2003 *Convention for the Safeguarding of the Intangible Cultural Heritage*, the book also discusses local-level conceptualizations of living cultural traditions, practices and expressions, and reflects on the efforts that seek to safeguard them. Exploring a global range of case studies, the book considers the diverse perspectives currently involved with intangible cultural heritage and presents a rich picture of the geographic, socioeconomic and political contexts impacting research in this area. With contributions from established and emerging scholars, public servants, professionals, students and community members, this volume is also deeply enhanced by an interdisciplinary approach that draws on the theories and practices of heritage and museum studies, anthropology, folklore studies, ethnomusicology and the study of cultural policy and related law. *The Routledge Companion to Intangible Cultural Heritage* undoubtedly broadens the international heritage discourse and is an invaluable learning tool for instructors, students and practitioners in the field.

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Newcastle

# COMMON ABBREVIATIONS

1972 Convention/World Heritage Convention	The Convention Concerning the Protection of the World Cultural and Natural Heritage
2003 Convention	The Convention for the Safeguarding of the Intangible Cultural Heritage
ICH	Intangible Cultural Heritage
ICOM	International Council of Museums
ICOMOS	International Council on Monuments and Sites
Intergovernmental Committee	Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage
OD	Operational Directives for the implementation of the Convention of the Safeguarding of the Intangible Cultural Heritage
Representative List	The Representative List of the Intangible Cultural Heritage of Humanity
Urgent List	The List of Intangible Cultural Heritage in Need of Urgent Safeguarding
WHL	World Heritage List





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# INTRODUCTION

*Michelle L. Stefano and Peter Davis*

The year 2016 marked the tenth anniversary of when the 2003 *Convention for the Safeguarding of the Intangible Cultural Heritage* of the United Nations Educational, Scientific and Cultural Organization (UNESCO) officially entered into force, and much has happened since. Most notably, of course, is the widespread acceptance of this international instrument at national levels; currently, 170 States Parties have adopted and/or ratified it from 2004 onwards.<sup>1</sup> Additionally, 336 ICH ‘elements’ have been inscribed in the corresponding *Representative List of the Intangible Cultural Heritage of Humanity*, with an average of 28 ICH forms successfully nominated each year since 2010.<sup>2</sup> It is also true that the past decade has seen an incredible growth of conferences, symposia, workshops and field schools that have brought together diverse groups of people who research and seek to understand and safeguard intangible cultural heritage (ICH) at different levels – from the international to the local.<sup>3</sup> The debates and discussions that have resulted are vital, evolving and full of passion, much like ICH itself.

On the same note, earlier scholarship on the historiography of ICH, implementation approaches and related concerns<sup>4</sup> has expanded to include in-depth case studies of the impacts of the 2003 Convention at local levels, as well as data-driven analyses of the challenges faced in the agencies and organizations tasked with its recommended duties.<sup>5</sup> Comparative studies on professional practices in varying contexts are increasingly conducted and an exchange of ideas, techniques and methodological limitations is being promoted.<sup>6</sup> Indeed, the maturation of the ICH-related literature has picked up great speed, and a global dialogue on the future of immeasurably diverse cultural expressions is gaining strength.

Most significant, however, is the emergence of a turn inward, an introspection of the roles we play as heritage scholars and researchers in ICH-making processes. Such reflexivity is not necessarily new within the heritage and museum discourse, as it was certainly a main force through which movements such as ‘new museology’ and ecomuseology,<sup>7</sup> for example, emerged in the 1970s. However, it can be argued that since ICH is embodied by people, the need to be more accountable to them – the community members and publics with whom we work – has become significantly more important. This includes the need to be more conscientious of the academic and professional privileges (and resources) we may utilize when researching and speaking about others, especially in terms of cultural practices and expressions that are not ours. It can be said that the power imbalances that affect heritage

designation, interpretation and dissemination are gaining greater inspection as a result of the growing ICH discourse. At the aforementioned workshops and symposia, we need to look around and ask: who is not at the table with us, and who, therefore, should be?

This volume attempts to address such imbalances. One of our main aims was to bring together as many diverse perspectives as possible. This diversity is based in case studies and experiences within wide-ranging geographic, socioeconomic and political contexts, as well as reflecting an array of voices – from both established and emerging scholars, public servants, professionals, students and ICH community members, speaking for themselves. In addition, the volume is deeply enhanced by contributions from multiple fields and disciplines, an interdisciplinarity that draws on the theories and practices of heritage and museum studies, anthropology, folklore studies, public folklore, ethnomusicology and the study of cultural policy and related law.

Another aim is to carve out yet another space in the literature for critically engaging with and also moving beyond what can be called the ‘UNESCO-ICH paradigm’. Along with the widespread popularity of the 2003 Convention comes the building of a framework, or paradigm, that is globalizing and potentially standardizing. We can surely give thanks to UNESCO, and the international embrace of the 2003 Convention, for the sharp rise in meetings and scholarship that has grown up around the ICH concept. Nonetheless, it is also important to interrogate this growth and the conceptualizations, definitions and recommended steps that it espouses and promotes. Questions concerning community involvement, local-level impacts and potential (and possibly inherent) ‘authorized heritage discourses’,<sup>8</sup> among many others, still remain extremely pertinent.

Considering this range of issues, the volume is structured by a certain flow. It begins with an analysis of the UNESCO-ICH paradigm, now over a decade in the making, and moves through examinations of related challenges at national and regional levels to closer, more reflexive accounts of researching and working with ICH. From there, two stops are made: one section is dedicated to highlighting the importance of place with respect to ICH expressions and another to exploring the interfaces of ICH with museums and archival collections. The final section moves beyond the paradigm to bring to light alternative ways in which ICH is being identified, safeguarded and promoted, most often in direct partnership with local-level community members, the true arbiters of ICH and its change.

Sometimes, discussing ICH calls for a more informal outlet than that of the scholarly chapter, which may constrain with its academic language and format requirements. Here, we offer ‘conversation pieces’, short respites for the reader that touch upon ICH-related issues in a variety of contexts – from Laos to Cuba – with leading scholars, such as Richard Kurin, Clifford Murphy and Paula Assunção dos Santos. In addition, conversations are offered with professionals who are engaged with on-the-ground ICH work that is responsive to local needs and nuanced contextual forces. These conversations are interspersed throughout the volume, aligned with section themes that are most applicable.

While it would be too lengthy to outline all of the chapters that give great range, depth and specificity to *The Routledge Companion to Intangible Cultural Heritage*, we present examples from each of the sections instead, which are as follows:

- A decade later: critical reflections on the UNESCO-ICH paradigm
- Reality check: the challenges facing intangible cultural heritage and its safeguarding
- Intangible cultural heritage up close
- Intangible cultural heritage and place
- Intangible cultural heritage, museums and archives
- Alternative approaches to safeguarding and promoting intangible cultural heritage

The first section, 'A decade later: critical reflections on the UNESCO-ICH paradigm', focuses on the 2003 Convention, its evolution and unfolding operation. Janet Blake, bookending the section with two contributions, first sets the stage with a deep analysis of the motivations behind the development of this international instrument, reminding us of its historical roots in late twentieth century geopolitical cultural policy and its shaping of a paradigm that redefines how cultural heritage in general is viewed and used in society. Closely related, her second chapter examines the impacts of this global ICH policy on the frameworks created *within* States Parties to ensure cultural sustainability, as well as community participation in its implementation. Complementing Blake's scene-setting and policy analyses are the chapters that fall in between. Here, Christian Hottin and Sylvie Grenet illustrate the distinctive intellectual and practical obstacles that have formed the national ICH framework – the implementation of the 2003 Convention – in France. Chiara Bortolotto investigates the concept of 'spatiality' as not only a cornerstone of cultural expression, but as an idea that can cause political tensions with respect to ICH that straddles national borders and finds its form in a range of territories. Through ethnographic observations of the meetings of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, Bortolotto guides the reader into the heated discussions between States Parties representatives while reviewing, as well as contesting, nomination files for the international ICH lists.

'Reality check: the challenges facing ICH and its safeguarding' serves to narrow the volume's focus onto examinations of the challenges that are faced in terms of safeguarding schemes, especially with respect to the inclusion of local-level voices (and needs) in associated identification, documentation, dissemination and/or tourism-related processes. Alison McCleery and Jared Bowers uncover issues encountered with using online technologies in identifying and documenting ICH and recent tourism initiatives as part of the 'ICH in Scotland' project, which remains an important initiative that has developed without the adoption and/or ratification of the 2003 Convention. Turning to South Africa and Mauritius, Rosabelle Boswell offers a strong 'reality check' through her questioning of ICH policy (and general heritage policy) that does not take into account the real barriers presented by enduring socioeconomic inequality, and the living legacies of racism, trauma, displacement and violence in postcolonial contexts. Furthermore, at the very local level of northern Rupununi in Guyana, Aron Mazel, Gerard Corsane, Raquel Thomas and Samantha James present Indigenous Guyanese perspectives on the types of heritage that they feel require safeguarding, and the obstacles faced with regard to keeping the Makushi language alive. Bradley Hanson, in his chapter on a country and bluegrass musicians' reunion, raises significant questions concerning the core 'site' of ICH – the physical human body – and the issues that arise when such bodies are called upon to 'perform' heritage and, yet, are also beholden to the realities of aging.

The third section, 'Intangible cultural heritage up close', not only explores challenges, as they are certainly ever-present when it comes to ICH, but also provides intimate accounts of learning from and working with those who embody a whole range of cultural knowledges, practices and expressions. This is not to say that other chapters lack the intimate reflections of this type of work; however, here, contributors are predominantly offering insights into the nuanced and specific contexts in which local communities strive to safeguard their ICH. Linking to earlier sections, Parasmoni Dutta investigates the localized impacts of official ICH recognition on particular traditional dances in India. Similarly, Sumiko Sarashima considers the ways in which Japanese *bingata* (textile-dyeing), also recognized via the Representative List, is being sustained through local-level initiatives.

On another note, it is doubtful that some of the ICH expressions presented here would ever gain official ICH designation and, as such, the case studies represent poignant counterpoints to the concepts and qualifications endorsed within the UNESCO-ICH paradigm. For instance, Langston Collin Wilkins brings the reader into the world of working-class African American neighborhoods in Houston, Texas, to learn about the thriving practices of and deep devotion to 'slab' culture, the ingenious and highly-skilled refurbishment of outmoded luxury cars, complete with spoked tires and elaborate sound systems, that are often seen parading through the city. Additionally, Staffan Appelgren and Anna Bohlin reposition ICH to also include vintage, or 'retro', objects due to the histories and memories they carry, and that are a part of their own system of transference and exchange that lies outside of the mainstream heritage enterprise. Other contributions take closer looks at finding ICH in the Norwegian context (Joel Taylor), researching religious ICH in Thailand (Linina Phuttitarn) and tortilla making in Mexico and the USA. Indeed, Maribel L. Alvarez's chapter on tortilla making has an interesting cross-border twist: in Mexico, the tradition is considered as part of a 'set' of culinary ICH recognized by UNESCO, and in the USA, where the official ICH discourse is lacking, it is promoted and sustained with the assistance of public folklorists.

One problem that may arise within the UNESCO-ICH paradigm is the tendency to neglect (via itemization) – conceptually and in practice – the relationships living cultural traditions have to broader contextual forces and interactions, such as the environments within which they develop and operate. Accordingly, another aim of this volume is to emphasize more holistic and ecological understandings of ICH through a section dedicated to its inextricable bonds to place. Amanda Kearney and Gabrielle Kowalewski bring to light the deep connections to 'country' within Aboriginal lifeways and cultural beliefs, as well as the difficulties of passing this knowledge and respect on to younger generations. R.D.K. Herman's chapter proposes an online, community-driven framework for representing Indigenous worldviews and cultural expressions more holistically, one that has been tested in earlier iterations through his long-term work with Indigenous communities in the US and across the Pacific Islands.

'Intangible cultural heritage, museums and archives' brings together contributions that present and analyze museums, and their techniques, that serve to disseminate and sustain forms of ICH in a variety of contexts. Barbara Kirshenblatt-Gimblett presents how the POLIN Museum of the History of Polish Jews in Warsaw utilizes the intangible aspects of a history that has lost much of its tangible evidence. Ana Mercedes Stoffel and Isabel Victor assess museological engagement with ICH in a range of Portuguese-speaking countries (Lusofonia) – from Portugal to Mozambique and Macau – and argue that the philosophy and practices of sociomuseology offer a more dynamic and integrated approach for its safeguarding and promotion. Ashley Minner presents the history and initiatives of the Baltimore American Indian Center, which was established in the late 1960s as a community-run space that includes a museum and educational center for promoting the tangible and intangible heritage of the Lumbee Indians, as well as other Indigenous community members living in the region. Reminding us of the great wealth of knowledge and information represented within archival collections, Clifford Murphy underscores their uses for breathing new life into contemporary ICH expressions, such as Appalachian Mountain music in the US state of Maryland, by not only linking the present to the past, but also by helping to keep alive and promote the historical roots and living legacies of which so much of today's ICH is a part.

The final section, 'Alternative approaches to safeguarding and promoting intangible cultural heritage', provides a view towards the future that moves beyond the UNESCO-ICH framework. Chapters present case studies of projects that are already underway as ways

forward for mitigating the challenges discussed in earlier sections, as well as for fostering full participation of communities, groups and individuals in safeguarding and promotional processes. Echoing Herman's chapter on digital 'architectures' that can be used to represent more accurately Indigenous ICH and its connections to place, Natalie M. Underberg-Goode discusses a similar, yet different, interactive web-based project for exploring cultural practices and their meanings in the context of northern Peru.

Since the 1970s, ecomuseology has come to represent a set of principles and corresponding approaches within the broader heritage enterprise that has more recently been argued – as well as shown – to offer a holistic and integrated approach for local-level, community-driven ICH safeguarding.<sup>9</sup> As there are roughly 1,000 ecomuseums around the world, including, admittedly, some that use the 'ecomuseum' name in vain, it is important to draw attention to their differing aims, methods and modes of operation that are – in most ideal form – based in the needs and decisions of local community members. As such, Dragana Lucija Ratković Aydemir discusses the community-based efforts of the Ecomuseum Batana in Rovinj, Croatia, which serves to protect and promote the longstanding fishing culture of the town in partnership with community members who use, restore and still make the unique batana boats. Similarly, Glenn C. Sutter and Donatella Murtas each present ecomuseological projects that focus on ICH in their home countries of Canada and Italy, respectively.

Taken together, the 38 chapters may be considered as a critical exploration of ICH in its two main manifestations. In one view, it is examined as a 'term of policy',<sup>10</sup> tied directly to the 2003 Convention and the associated definitions and domains through which it can take shape. In another view, while it is discussed as 'ICH' (since the term provides a unifying device for scholarly dialogue), it can just as well be 'living cultural traditions', 'folklife' and 'traditional culture', or however it is conceived of within source communities and contexts. In other words, there is the 'ICH' that derives its meaning at the international and national levels, and then there are the living cultural traditions, practices and expressions that are valued at the local level under an immeasurable array of names. A conceptual bridging of the two – somehow – will need to happen for the 2003 Convention to truly work. Nonetheless, while the following chapters draw on both 'ICH' manifestations, oftentimes within the same text, they also serve to underscore their differences and keep them separate.

Whether operating within the UNESCO-ICH paradigm or others that have similar intentions, such as public folklore in the US, the conscious awareness of our roles and privileges in naming, sustaining and publicizing the cultural lifeways of others is paramount. Here, a re-balancing – not just equalizing – of power within heritage interventions could be more readily achieved, with the scales tipping in favor of the source communities, groups and individuals with whom we work. It is possible that one step along the way towards this re-balancing may need to involve an expansion of the scholarly and professional sharing of reflexive accounts and 'confessions'<sup>11</sup> concerning our part in shaping heritage. While, in 2016, this may not be a groundbreaking proposition, it is a call for more: more exchange, greater inclusivity and an increase in support for critical examinations of the ways in which 'ICH' is made.

## **Notes**

1 See <http://www.unesco.org/culture/ich/en/states-parties-00024>

2 This is just an average; for instance, forty-four elements were inscribed in 2010, while twenty-three were in 2015. See <http://www.unesco.org/culture/ich/en/lists>

- 3 A selection includes the Cross Cultural Task Force concurrent session on Museums and Intangible Cultural Heritage at the General Conference of the International Council of Museums (ICOM), Vienna, Austria, 2007; *Intangible Heritage Embodied*, a conference organized by the Collaborative for Cultural Heritage and Museum Practices (CHAMP) at the University of Illinois at Urbana-Champaign, USA, 2007; *Exploring Intangible Heritage*, a postgraduate student conference at the University of Ulster, Londonderry, Northern Ireland, 2008; *Between Objects and Ideas: Re-thinking the Role of Intangible Heritage*, the 4th Annual International Colloquium of the Ename Centre for Public Archaeology and Heritage Presentation, Ghent, Belgium, 2008; the biennial *Sharing Cultures* conferences of the Green Lines Institute (Portugal) since 2009; the Museums and Intangible Cultural Heritage Field School of the Sirindhorn Anthropology Centre (Thailand) from 2009–2014; as well as the more recent Association of Critical Heritage Studies international conferences, among numerous others.
- 4 See for instance Nas, 2002; Brown, 2003, 2005; Kirshenblatt-Gimblett, 2004, 2006; Kurin, 2007.
- 5 See for instance Adell *et al.*, 2015; Foster and Gilman, 2015.
- 6 See for instance Smith and Akagawa, 2009; Ruggles and Silverman, 2009; Stefano, Davis and Corsane, 2012; Adell *et al.*, 2015; Foster and Gilman, 2015.
- 7 See de Varine, 1973.
- 8 Smith, 2006.
- 9 See Davis, 1999, 2011; Stefano, 2012.
- 10 Hafstein, 2009.
- 11 Adell, 2015, p. 238.

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# **PART I**

## **A decade later**

### **CRITICAL REFLECTIONS ON THE UNESCO- ICH PARADIGM**



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# 1

## DEVELOPMENT OF UNESCO'S 2003 CONVENTION

### Creating a new heritage protection paradigm?

*Janet Blake*

#### **Introduction**

It is possible to assert that the 2003 Convention has created a 'new paradigm' in heritage protection. In many ways this is true in terms of policy- and law-making at the international level and, through a trickle-down effect, on national approaches towards heritage and heritage communities. At the same time, it should be recognized that safeguarding ICH<sup>1</sup> has, in reality, been an important issue for the large majority of countries and people around the globe long before the 2003 Convention was adopted.<sup>2</sup> The 'problem' of ICH that the international community sought to address through UNESCO in the late 1990s, leading to the adoption of the 2003 Convention, was, in large part, a lack of formal international recognition having hitherto been shown to this reality. Up until that moment, the cultural heritage protection paradigm was one that prioritized monumental 'European' cultural forms over local and Indigenous ones and that, when it addressed 'traditional culture', did so from a position that favored the interests of the research community over those of culture bearers (Blake, 2001).

Indeed, the success of this Convention since 2003 in securing ratifications<sup>3</sup> is testament to the fact that it was answering a present need of many Member States of UNESCO and one that responded well to some of the international policy priorities that were strongly felt at that time and continue to be today. In particular, the experience of countries that are Parties to the 2003 Convention demonstrates clearly that, for many of them, ICH in its diverse forms is a rich social, economic and even political resource that provides a variety of possible routes towards sustainable models of development. The variety of manifestations of ICH – both intangible and associated material elements – is itself determined by a number of social, cultural, economic, political and environmental factors. In this way, ICH is also seen to make a particularly significant contribution to the value of cultural diversity that had been recently recognized in the 2001 UNESCO *Universal Declaration on Cultural Diversity*, including its important human rights dimensions (UNESCO, 2001a).

This wider context within which the 2003 Convention was developed is therefore essential not only to understanding why it took the form that it did, but also to interpreting the way in which it caught the international mood of the time, and contributed towards a paradigm shift that was occurring not only in the field of cultural heritage, but also in related fields of development, human rights, environmental protection and intellectual property protection. In the following section, therefore, I wish to draw out some of the main lines of these evolutions of international cultural policy and law, demonstrating the growing recognition of the power and value of this aspect of heritage. Following that, I will attempt to show how the 2003 Convention has reflected and continues to reflect these trends, as well as what our experience of its implementation, since its enforcement in April 2006, has shown us about these and other key questions.

### **The international policy context**

First, I consider developments in international policy-making from the 1970s to the 1990s that can be regarded as milestones leading up to the preparation and adoption of the 2003 Convention. These can also be tracked through the experience of the early years of its implementation as is described in more detail in a following section. In terms of development, up until the 1970s, this had generally been conceived of in terms of a purely economic phenomenon in which GDP growth was the primary, if not the sole, indicator of success (Arizpe, 2004, 2007). In this dominant model of development, culture was often viewed as a brake on development, with the ‘traditional cultures’ of the less-developed countries being especially poorly regarded (Douglas, 2004) by the Bretton Woods Institutions<sup>4</sup> and other lending bodies. The earliest challenges to this economic model – that was being imposed by mostly external lending institutions on less developed countries – came from countries of Africa and Latin America that experienced an intellectual shift towards the notion of ‘endogenous development’ in which local and ethnic cultures (and languages) were given greater value (Arizpe, 2007). Significantly, in this approach, culture was substituted for the economy in the development model and traditional ways of life were emphasized.

The World Conference on Cultural Policies (MONDIACULT), held in Mexico in 1982, articulated for the first time on the international stage a view of culture as a broad notion that went beyond the material culture of archaeological remains or high, artistic cultural productions to one that embraced ways of life, social organization and value/belief systems, as well. In defining ‘culture’ it also, importantly, linked this with the idea of cultural identity:

[‘Culture’ is] the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs.

*(UNESCO, 1982, Preamble)*

It is really quite striking to see how closely the definition of ICH in the 2003 Convention drew on the overall approach taken by the MONDIACULT meeting over 30 years previously. In Article 2, ICH is defined for the purposes of the 2003 Convention as meaning:

[T]he 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.

*(UNESCO, 2003)*

Moving forward in time, the early to mid-1990s also provided a moment at which important new thinking occurred in international development theory. At this time, we observe first the evolution of the fundamentally important notion of human development, which was formulated initially by the Nobel Prize-winning economist Amartya Sen (Sen, 1999; UNDP, 1994; UNESCO, 2000). This approach was adopted by the United Nations Development Programme (UNDP) for its Human Development Reports series from 1990 and, crucially, brings much closer together the idea of development with human rights (UNESCO, 2000). At around the same time, the concept of sustainable development was also being developed, first articulated by the World Commission on Environment and Development in its Report (WCED, 1987, Chapter 2) as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'. This concept was, of course, further refined, elaborated and given formal international endorsement in 1992 in the Rio Declaration (UNCED, 1992; Boyle and Freestone, 1999), mentioned later.

In 1995, the World Commission on Culture and Development, which had been established by UNESCO, reported and stressed both the role of culture as a constituent element in the development process rather than the contingent one it was often thought to be, as well as the key part played by ICH in this (WCCD, 1995). Another key document in this area was the Action Plan on Cultural Policies for Development (UNESCO, 1998), which recognized in its first Principle that, '[s]ustainable development and the flourishing of culture are interdependent', and then led to the formulation of its first objective as seeking to 'make cultural policy one of the key components of development strategy', including the requirement to '[d]esign and establish cultural policies or review existing ones in such a way that they become one of the key components of endogenous and sustainable development'. With regard to cultural heritage, Objective 3 calls on Member States to '[r]einforce policy and practice to safeguard and enhance the cultural heritage, tangible and intangible, moveable and immovable, and to promote cultural industries', and this would include renewing the traditional conception of heritage as including 'all natural and cultural elements, tangible or intangible, which are inherited or newly created. Through these elements social groups recognize their identity and commit themselves to pass it on to future generations in a better and enriched form' (UNESCO, 1998). Hence, the connection is made explicitly here between heritage as a holistic concept, the interaction between cultural and natural elements of heritage, the imperative to safeguard it and pass it on to future generations (possibly in an enhanced condition) and the role of heritage in the formation of group identity.

More recently, UNESCO has been working to place this role of culture in development back onto the international agenda, especially in recognition of the fact that the Millennium Development Goals (MDGs) (UN, 2000) failed to include any explicit cultural goal (despite the fact that those relating to education, in particular, and health, more tangentially, clearly contain important cultural components) (Alston, 2005; Alston and Robinson, 2005). UNESCO's involvement in the Millennium Development Goals Achievement Fund (MDG-F) initiative has been one of the ways in which it has attempted to make the role of culture more prominent in international development policy-making. Established in December 2006 by the UN (with a contribution of 710 million USD from the Spanish

Government), the MDG-F was designed as a mechanism for international cooperation to facilitate achievement of the MDGs worldwide through supporting national governments, local authorities and civil society organizations in eight 'Thematic Windows', one of which was in the area of culture and development, with UNESCO playing the leading role. The main purpose of the Culture and Development Thematic Window was to demonstrate, although not explicitly mentioned in the MDGs, that culture and cultural resources are essential for national development, particularly in relation to alleviating poverty and ensuring social inclusion (UN, 2006).

Among the aforementioned shifts in the international development paradigm, the adoption of the 1992 Rio Declaration was without doubt the most far-reaching at the time and one that has had the most lasting effect up until now. Among other points, it reflected the fact that the value of local and Indigenous cultures and their heritage were becoming increasingly recognized within wider society as a resource for its overall development.<sup>5</sup> With the adoption of the Rio Declaration, not only was sustainable development first given universal international endorsement, but one of the three 'pillars' of sustainable development was also understood to be a sociocultural one, operating alongside the two central economic and environmental ones. In its Preamble, the 2003 Convention refers to 'the importance of the intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development', but fails to elaborate on what this means either in terms of principle or practice. As we shall see later, several Parties have now started to elaborate cultural and development policies in which this role of ICH is becoming more clearly defined; although, this remains a 'work-in-progress' and it is too early to establish in very explicit terms what policy and other instruments are needed for governments to ensure and maximize this important potential of ICH.

Indeed, following the adoption of the 2003 Convention and the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* in 2005 (UNESCO, 2005a), UNESCO began to consider more deeply the relationship between cultural heritage, creativity and sustainability of development. It should be remembered that both of these treaties make explicit reference to the role played by cultural heritage and cultural goods and services in sustainable development; with regard to ICH, the 2003 Convention notes its importance:

[A]s a mainspring of cultural diversity and a guarantee of sustainable development, as underscored 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.

(UNESCO, 2003, Preamble)

An internal UNESCO evaluation of the 2003 Convention undertaken in 2013 offered two recommendations (Recommendations 3 and 5) specifically referring to how sustainable development as an objective can be better incorporated into the Convention's operation to: '[e]nhance cooperation with sustainable development experts for integrating ICH into non-cultural legislation and policy, and for other work related to ICH and sustainable development'; and '[c]ooperate with sustainable development experts when supporting State Parties with the integration of ICH into non-cultural legislation and policy, and with other work related to ICH and sustainable development' (Torggler and Sediakina-Rivière, 2013, pp. 30–31). In response, the Intangible Cultural Heritage Committee (hereafter ICH Committee) that was established under Article 5 of the 2003 Convention adopted a decision at its ninth meeting in Paris in November 2014 to achieve this purpose (UNESCO, 2014). This movement not only

reflects the desire of UNESCO to make the cultural aspects of sustainable development more prominent in the international agenda, but also the need for a more profound and developed appreciation of what this means in reality for safeguarding ICH. This latter point is well made in the aforementioned UNESCO evaluation which noted that:

[W]hile people involved in the Convention generally agreed that the link [with sustainable development] was important, clarifying the nature of this link, identifying the potential that these linkages hold both for sustainable development on one hand and for the viability of ICH on the other, identifying the potential risks that development, if not sustainable, holds for ICH, etc. were still very much a work in progress.

*(Torggler and Sediakina-Rivière, 2013, p. 22)*

The 2005 Convention goes even further by including in its purposes the objective to 'reaffirm the importance of the link between culture and development for all countries, particularly for developing countries, and to support actions undertaken nationally and internationally to secure recognition of the true value of this link', as well as including sustainable development as one of its foundational principles (UNESCO, 2005a, Articles 1–2). Moreover, it includes two substantive articles that set out the need to integrate culture in sustainable development at all levels (local, national, regional and international) for the 'creation of conditions conducive to sustainable development and, within this framework', and the requirement for States Parties to 'support cooperation for sustainable development and poverty reduction, especially in relation to the specific needs of developing countries, in order to foster the emergence of a dynamic cultural sector' (UNESCO, 2005a, Articles 13–14). Article 14 then sets out in detail the means that can be taken to achieve this, including strengthening of the cultural industries in developing countries (through six specific measures), capacity-building and the training of human resources in developing countries in both public and private sectors, the transfer of technology and know-how, especially in the areas of cultural industries and enterprises, and financial support mechanisms (including development assistance, other forms of financial assistance and establishing the International Fund for Cultural Diversity).

Recently, the outcome document of the 2012 United Nations Conference on Sustainable Development (Rio+20) made direct reference to culture, emphasizing that the three dimensions of sustainable development, namely the economic, sociocultural and environmental dimensions, should all be given importance in UN programming for sustainability (UN, 2012). However, it contains only a few, rather modest, references to the role of culture for sustainable development, and there is no in depth discussion of the linkages between culture and development, or of the potential contribution of culture to sustainable development (Torggler and Sediakina-Rivière, 2013, p. 13). In May 2013, UNESCO organized an International Congress in Hangzhou, China on the subject of 'Culture: Key to Sustainable Development' with the aim of examining these linkages more profoundly and for providing a sound basis for future policy-making and programming. This meeting was the first global forum to discuss the role of culture in sustainable development within the context of a post-2015 development framework. The Hangzhou Declaration from this meeting reaffirmed the role of culture as an enabler and a driver of sustainable development and it called for a specific international development goal focused on culture to be included in the post-2015 UN development agenda. This goal should be 'based on heritage, diversity, creativity and the transmission of knowledge and [should include] clear targets and indicators that relate culture to all dimensions of sustainable development' (UNESCO, 2013, p. 6).



Importantly, each of the aforementioned development approaches, in addition to stressing the central role of culture (and heritage) in the development process in order to ensure its sustainability, also have strong human rights aspects that reflect the need to develop human capacities (as supported by human rights) and social justice. It is therefore no accident that, at the same time as these new development paradigms were gaining ground internationally, cultural rights, which had for a long time (since the adoption of the UN *Covenant on Economic, Social and Cultural Rights* in 1966) been the ‘Cinderella’ of the human rights family (Symonides, 1998), began to receive belated international recognition. In UNESCO, for example, a program was initiated with the intention of codifying cultural rights and this led to the publication of an essay collection aimed at clarifying the scope, content and nature of these rights (Niec, 1998). This work also led to the later adoption of the 2001 *Universal Declaration on Cultural Diversity* that, as we have seen, was a very significant background document for the later adoption of both the 2003 and 2005 Conventions by UNESCO.

Having worked with UNESCO in the early to mid-1990s, the Institute of Human Rights at Fribourg University, along with leading experts in the field of cultural rights, later developed and adopted the *Fribourg Declaration on Cultural Rights* (2007). Although it has no legal status, as such, this text is the most reliable exposition thus far of the nature and content of cultural rights. In its Preamble, it reiterates that there is an explicit connection between cultural heritage (as a critical factor in ensuring cultural diversity) and sustainability of development that guarantees *all* internationally recognized human rights by stating: ‘respect for diversity and cultural rights is a crucial factor in the legitimacy and consistency of sustainable development based upon the indivisibility of human rights’ (Fribourg, 2007, Preamble). In a related development, the Economic and Social Council of the UN (ECOSOC) had been working towards a draft Declaration on Indigenous Rights since the early 1990s with strong Indigenous involvement and, as part of this work, the UN Special Rapporteur on Indigenous Rights had prepared a report on Indigenous heritage (Daes, 1997). However, it took until 2007 for the UN General Assembly to adopt the UN *Declaration on the Rights of Indigenous Peoples*, reflecting a serious resistance among many States towards recognizing Indigenous rights that go beyond simply protecting their heritage and way of life, for example, to including access to and control over ancestral lands and their natural resources (UNGA, 2007).

### **The international legal context**

During this period, a related paradigm shift was also occurring within UNESCO’s cultural heritage treaty-making. Up until the 1990s, normative activity in this field had been concerned almost exclusively with material elements of what often represented monumental and prestigious culture. Hence, the *Convention for the Protection of Cultural Property in the Event of Armed Conflict* (Hague Convention) was designed to protect cultural and historic monuments and movable property during armed conflict (UNESCO, 1954); the 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* addressed prevention of the illicit trade and movement of cultural property and provided a framework for securing the restitution of such objects (UNESCO, 1970); and the 1972 World Heritage Convention was primarily aimed at cultural and natural monuments and sites of universal significance (UNESCO, 1972). Adopted at the beginning of the new millennium, the *Convention on the Protection of the Underwater Cultural Heritage* was based on a draft initially prepared in the early 1990s, and also focuses very clearly on material cultural and historic remains on the seabed, particularly shipwrecks and their cargo (UNESCO, 2001b).

The adoption of the *Recommendation on the Safeguarding of Traditional Culture and Folklore* by UNESCO Member States in 1989 signalled a growing appreciation of the need to give greater attention to non-material and often mundane cultural forms and expressions. Although it has subsequently been criticized as too heavily a researcher-driven text (Blake, 2001), this recommendation was significant in that its very existence opened the way for later developing the 2003 Convention. In addition, it made it possible for the 2003 Convention to be created as a broadly *cultural* convention, and not as a treaty solely addressing the intellectual property aspects of protecting traditional cultural expressions (a narrower category than ICH). The 1989 Recommendation was divided into seven sections that cover, inter alia, measures for the identification, conservation, preservation, dissemination and protection (understood as intellectual property-style protection) of the 'traditional culture and folklore' that is its focus. It is notable that some of these measures accord fairly closely to the main 'safeguarding' actions as set out in Article 2(3) of the 2003 Convention, namely the identification, documentation, research, preservation, protection, promotion, enhancement and transmission of ICH.

In tandem with this work related to traditional culture and folklore, which later became known as ICH in UNESCO's normative activities, the *Operational Guidelines* to the 1972 World Heritage Convention underwent several revisions between 1992 and 2005 (UNESCO, 2005b), which have increasingly allowed for non-material associated elements as inscription criteria, as well as greater input from local communities in the design and implementation of management plans (Deacon and Beazley, 2007). Thus, in the 1992 version of the *Operational Guidelines*, the notion of cultural landscapes was first introduced as a potential category of World Heritage property and, of the three categories of cultural landscapes defined in the 1992 version, were '(iii) associative cultural landscapes whose inclusion is justifiable by virtue of the *powerful religious, artistic or cultural associations of the natural element* rather than material cultural evidence, which may be insignificant or even absent' (UNESCO, 1992, Paragraph 10; emphasis added). Thus, we can clearly see the way in which not only are the cultural associations of natural sites being acknowledged, but also, and importantly for this chapter, that they are of an intangible cultural character as a result of their contrast with any 'material cultural evidence' present at heritage sites.

In later versions of the *Operational Guidelines*, the associated intangible values of World Heritage sites have increasingly found prominence with the introduction of the category of mixed cultural–natural heritage in 1998, for example, where the linkage between the cultural and natural heritage aspects of sites is often an intangible one. This mutuality of the relationship between the tangible and intangible aspects of heritage is well expressed by Deacon and Beazley (2007, p. 93), who note that '[i]ntangible heritage is probably best described as a kind of significance or value, indicating non-material aspects of heritage that are significant, rather than a separate kind of "non-material" heritage'. It is through intangible practice, use and interpretation that tangible heritage elements acquire their meaning. However, at the same time, they note that '[i]ntangible values can, however, exist without a material locus of that value', and can exist independently of any tangible form (Deacon and Beazley, 2007, p. 93). As a result of this interrelatedness of tangible and intangible heritage, a degree of overlap has developed in the operations of the 1972 and 2003 Conventions where these different aspects of the same cultural heritage may qualify for international inscription.

A frequently cited example of this overlap concerns the rice terraces of the Ifugao community that extend over the highlands of the northern island of the Philippine archipelago (in the Cordilleras), which were inscribed on the World Heritage List in 1995; and in 2008, the Hudhud narrative chants traditionally performed by women when planting the rice were inscribed on the 2003 Convention's Representative List (Deacon and Beazley,

2007; Boer and Gruber, 2009). Further examples of this interplay between the tangible and intangible aspects of World Heritage properties can be found, especially in the case of properties inscribed as cultural landscapes or mixed cultural/natural properties. For instance, we can cite the Bandiagara site in Mali that was inscribed in 1989 on the basis of two criteria, one of which is cultural and the other natural. This is an outstanding landscape consisting of cliffs and sandy plateaux, which also contains some beautiful architectural elements (houses, granaries, altars, sanctuaries and *Togu Na*, or communal meeting places). Notably, it is also the location for several age-old social traditions that would now be understood as ICH (wearing masks and holding feasts, rituals and ceremonies involving ancestor worship).

Similarly, the 'Vat Phou and Associated Ancient Settlements within the Champasak Cultural Landscape' property in Laos, which was inscribed in 2001, is a planned landscape dating back more than 1,000 years (see UNESCO, 2016). This site, which is mainly associated with the Khmer Empire, expresses a Hindu vision of the relationship between nature and humanity in its geometric relationship between the buildings and system of reservoirs or *barays* (using an axis from mountain top to river bank). In this sense, its intangible aspect in terms of the aforementioned religious and philosophical conceptual framework is an essential and integral part of the site's design and of our ability to 'read' its meanings.

These evolutions in UNESCO's normative activity in relation to cultural heritage have constituted a response to demands from non-Western developing countries for their heritage to be better reflected in international protection. One way in which this has manifested itself has been in the call for greater geographic representation in inscriptions to the World Heritage List and to move away from a 'Eurocentric' bias towards a monumental (and heavily tangible) conception of heritage.<sup>6</sup> Hence, the 'Global Strategy for a Representative, Balanced and Credible World Heritage List' was adopted by the World Heritage Committee in 1994. This policy initiative proposed a 'move away from a purely architectural view of the cultural heritage of humanity towards one which was much more anthropological, multi-functional and universal' with regard to cultural properties inscribed on the List (UNESCO, 1992).

## Conclusion

An important aspect of the 2003 Convention, as this chapter has sought to demonstrate, is the degree to which it responds to a number of objectives and concerns of the international community at the turn of the millennium (many of which remain high in priority). As a result, it has provided States Parties with a framework within which to develop policies and programs related to a wide number of aspects of government – from tourism to environmental protection, social inclusion and rural development – to which ICH and its safeguarding is contingent. This broadening out of the conception of the role of cultural heritage in society and, in particular, in the realization of truly sustainable forms of development, must be seen as one of the most significant evolutions in our understanding of cultural heritage protection as a policy goal and, even, a policy tool. The 2003 Convention is one of the leading international heritage treaties – along with the 2005 Convention and on the regional level, the 2005 *Faro Convention on the Value of Cultural Heritage for Society* (Council of Europe, 2005) – that reflects this new thinking about the role of cultural heritage. As this chapter attempts to demonstrate, its implementation over time promises to offer new insights into how this aspect of heritage can be harnessed for the purpose of social and economic development.

Familiarity with this wider context within which the 2003 Convention was developed is therefore essential to understanding why it took the form that it did. It is also necessary for us to be able to recognize how it caught the international zeitgeist of the time and contributed

towards a paradigm shift that was occurring not only in the field of cultural heritage, but also in related fields of development, human rights, environmental protection and intellectual property protection. In my later chapter in this volume, I draw out some of the main lines of these evolutions of international cultural policy and law, demonstrating the growing recognition of the power and value of this aspect of heritage (see Chapter 6). I also attempt to demonstrate how the 2003 Convention has reflected and continues to reflect these trends, as well as tracing what experience we can now draw from the implementation of its provisions by States Parties since the earliest ratifications in 2003.

## Notes

- 1 Several terms have been used, some more appropriately than others, to cover this aspect of heritage, such as 'traditional culture', 'folklore', 'traditional folk culture', 'popular culture' and 'living culture'.
- 2 For example, Bolivia had proposed, during its negotiation, that the 1972 Convention should cover tangible and intangible cultural heritage as well as natural heritage.
- 3 Nearing the tenth anniversary of its adoption, the Convention had secured 155 ratifications with the ratification by Malaysia on 23 July 2013. It now has 170 Parties. This is very high and compares favorably with UNESCO's most successful ever treaty – the World Heritage Convention – that had 190 Parties by 2012 (40 years after its adoption). Information on ratifications to the 2003 Convention available online at: <http://www.unesco.org/culture/ich/en/states-parties-00024> (accessed 4 September 2016).
- 4 These are the World Bank and the International Monetary Fund (IMF) established in 1944. The World Trade Organisation (WTO) created in 1994 can be included.
- 5 The Biological Diversity Convention adopted at UNCED in Rio in 1992 at the same time as the Rio Declaration also gave a prominent position to 'local and indigenous knowledge, practices and innovations' in ensuring environmental sustainability (at Art. 8(j)). UNESCO (1990) in *The Third Medium-Term Plan* (1990–5) (25C/4) recognized in para. 215 that cultural heritage was 'a living culture of the people', the safeguarding of which 'should be regarded as one of the major assets of a multidimensional type of development'.
- 6 This has been seen also in calls for greater geographic representation on the World Heritage List. In some countries, especially in Africa, ICH can constitute as much as 70–80 percent of its important cultural heritage.

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## 2

# THE EXAMINATION OF NOMINATION FILES UNDER THE UNESCO CONVENTION FOR THE SAFEGUARDING OF THE INTANGIBLE CULTURAL HERITAGE

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### **Introduction**

The 2003 Convention, which currently has 170 States Parties, was drafted in the early 2000s, just over 30 years after the 1972 World Heritage Convention, which currently has 192 States Parties (see UNESCO, 1972; 2003).<sup>2</sup> The 2003 Convention borrowed some of the text and features of the 1972 Convention, including an international listing system (UNESCO, 2003, Articles 16–17; 2014a, OD 1–2). The similarities and differences between the approach and implementation of these Conventions have been the object of some analysis (see Smith and Akagawa, 2009; Skounti, 2011; Deacon and Smeets, 2013a, 2013b). To date, however, more attention has been paid to the origins, rationale and possible consequences of listing ICH at the international level (e.g. Hafstein, 2009) than to the processes by which the nominations are examined. This chapter builds on earlier papers on this topic (Deacon and Smeets, 2013b; Smeets 2013a, 2013b) to assess the current challenges faced by the 2003 Convention in developing an efficient and credible system of examination for nominations to its two international lists, the Representative List and the Urgent Safeguarding List, reflecting on the experiences of the World Heritage (WH) listing system.

Evaluations of the implementation of both Conventions within UNESCO (UNESCO, 2011a; 2013b) suggest that the credibility of the inscription process is linked to its transparency, consistency and adherence to agreed criteria for inscription, because these factors affect their capacity to promote the conservation or safeguarding, as well as the visibility of the heritage inscribed on the lists of the two Conventions. As Rao (2010) has remarked, it is important to

ensure that the desire of States Parties to inscribe WH properties (or ICH elements) on the lists of these Conventions does not override serious and independent consideration of their compliance with the criteria for inscription.

Since States Parties themselves put forward the nominations to the lists, the use of advisory bodies to assess compliance with the criteria for inscription is an important aspect of a credible examination process. This is because under both Conventions, this process ends in a decision by the small group of States Parties who have been elected as Intergovernmental Committee members. In 2012, responding to growing criticism of the way in which inscription on the WH List had become increasingly politicized and divorced from consideration of the criteria, UNESCO's Director-General, Irina Bokova, appealed to WH Committee members, 'as accountants of the World Heritage label', to ensure that the credibility of the inscription process was 'absolute at all stages of the proceedings – from the work of the advisory bodies to the final decision by the States Parties, who hold the primary responsibility in this regard' (Bokova, 2012, pp. 2–3).

Unfortunately, the pattern has not changed; the WH Committee has continued to press for more inscriptions on the WH List regardless of the quality of the nominations. Tension between the Committee and its advisory bodies, especially the International Council on Monuments and Sites (ICOMOS), continues to rise as the Committee members frequently override the recommendations of the advisory bodies (Meskell, 2013a). To address these problems, Rao (2010, p. 161) has proposed an accelerated system of redressing regional imbalances in the WH List, and enhanced international cooperation 'to marshal and provide the best technical knowledge' for the process of inscribing properties on it.

The challenges faced in retaining credibility of inscriptions under the 1972 Convention raises a number of questions about the examination process for nominations under the 2003 Convention. Given the conceptual and operational differences between the two Conventions, to what extent does the examination process for the 2003 Convention lists face similar challenges, and what might be the solutions? How can implementation of the 2003 Convention find an appropriate balance between the roles and interests of communities concerned, States Parties and NGOs or heritage professionals in promoting ICH safeguarding through the international listing system? How can the credibility and effectiveness of the listing system be enhanced under the 2003 Convention? Can the processes of decision-making about inscriptions in the ICH Committee be designed in such a way as to counter the tendency towards politicization that has been seen in the WH Committee?

In addressing these questions, this chapter outlines some of the similarities and differences between the two Conventions and their examination of nominations, before exploring in some detail the past and present examination procedures for nomination files to the two lists of the 2003 Convention, and the resources deployed for its implementation. Particular attention will be paid to the involvement of communities, groups and individuals concerned, and to the use of the expertise of heritage professionals and NGOs in evaluating files. Finally, some solutions will be proposed.

## **The two conventions**

It is clear that, despite certain similarities, the 2003 Convention represents a significantly different approach to the definition and management of heritage than the one enshrined in the 1972 Convention. Whereas the 1972 Convention seeks to 'conserve' iconic natural and cultural properties that thanks to their 'outstanding universal value' are inscribed on the WH List, the 2003 Convention seeks to promote the 'safeguarding', or continued practice and



transmission, of any ICH ‘element’ (broadly defined in Article 2.1, UNESCO, 2003) that is considered valuable by any community. The 2003 Convention requires States Parties to set up inventories of the ICH in their territory and to take the ‘necessary measures’ to ensure the safeguarding of – in principle – all of this ICH by and with the communities concerned (UNESCO, 2003, Articles 11 and 15). States Parties may nominate ICH elements included on their inventories to one of the international lists. This will usually – depending on the scope of the inventories – relate to a small proportion of the inventoried ICH. By contrast, under the 1972 Convention, States Parties only have responsibilities for the conservation of properties of ‘outstanding universal value’, whether on a national Tentative List or the WH List (UNESCO, 1972, Article 6).

The WH Committee has a mandate to conduct most of the business of the 1972 Convention, reporting directly to the General Conference of UNESCO (UNESCO, 1972, Article 29), whereas the Intergovernmental Committee of the 2003 Convention (the ICH Committee) reports to, and acts largely under the direction of, the General Assembly of all the States Parties (UNESCO, 2003, Articles 4–5). The twenty-one members of the WH Committee are elected by the States Parties to the 1972 Convention meeting in general assembly at the time of the biennial ordinary sessions of the General Conference of UNESCO (UNESCO, 1972, Article 8); whereas, the twenty-four members of the ICH Committee are elected by that Convention’s General Assembly of States Parties that comes together for substantial sessions every second year (UNESCO, 2003, Article 5). In spite of their different spheres of authority, the Intergovernmental Committees of both Conventions are responsible for making decisions for inscription of WH properties or ICH elements onto their respective international lists.

Under the 1972 Convention there is only one list, the WH List (1,007 properties as of June 2014; UNESCO, 2015a), with a subsidiary List of World Heritage in Danger on which the Committee places those properties facing severe threats to their outstanding universal value (forty-six properties as of June 2014; UNESCO 2015b). The 2003 Convention (UNESCO, 2003, Articles 16–17) makes provision for two independent lists to which nominations can be made: the Representative List (336 elements as of late 2015; UNESCO, 2015c) and the Urgent Safeguarding List (forty-three elements as of late 2015; UNESCO, 2015c). The ICH Committee, interpreting and implementing Article 18 of the Convention, also created a Register of Best Safeguarding Practices (UNESCO, 2014a, OD 42–46), which has no equivalent under the 1972 Convention. The Register, which is sometimes presented as the third and – in principle – most important list, has had difficulties in gaining momentum. The States Parties have not yet proposed many safeguarding practices to the Register, and the Committee has decided not to select a number of these proposed practices. Between 2009 and 2015, only twelve best safeguarding practices were included on the Register (UNESCO, 2015c).

Due to concerns about creating hierarchies between elements, and ‘freezing’ ICH forms, the establishment of a listing system was one of the most controversial issues in the drafting of the ICH Convention. However, there was significant pressure from UNESCO Member States wishing to create an international ICH listing system to parallel that of the 1972 Convention (Hafstein, 2009). This was partly because Member States wished to find a home for the ICH elements recognized as ‘Masterpieces of the Oral and Intangible Heritage of Humanity’ under a previous UNESCO programme (hereafter Masterpieces Programme), which was actually the first exercise in listing ICH internationally (UNESCO, 2003, Article 31).

The *Operational Directives* of the 2003 Convention (UNESCO, 2014a), and *Operational Guidelines* of the 1972 Convention (UNESCO, 2013a), encourage, to varying degrees, the involvement of communities, heritage professionals, research institutions and NGOs in

heritage identification, documentation and management at the national and international levels. Due to the fact that safeguarding is dependent on the continued practice of ICH by communities and practitioners, and because in the UN system greater attention has been paid to Indigenous and local communities over the last twenty years, the 2003 Convention offers a much stronger encouragement for community involvement and consent in all activities concerning their ICH than found with the 1972 Convention (Blake, 2009; Deacon and Smeets, 2013a).

Provision is made for the Committees of both Conventions to be advised by heritage experts and NGOs (Rao, 2010; Skounti, 2011). For the evaluation of nominations to the WH List, three organizations – the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), the International Union for the Conservation of Nature (IUCN) and ICOMOS – provide advisory services to the WH Committee. The latter two bodies assist in the assessment of all nominations to the WH List (UNESCO, 1972, Article 8; 2015d), and are paid for their services. The process by which ICOMOS evaluates WH nomination dossiers for cultural properties is described in the *Operational Guidelines* (UNESCO, 2013a, Annex 6).

After several experiments with the advisory procedure in the examination of nomination files under the 2003 Convention, an Evaluation Body consisting of six individual experts and six NGO representatives was created in December 2014 to guide the ICH Committee in making inscriptions on both lists and the Register, as well as on requests for financial assistance (UNESCO, 2014a; 2014b). The evolution of the evaluation system can be followed by comparing the relevant *Operational Directives* of the Convention from 2008 to 2016 (UNESCO, 2008, ODs 5–8 and 23–26; 2010a, ODs 25–32; 2012a, ODs 25–31; 2014a, ODs 26–31, 54; 2016b, ODs 26–31, 54–56).

Once nomination files for the lists of the 2003 Convention are submitted to UNESCO by States Parties, they undergo a technical examination by the Secretariat. Only those files the Secretariat considers as complete will be sent to the Evaluation Body, which evaluates the files and formulates a recommendation for each of them. The Secretariat transmits the report of the Body's findings and deliberations to the Committee, which makes decisions at its annual meeting on inscription or rejection of the nominated elements to the lists, or for the referral of nomination files back to States Parties for further information. The Secretariat thus processes files, the Body evaluates them and the Committee examines them. Major steps of this procedure can be followed on the website of the 2003 Convention, where the nomination files under process are posted by the Secretariat (UNESCO, 2016a, 2016b, OD 54).

The two Conventions thus have a similar legal basis, and both have international lists, but they begin from different premises about the nature of heritage (places and monuments versus practices) and the justifications for its protection – or safeguarding (outstanding universal value to humanity versus value to the communities, groups and individuals concerned). The two Conventions also have different mandates for their governing Organs (such as the Intergovernmental Committees and General Assemblies) and the process for the examination of nominations to their lists is rather different.

### **Increasing community participation**

With the two Conventions, it is States Parties that submit nominations to the lists and are represented on the Intergovernmental Committees thereof. Although community involvement is encouraged in the identification, nomination and management of their heritage, community representatives have no permanent, formal role in the work of the

Organs of either Convention (Meskell, 2013b; Deacon and Smeets, 2013a). The ICH Committee may invite knowledgeable ‘public or private bodies, as well as private persons’ to its meetings ‘in order to consult them on specific matters’, but has yet to do so (UNESCO, 2003, Article 8.4; 2014a, OD 84, 96d). Given the role of communities in creating, enacting and transmitting ICH, and given the emphasis that the 2003 Convention and its *Operational Directives* place on community participation in safeguarding ICH, how can communities concerned be more involved in the drafting and evaluation of nomination files and the Organs of the 2003 Convention?

The WH Committee has gradually placed greater emphasis on community involvement in the drafting of nomination files and in the management of WH sites, but this has not yet been translated into formal mechanisms and requirements in the *Operational Guidelines* (see UNESCO, 2013a). The 2003 Convention, and in particular its *Operational Directives*, introduced very specific requirements for evidence of community participation and consent in identification, inventorying and management of their ICH, and in nominations to the lists (Deacon and Smeets, 2013a). However, outside experts still play a large role in drafting nominations to the lists of both Conventions.

Considerable technical information is required in the nomination dossiers for WH properties, which tend to be rather long, stretching to several hundred pages. The nomination forms for the 2003 Convention, in comparison, were designed to be simple and short as a means of reducing the necessity for involving outside experts in their preparation, and to allow for meaningful community participation and control over the process. Completed ICH forms are usually between twenty and twenty-five pages, with the addition of ten photos, a short video and evidence proving community consent. However, since 2009, there has been a tendency for the instructions in the nomination forms to become more precise and detailed (Smeets, 2013a), and it is not easy to complete these forms without substantive training, or expert intervention.

To assist in completing the nomination forms for the two ICH lists, the Secretariat has provided a summary of the considerations of the advisory bodies and the rulings and recommendations of the Committee (see for example UNESCO, 2015e; this so-called aide-memoire is regularly updated). At the request of the ICH Committee, the Secretariat is also carrying out an ambitious capacity-building program (UNESCO, 2014c), developing expertise, for example, in inventorying ICH and preparing nomination files, both with community participation. Nonetheless, although some capacity building workshops and materials are provided in other languages, most of the information prepared by the Secretariat is available in only English and French. This means that many local experts, NGOs and community representatives around the world do not have ready access to information about nomination forms and how to complete them. The demand for international professional and NGO-based expertise for completing ICH nominations is thus likely to continue.

A recently implemented system for online publication of pending ICH nomination files may enable some community oversight over their content (see for example UNESCO, 2015f, 2016a). Any objections submitted to the Secretariat will be passed to States Parties and may be published online (UNESCO, 2012b, Decision 7.Com 15). However, the impact of this facility on community involvement depends on the extent to which communities concerned are aware of the existence of the nomination file, are able to gain access to it and are aware of the mechanism for submitting objections.

There are few existing mechanisms for community involvement in the examination of nominations to the lists of either Convention, or in the monitoring of inscribed ICH elements or WH properties. This is a particular problem for the 2003 Convention as community

involvement is a central requirement for effective safeguarding. In the case of this Convention, communities, groups and individuals concerned may be invited by the Intergovernmental Committee to contribute expertise on specific issues (UNESCO, 2003, Article 8.4; 2014a, OD 89), but since the Convention came into force in 2006, this has yet to happen. At best, communities are represented through States Parties or NGOs at Committee meetings of both Conventions; although, when the text of the 2003 Convention was being negotiated, delegations from Latin American and European states, as well as Algeria, did propose creating an advisory council under the Committee composed of community representatives, or providing other ways for their involvement in evaluation procedures (Aikawa-Faure, 2009).

A 'World Heritage Indigenous Peoples Council of Experts' (WHIPCOE) was proposed in Australia in 2000 to represent Indigenous communities under the 1972 Convention, but the Committee rejected the idea a year later (Meskell, 2013b). A similar proposal for the 'establishment and involvement of an indigenous advisory body in the evaluation of all nominated properties situated in the territories of indigenous peoples and in monitoring the conservation and management of such World Heritage properties' was made in 2012, but again rejected by the Committee members (Meskell, 2013b). While the residual tendency towards Eurocentrism in the WH paradigm and continued tensions between governments and various minority groups in places such as France or the US might explain opposition to Indigenous advisory bodies from some Western countries, Meskell (2013b) points out that many developing countries (including India and Kenya) have also opposed the establishment of such bodies. This opposition reflects tensions at the national level between the interests of States Parties and local communities.

The appointment of any advisory bodies with Indigenous or local community representation thus depends on the agreement of States Members of the Committee in the case of the 1972 Convention; this has not been forthcoming. In the case of the 2003 Convention, similar opposition may be faced in the Committee. The Rules of Procedure (UNESCO 2013c, Nos 20 and 21) do allow the Committee to create temporary ad hoc Consultative and Subsidiary Bodies, but as in the recent change in the system of the advisory bodies, the Committee may feel obliged to refer more long-term decisions to the General Assembly. Referral of the discussion on community representation to the General Assembly in the case of the 2003 Convention may open up the debate to a broader range of States Parties and opinions than in the case of the 1972 Convention.

### **The role of NGOs and heritage professionals**

At the national level, institutions, NGOs and heritage professionals may be involved in developing ICH inventories or management plans for WH properties. They may be part of the preparation of nominations to the international lists and other files. Their expertise has not yet been widely exploited in the evaluation of nomination files under the 2003 Convention, however. Whereas ICOMOS and IUCN advise the WH Committee on nominations to the WH List, when the 2003 Convention was drafted, some States representatives criticized the power and Eurocentrism of the small number of advisory bodies to the 1972 Convention (Skounti, 2011, p. 35). The 2003 Convention aimed to provide a greater regional spread of expertise to serve the evaluation process, given the widely varying nature of ICH across the world, enabling numerous NGOs to be accredited 'to provide advisory services' to the Committee (UNESCO, 2014a, OD 96). A large number of NGOs (currently 164) are now formally accredited under the 2003 Convention, according to specific criteria (UNESCO, 2016b, OD 91ff), cutting across many disciplines, domains of ICH and countries. Although,

half of them are based in States Parties in UNESCO's Regional Group 1 (Western Europe and North America), and are not yet evenly spread on a regional basis.<sup>3</sup>

States Parties meeting in General Assembly accredit NGOs while States Parties sitting on the Committee select members of the Evaluation Body, and undertake the final examination. Could greater involvement of heritage professionals and NGOs in evaluating ICH nominations counterbalance the dominant voice of States Parties in the examination process? Given that representatives of States Parties and concerned communities cannot evaluate their own nominations, and may not have specific expertise on the nominations of other states or communities, could NGOs and heritage professionals also play a valuable role in providing independent substantive review of nomination files, as they already do in the case of ICOMOS and IUCN (Seeger, 2009; Rao, 2010; Meskell, 2013a)? Could heritage professionals and NGOs also enable the voices of community representatives to be better heard in the work of the Committee?

Critical analysis of the assumptions behind professional heritage practice is needed, as much in regard to ICH as tangible heritage (e.g. Smith, 2006). Input from institutions, NGOs and heritage professionals cannot replace independent community representation and engagement in the nomination process. Heritage professionals and NGOs have their own professional or organizational interests (Smith, 2000), and are not entirely independent or disinterested parties in the nomination process. They are often not perceived as independent by communities concerned, and may hold different values. Any conflict between heritage professionals, NGOs and communities may be exacerbated by the fact that legal frameworks at the national level often privilege the opinions and approaches of professional 'experts' over those of the communities concerned (Jopela, 2011).

Recent work around the role of various professional groups as intermediaries (Jacobs, Neyrink and Van der Zeijden, 2014) suggests that they may nevertheless have an important role to play as cultural brokers in ICH safeguarding and policy-making, as well as serving in an advisory capacity to the Committee. Capacity building around strategies for community engagement (in line with UNESCO, 2016a, OD 82–83), can help ensure that external experts develop skills appropriate to evaluation tasks for nomination files, and encourage greater involvement and consultation of community representatives.

The development of appropriate codes of ethics and assessment guidelines may also help to guide external expert involvement in the evaluation of ICH nominations. Members of ICOMOS who conduct evaluations sign ethical guidelines (ICOMOS, 2002) and a *Policy for the implementation of the ICOMOS World Heritage mandate* (ICOMOS, 2010) to help maintain professional standards and credibility. There have been similar calls to develop a model code of ethics for ICH safeguarding under the 2003 Convention. In 2012, the Intergovernmental Committee, recalling Paragraph 103 of the *Operational Directives* (UNESCO, 2014a), called on the Secretariat to 'initiate work on a model code of ethics' (UNESCO, 2012b, Decision 7.COM 6/11). The Secretariat thus held a meeting in early 2015 to start the process of developing a model code of ethics for safeguarding ICH (UNESCO, 2015g). In 2015, the Committee adopted twelve ethical principles for safeguarding ICH (UNESCO, 2015h, Decision 10.COM 15.a). These principles could be used when making decisions about the appropriateness of safeguarding strategies proposed in the nomination files.

Nevertheless, where experts are asked to represent States Parties at WH Committee meetings, national interests and strategies of groups of states often override any professional considerations regarding the inscription of properties on the WH List (Meskell, 2013a). Decisions by members of the WH Committee about inscriptions on the WH List have increasingly deviated in recent years from the recommendations made by the evaluation