Intangible Heritage

The development and ratification of the UNESCO Convention on the Safeguarding of the Intangible Cultural Heritage (2003) has seen a significant increase in international debate about not only the nature and value of intangible heritage, but also the meaning and character of heritage more generally. Greeted with enthusiasm by many countries, the convention was also met with wariness and apprehension in much of the West, and the idea of ‘intangible heritage’ is a relatively unexplored concept in many Western countries.

Intangible Heritage fills a significant gap in the available heritage literature and represents an important cross-section of ideas and practices associated with intangible cultural heritage. The volume brings together authors from the USA, Europe (UK, Germany, Iceland), Africa (Morocco, Zimbabwe), Japan, Tehran and Australia to document and analyse the development of the 2003 convention and its consequences. The opening chapters identify the principles, philosophies and assumptions underlying the convention and discuss the implications these will have, not only for the development of management and conservation/preservation practices, but also for the re-examination of the dominant ideas about the role and meaning of heritage in contemporary societies.

The convention is also reviewed against community and Indigenous cultural concerns and aspirations. Case studies documenting material and cultural politics of intangible heritage are also presented, while other chapters explore the theoretical implications for existing definitions of heritage. The collection brings together a range of areas of expertise, including anthropology, law, heritage studies, archaeology, museum studies, folklore, Indigenous studies and ethnomusicology, and both academics and heritage professionals discuss the theoretical and practical implications of intangible cultural heritage, and the very idea that we can talk about ‘heritage’ and ‘intangible heritage’ is challenged.

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Series editors: William Logan and Laurajane Smith

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Contents

List of illustrations vii
List of contributors viii
List of abbreviations x
Series general co-editors’ foreword xii

1 Introduction 1
LAURAJANE SMITH AND NATSUKO AKAGAWA

Part 1
Convention for the Safeguarding of the Intangible Cultural Heritage: reflections on history and concepts 11

2 From the Proclamation of Masterpieces to the Convention for the Safeguarding of Intangible Cultural Heritage 13
NORIKO AIKAWA-FAURE

3 UNESCO’s 2003 Convention on Intangible Cultural Heritage: the implications of community involvement in ‘safeguarding’ 45
JANET BLAKE

4 The authentic illusion: humanity’s intangible cultural heritage, the Moroccan experience 74
AHMED SKOUNTI

5 Intangible heritage as a list: from masterpieces to representation 93
VALDIMAR TR. HAFSTEIN

6 Lessons learned from the ICTM (NGO) evaluation of nominations for the UNESCO Masterpieces of the Oral and Intangible Heritage of Humanity, 2001–5 112
ANTHONY SEEGER
Part 2

The material politics and practices of the intangible

7 Following the length and breadth of the roots: some dimensions of intangible heritage
DAWSON MUNJERI

8 Deeply rooted in the present: making heritage in Brazilian quilombos
MARY LORENA KENNY

9 The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and the protection and maintenance of the intangible cultural heritage of Indigenous peoples
HENRIETTA MARRIE

10 Indigenous curation, museums, and intangible cultural heritage
CHRISTINA KREPS

11 Intangible cultural heritage: global awareness and local interest
AMANDA KEARNEY

Part 3

Reflecting on the intangible

12 A critique of unfeeling heritage
DENIS BYRNE

13 Heritage between economy and politics: an assessment from the perspective of cultural anthropology
REGINA BENDIX

14 Intangible heritage in the United Kingdom: the dark side of enlightenment?
FRANK HASSARD

15 ‘The envy of the world?’: intangible heritage in England
LAURAJANE SMITH AND EMMA WATERTON

Index

303
Introduction

Illustrations

12.1 An Aboriginal participant in the NSW study draws, from memory, a plan of the location of houses on the Aboriginal reserve at Forster in the 1950s (in the background is an aerial photograph of the town in the 1990s). 239

12.2 Map showing the coastal town of Forster, NSW, with overlay showing Aboriginal mid-twentieth-century walking tracks, fishing and swimming places, as well as three picnic spots (fire symbol). Wallis Lake is visible on the left, showing a jetty where aboriginal people kept boats for use on the lake. 241

13.1 A dynamic triangle: three loci of agency producing heritage. 262
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### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACCU</td>
<td>Asia Pacific Cultural Centre for UNESCO</td>
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<td>AHD</td>
<td>Authorized Heritage Discourse</td>
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<tr>
<td>ANZAC</td>
<td>Australian and New Zealand Army Corps</td>
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<tr>
<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<tr>
<td>COP</td>
<td>Conference of the Parties</td>
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<tr>
<td>DCMS</td>
<td>Department for Culture Media and Sport, UK</td>
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<tr>
<td>DRIP</td>
<td>United Nations Declaration on the Rights of Indigenous Peoples</td>
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<tr>
<td>ECCO</td>
<td>European Confederation of Conservator-Restorers’ Organisations</td>
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<tr>
<td>FAO</td>
<td>United Nations Food and Agriculture Organization</td>
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<tr>
<td>ICCPR</td>
<td>United Nations International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICCROM</td>
<td>International Centre for the Study of the Preservation and Restoration of Cultural Property, Rome</td>
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<tr>
<td>ICH</td>
<td>Intangible Cultural Heritage</td>
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<tr>
<td>ICHC</td>
<td>Convention for the Safeguarding of the Intangible Cultural Heritage (Intangible Cultural Heritage Convention)</td>
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<tr>
<td>ICOM</td>
<td>International Council of Museums</td>
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<tr>
<td>ICOMOS</td>
<td>International Council on Monuments and Sites</td>
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<td>ICP</td>
<td>Intangible Cultural Property</td>
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<tr>
<td>ICTM</td>
<td>International Council for Traditional Music</td>
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<td>IFMC</td>
<td>International Folk Music Council</td>
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<td>IFPC</td>
<td>Intangible Folk Cultural Property</td>
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<tr>
<td>IGO</td>
<td>Intergovernmental organizations</td>
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<tr>
<td>IGCSICH</td>
<td>Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IPHAN</td>
<td>Instituto do Patrimônio Histórico e Artístico Nacional (Institute of National Historic and Artistic Heritage), Brazil</td>
</tr>
<tr>
<td>IPR</td>
<td>Intellectual Property Rights</td>
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<td>ITK</td>
<td>Traditional Knowledge and Folklore</td>
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</table>
ITPGRFA  *International Treaty on Plant Genetic Resources for Food and Agriculture*

NGO  Non-Governmental Organisation

NMAI  National Museum of the American Indian, USA

NMMZ  National Museums and Monuments of Zimbabwe

RLICHH  Representative List of the Intangible Cultural Heritage of Humanity

SPAB  Society for the Protection of Ancient Buildings, UK

SPHAN  Serviço do Patrimônio Histórico e Artístico Nacional, Brazil

TEK  Traditional Ecological Knowledge

UIHS  UNESCO Intangible Heritage Section

UN  United Nations

UNCCD  United Nations *Convention to Combat Desertification in those Countries Experiencing Drought and/or Desertification, Particularly in Africa*

UNCTAD  United Nations Conference on Trade and Development

UNEP  United Nations Environment Programme

UNESCO  United Nations Educational, Scientific and Cultural Organisation

UNPFII  United Nations Permanent Forum on Indigenous Issues

WH  World Heritage

WHC  *Convention Concerning the Protection of the World Cultural, Natural Heritage* (World Heritage Convention)

WHO  World Heritage Organization

WIPO  World Intellectual Property Organisation

WTO  World Trade Organization

WWW  World Wide Web
The interdisciplinary field of Heritage Studies is now well established in many parts of the world. It differs from earlier scholarly and professional activities that focused narrowly on the architectural or archaeological preservation of monuments and sites. Such activities remain important, especially as modernisation and globalisation lead to new developments that threaten natural environments, archaeological sites, traditional buildings and arts and crafts. But they are subsumed within the new field that sees 'heritage' as a social and political construct encompassing all those places, artefacts and cultural expressions inherited from the past which, because they are seen to reflect and validate our identity as nations, communities, families and even individuals, are worthy of some form of respect and protection.

Heritage results from a selection process, often government-initiated and supported by official regulation; it is not the same as history, although this, too, has its own elements of selectivity. Heritage can be used in positive ways to give a sense of community to disparate groups and individuals or to create jobs on the basis of cultural tourism. It can be actively used by governments and communities to foster respect for cultural and social diversity, and to challenge prejudice and misrecognition. But it can also be used by governments in less benign ways, to reshape public attitudes in line with undemocratic political agendas or even to rally people against their neighbours in civil and international wars, ethnic cleansing and genocide. In this way there is a real connection between heritage and human rights.

This is the time for a new and unique series of books canvassing the key issues dealt with in the new Heritage Studies. The series seeks to address the deficiency facing the field identified by the Smithsonian in 2005 – that it is ‘vastly under-theorized’. It is time to look again at the contestation that inevitably surrounds the identification and evaluation of heritage and to find new ways to elucidate the many layers of meaning that heritage places and intangible cultural expressions have acquired. Heritage conservation and safeguarding in such circumstances can only be understood as a form of cultural politics and this needs to be reflected in heritage practice, be that in educational institutions or in the field.
It is time, too, to recognise more fully that heritage protection does not depend alone on top-down interventions by governments or the expert actions of heritage industry professionals, but must involve local communities and communities of interest. It is imperative that the values and practices of communities, together with traditional management systems, are fully understood, respected, encouraged and accommodated in management plans and policy documents if heritage resources are to be sustained in the future. Communities need to have a sense of ‘ownership’ of their heritage; this reaffirms their worth as a community, their ways of going about things, their ‘culture’.

This series of books aims then to identify interdisciplinary debates within Heritage Studies and to explore how they impact on the practices not only of heritage management and conservation, but also the processes of production, consumption and engagement with heritage in its many and varied forms.

William S. Logan
Laurajane Smith
In 1972, the *Convention Concerning the Protection of the World Cultural, Natural Heritage* (World Heritage Convention) (WHC) embodied a particular understanding and conceptualisation of the nature of both cultural and natural heritage. It has since had an extensive and defining impact on the development of national and international cultural heritage policies and practices, and it continues to frame international debate about the nature, consequences and value of cultural and natural heritage. In particular, the WHC has stressed the concept of ‘the shared heritage’ of humanity through its central focus on the concept of the ‘universal value’ of heritage. However, the WHC has been criticised for legitimising a particular Western – if not Western European – perception of heritage in terms of both policy and practice (Byrne 1991; Pocock 1997; Cleere 2001; Sullivan 2004, among others). The World Heritage List has been shown to be not only Eurocentric in composition, but also dominated by monumentally grand and aesthetic sites and places (Arizpe 2000: 36; Cleere 2001; Yoshida 2004: 109). The 2003 *Convention for the Safeguarding of the Intangible Cultural Heritage* (Intangible Cultural Heritage Convention; ICHC) has been characterised by some as a counterpoint to the WHC, an attempt to acknowledge and privilege non-Western manifestations and practices of heritage. Certainly, debates about the utility of the Convention have continually reinforced its relevance to Asian, African and South American countries and Indigenous heritage practices. Whatever the innovations and/or limitations of the ICHC it marks a significant intervention into international debate about the nature and value of cultural heritage.

This volume examines that intervention, drawing on the unique insights of several authors intimately involved with the negotiations over the Convention. The first part of the book traces the history of the Convention and identifies the debates and concepts that influenced its development and drafting. The second part of the volume reviews the utility of the ICHC against a range of issues, concerns and practices, while exploring the diversity of the ways intangible heritage may be understood and expressed. Those directly involved in the negotiations and drafting of the ICHC, and/or those who have policy and practical experiences in assessing and managing
intangible heritage, have contributed several chapters to the first two sections of the book. Part 1 provides a detailed and up-to-date account of the historical policy processes, and provides a useful historical and contemporary guide to understanding the aims and philosophies underpinning the ICHC. The third section takes the philosophical debate beyond the boundaries set by the ICHC and explores the concept of ‘intangible heritage’ more broadly. Chapters in this section consider the implications the debate on intangible heritage has for a broader more critically engaged definition of ‘heritage’.

The ICHC was adopted by UNESCO’s General Conference in October 2003 and entered into force on 20th April 2006. The guidelines for its implementation are under negotiation at the time of writing. Certainly, the consequences of this Convention are yet to be fully realised or determined. Thus, Part 1 of this volume offers a number of chapters that document the history of the Convention and outline some of the key concepts and philosophies underlying it and against which its future implementation can be assessed and reviewed. Aikawa-Faure’s contribution provides an overview of the lengthy process of negotiation and insight into the complexity of the negotiations and renegotiations that took place. In doing so, she reveals the degree of conceptual tensions that arose between State Parties in its drafting. Both Skounti and Hafstein also identify and explore some of these tensions. Skounti discusses the tensions that exist between local and global conceptualisations of heritage, and between the idea of heritage as ‘fixed’, immutable and focused on ‘the past’, with that of a mutable heritage centred very much on the present. Hafstein explores the tensions and debates that arose over the idea of a heritage ‘list’ – revealing the range of philosophies underpinning varying conceptualisations of heritage, and the differing aspirations for the new Convention. Blake identifies and discusses the attempt of the new Convention to engage with cultural communities, and outlines the implications this has for both the politics of cultural rights of communities and the development and nature of the ICHC. Collectively, what these chapters draw attention to, is the extent of the conceptual shift over the idea of ‘heritage’ that is prompted by the existence of the new Convention. The jury, we believe, is still out on the degree to which this shift has actually occurred within international debates and practices, but the Convention certainly seems to signal that how heritage is defined and understood not only as a category, but as a concept and set of practices, needs to be not only broadened but redefined.

The Convention has most frequently met with guarded enthusiasm within the literature and professional practice, with many supporting the need for such a Convention, but wary about its logistical, political and cultural consequences. The logistical issues have included concerns over human rights abuses (Kurin 2004; Brown 2005; Logan 2007), the need for new language and terminology (van Zanten 2004), how to measure and define the value of intangible heritage (Blake 2001; Brown 2005), and how to safeguard and
manage a heritage that is mutable and part of ‘living culture’ without fossilising, freezing or trivializing it (Nas 2002; Amselle 2004; Arizpe 2004; van Zanten 2004: 41), among other issues. These practical and logistical concerns stem from the dominant perception of ‘heritage’ that underpins many of UNESCO’s practices and previous Conventions. As one of us (LS) has previously argued, this idea of heritage draws heavily from the history of Western European architectural and archaeological conservation and preservation debates. A Western Authorized Heritage Discourse (AHD) that defines heritage as material (tangible), monumental, grand, ‘good’, aesthetic and of universal value dominates, if not underwrites, much of UNESCO’s heritage policy (Smith 2006). The AHD not only defines what heritage ‘is’, but also how it needs to be assessed and managed. The dominance of the West, and in particular Western Europe, within UNESCO policy is well documented (Byrne 1991; Cleere 2001; Matsuura 2001; Yoshida 2004) and the ICHC has been defined as part of the response to address that imbalance (Aikawa 2004; Bedjaoui 2004; Schmitt 2008). The ICHC challenges the AHD – the underpinning foundations of UNESCO’s concept of heritage – at both a practical and philosophical level. Some of these practical issues are highlighted in Seeger’s chapter in Part 1 of this volume. Seeger examines his own experiences as Secretary General of an NGO involved in the evaluation process of intangible heritage under the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity, 1998, the programme that preceded and helped lead to the development of the ICHC (see Aikawa-Faure, Blake and Skounti, this volume). The practical, policy and conceptual issues Seeger highlights illustrates the depth of challenge the ICHC offers to the Western AHD.

That there is a challenge is revealed in the discomfort some Western countries have with the new Convention. As Aikawa-Faure notes in her contribution, there were tensions between some Western countries who did not see the relevance or necessity of the Convention (see also Smith and Waterton this volume), while concerns were also expressed by those countries with Indigenous populations. As Kurin (2004: 66) points out, while there were no votes against the Convention, a number of countries, notably Australia, Canada, the UK, Switzerland and the USA, abstained from voting.

In the face of the dominance of the AHD, it is necessary to consider whether the Convention will really change anything. Kirshenblatt-Gimblett (2004: 57) makes the point that in creating yet another list separate from the World Heritage List the new Convention will potentially create an equally exclusive and excluding list (see also Brown 2005). The ICHC will develop two new lists: ‘the List of Intangible Cultural Heritage in Need of Urgent Safeguarding’ and ‘the Representative List of the Intangible Cultural Heritage of Humanity’. The existing list of 90 examples of intangible heritage that were proclaimed under the Masterpieces programme will be incorporated into these lists. As both Kirshenblatt-Gimblett (2004) and Hafstein
(this volume) point out, the very act of creating a list is not only an act of exclusion, it is also a performance of meaning making. In this process ‘heritage’ is ‘identified’ and ‘assessed’ against predefined ‘criteria’. This process inevitably recreates or over-writes new meanings and values onto the heritage in question. Whether we are dealing with tangible or intangible heritage, the primary values and meaning of that heritage become framed and understood through its position on a list and its status against a set of criteria. As Kirshenblatt-Gimblett states:

World Heritage is first and foremost a list. Everything on the list, whatever its previous context, is now placed in a relationship with other masterpieces. The list is a context for everything on it.

(2004: 57)

If the listing and the assessment and management practices that are employed in the service of the ICHC simply recreate yet another self-referential list, what will be achieved? UNESCO is a project of cultural legitimisation – it recognises, authorises and validates certain cultural expressions as ‘heritage’ (Smith 2006: 111). How that is done and by whom, and under what framing criteria and philosophies, will be important in determining how far UNESCO’s definition of ‘intangible heritage’ really breaks from current dominant Western perceptions. It needs to be stressed that lobbying for the ICHC has come from a range of non-Western countries, and Japan in particular has used its international standing in a variety of ways to intervene and influence the development of the Convention (Aikawa-Faure, this volume). However, critics of the Masterpieces programme maintain that the resulting list tends to privilege colourful and exotic examples of intangible heritage, that represent nationally valued cultural events or performances, and which coincide with romanticised Western perceptions, while Indigenous works remain under-represented (Kurin 2002, 2004; Kirshenblatt-Gimblett 2004).

The issues raised in debates over the drafting and implementation of both the Masterpieces programme and the ICHC are revealing about the tensions that exist between the differing philosophical and conceptual constructs that underpin dominant and authorised definitions of ‘heritage’, which we might now label ‘tangible heritage’ and ‘intangible heritage’. These issues have included questioning the legitimacy of the idea of ‘universal’ value used in the WHC to refer to intangible heritage (Blake 2001), and, as noted above, concern about human rights, the cultural politics of identity and the mutability of intangible expressions as ‘living cultures’, to use a phrase often found in these debates. What we find interesting in these debates is the degree to which they are ‘seen’ or framed as issues of particular relevance to intangible heritage. In essence, the mutability and contemporary nature of intangible heritage appear to give a sense of urgency or deeper concern
about these issues. Perhaps it is the physical and bounded nature and the sense of ‘pastness’ of the cultural heritage items and places on the World Heritage List that make the cultural politics surrounding these sites and their listing much more ‘manageable’ and ‘containable’? Because, of course, no heritage is unconnected with controversy, dissonance and cultural/identity politics. The vast ethnographic literature in heritage studies documents the extent to which all heritage – even the grand and monumental – is dissonant and contested (see Tunbridge and Ashworth 1996; Graham et al. 2000; Littler and Naidoo 2005; Smith 2006). The contested nature of heritage (either ‘tangible’ or ‘intangible’) means of course that the idea of ‘universal’ heritage values cannot be sustained (Lowenthal 1998: 227). In Part 2 of the volume, authors critically review the nature of intangible heritage and discuss the political and cultural tensions surrounding its expression, and ask is the ICHC capable of addressing the cultural complexity of heritage? Munjeri’s chapter, drawing on a wide range of examples from around the world, frames this section of the volume by asking if the weaknesses and limitations of preceding Conventions ‘may yet be replicated with respect to the intangible cultural heritage’. Kenny’s chapter also, although less explicitly focused on the ICHC, draws our attention to the complexity of the cultural politics and identity issues that can surround intangible heritage. What both chapters demonstrate is that the contemporary practices of ‘intangible’ heritage make the immediacy of the consequences of heritage practices for local communities’ political and cultural aspirations more obvious and apparent. However, this is simply a shift in focus, as the cultural politics that both chapters document are integral aspects of all heritage, which is simply made more apparent by forcing our attention onto the contemporary practices of heritage. If nothing else, the idea of intangible heritage forces a recognition of the inherent dissonant nature of heritage because of the immediacy of its production and consumption.

Marrie and Kearney both review the ICHC against some of the stated cultural and political aspirations of Indigenous peoples. Marrie assesses the ICHC against an array of international policy documents, Conventions and treaties and considers its ability to engage with Indigenous concerns. Kearney likewise assesses the utility of the ICHC and calls into question some of its underlying concepts and assumptions. In particular, she considers its ability to support the local aspirations of Indigenous communities, drawing on examples from Australia. Like Munjeri, Kearney examines the ways in which international definitions and assumptions about the nature and value of intangible heritage may constrain the diversity of local expressions. These definitions not only constrain what may be recognised as heritage, but also the development of meaningful and useful practices of management and curation. Kreps takes these points further and examines the curatorial practices employed in Indonesia and various Indigenous communities. Practices of ‘management’ and ‘curation’ become integral to the performance of
intangible heritage and Kreps critically examines the implications of this for museum practices. As Munjeri, Kearny and Kreps point out, and echoing observations made in Skounti and Hafstein’s chapters, a re-theorisation of ‘heritage’ is required to meet the challenges offered by the recognition of intangible heritage.

Indeed, we would question the practical and theoretical utility of polarising debate between ‘tangible’ and ‘intangible’ heritage. Heritage only becomes ‘heritage’ when it becomes recognisable within a particular set of cultural or social values, which are themselves ‘intangible’. Any item or place of tangible heritage can only be recognised and understood as heritage through the values people and organisations like UNESCO give it – it possesses no inherent value that ‘makes’ it heritage. As Munjeri states, ‘cultural heritage should speak through the values that people give it and not the other way round [… ] the tangible can only be understood and interpreted through the intangible’ (2004: 13, see also Arizpe 2004: 131). All heritage is intangible, not only because of the values we give to heritage, but because of the cultural work that heritage does in any society (Smith 2006). This ‘work’ is glimpsed in the chapters of Part 2, but is explicitly examined in Part 3 of the volume.

The re-theorisation of heritage as a cultural practice, rather than simply a site, place or intangible performance or event, has been developing within the broader heritage literature. Harvey (2001) has argued that heritage is best identified as a ‘verb’ rather than a ‘noun’, and a number of authors have examined heritage as a body of knowledge and as a political and cultural process of remembering/forgetting and communication (Urry 1996; Dicks 2000; Graham 2002; Peckham 2003; Smith 2006). This project of re-theorisation is taken further by Byrne and Bendix in Part 3. Byrne’s chapter offers a wide-ranging examination of the experience of heritage and its engagement with emotions, memories and forgetting. Questioning the tendency of traditional management definitions and practices to essentialise heritage and strip it of its social context, Byrne explores the emotional qualities of heritage and the consequences of this for heritage practice. Bendix observes that ‘cultural heritage does not exist, it is made’ and reviews the ways in which cultural anthropology has understood the nature and consequences of ‘heritagitisation’. Debates about re-theorisations of heritage as offered by Byrne and Bendix, and by the literature cited above, and as requested by those like Deacon et al. (2004: 11) arguing for a more inclusive sense of heritage, are however, impeded by the dominant discursive constructions of heritage. As noted above, not all countries and commentators have been comfortable with the conceptual and philosophical challenges offered by the international efforts to recognise intangible heritage. The last two chapters in the volume deal with these issues as they relate to the UK. Hassard’s chapter is predicated on the fact that the UK has yet to ratify the ICHC, and that its own national emphasis on material and monumental
heritage impedes that government’s ability to see the relevance of the Convention. Hassard, through an examination of the history of conservation debates in England, argues that the idea of intangible heritage is not necessarily contrary to Western conservation philosophy. Indeed, survey work by Smith (2006) within England, which asked visitors to heritage sites and museums to define ‘heritage’, showed that the idea of heritage as memory, workplace skills, family histories, oral histories, ‘traditions’ and so forth, was prevalent in many people’s definitions of heritage. These definitions, however, were more likely to be expressed by those from the working communities surveyed by Smith and whose sense of heritage and identity was marginalised by the English AHD. This AHD not only defines heritage as material, monumental and nationally significant but also privileges the heritage of elite classes. The chapter by Smith and Waterton develops the idea of the English AHD, demonstrates the way it is expressed within English heritage policy, and the conceptual barriers this puts in place to limit debate about the nature, meaning and consequences of heritage. This is perhaps not a positive note upon which to conclude the volume, but the challenges offered by a widening and more inclusive debate about the nature, value and consequences of heritage are fraught, and thus will be resisted. They are fraught not only because they are complicated and complex, but because the debate may destabilise some community’s and nation’s sense of place.

Heritage is intimately linked with identity – exactly how it is linked and its inter-relationship are yet to be fully understood – however, a key consequence of heritage is that it creates and recreates a sense of inclusion and exclusion. At global, national and local levels, heritage, however defined, is used to define a sense of place. Current and dominant definitions about ‘tangible’ and ‘world heritage’ establish an international hierarchy of cultural relevance, status and sense of place. Ultimately, whatever the ICHC does or does not achieve, the development of international debate about intangible heritage – and thus the nature of heritage more generally – has the potential to rework not only definitions of heritage but global and local senses of place.

Acknowledgements

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Bibliography


Part 1

Convention for the Safeguarding of the Intangible Cultural Heritage

Reflections on history and concepts
From the Proclamation of Masterpieces to the Convention for the Safeguarding of Intangible Cultural Heritage

Noriko Aikawa-Faure

Introduction

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (ICH) was adopted without dissenting vote by the General Conference at its 32nd session in October 2003 and entered into force on 20th April 2006. By September 2008, more than 100 states were parties to it. The early adoption of this Convention, and its swift entry into force, was without precedent. Since November 2006, the Intergovernmental Committee had been preparing operational directives for the implementation of the Convention that were approved by the General Assembly of the States Parties in June 2008. The first inscriptions on the two lists created by the ICHC, the ‘List of the Intangible Cultural Heritage in need of urgent safeguarding’ (henceforth Urgent List) and the ‘Representative List of the ICH of Humanity’ (henceforth Representative List), will take place towards the end of 2009.

Prior to this Convention, UNESCO had carried out a number of activities to promote the safeguarding of Intangible Cultural Heritage (ICH) worldwide. Among them, the landmark undertakings were the Recommendation on the Safeguarding of Traditional Culture and Folklore 1989 (henceforth 1989 Recommendation), the dissemination of the Living Human Treasure system launched in 1993, and the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity established in 1998. Throughout these activities, the concept of ICH developed in response to political, economic, social and cultural environments. This chapter traces the development of the concept of ICH during the preparation of the ICHC. Since 1993, I was responsible for the programme of ICH in UNESCO Headquarters, and was directly involved in the assessment regarding the application of the 1989 Recommendation by the member states and the development of the Proclamation of the Masterpieces of the Oral and Intangible Heritage of Humanity (henceforth, Proclamation of Masterpieces) and the ICHC. First, the chapter examines how, and in what context, the Proclamation of the Masterpieces programme
was launched. It identifies the speed with which the ‘cultural debates’ of the Marrakech meeting (1997) were transformed into political debates within UNESCO. Second, it describes how criticisms of the 1989 Recommendation triggered the creation of the ICHC. Third, it details the progressive development of the conceptual framework for the ICHC through a review of the debates held during three expert meetings: Turin (2001), Elche (2001) and Rio (2002). Each of these marked a significant stage for the elaboration of the definition and scope of the ICHC. I also describe how consensus emerged among different views and approaches, notably within the Turin meeting, which established the underpinning concepts of the Convention. The progressive and delicate transformation process from academic to political debates during these meetings, as well as subsequent meetings held in UNESCO, is also described. Moreover, I attempt to demonstrate how the Proclamation of Masterpieces programme and the process of the preparation of ICHC were interwoven in the course of their parallel development, notably through the Elche and Rio meetings, as well as UNESCO Executive Board sessions. This demonstrates how the Proclamation of the Masterpieces programme served as a lever for the creation of the ICHC. The concluding section reviews the difficult discussions that took place between 2006 and 2008 by the Intergovernmental Committee of the ICHC over the development of the operational directives. The key issue was how to identify appropriate mechanisms to ensure the participation of practitioner communities, an issue championed as one of the most significant principles throughout the conferences and meetings examined in this chapter.

**Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity – Marrakech Meeting**

The underpinning concept of the Masterpieces programme was elaborated during the ‘International consultation on the preservation of popular cultural spaces – Declaration of the oral heritage of mankind [sic]’.¹ This small-scale meeting, held in Marrakech in June 1997, was attended by 11 international experts and five Moroccan experts. Most of the participants were experts on oral traditions from disciplines such as anthropology, ethnology, literature, oral history and sociology. Actors, writers, poets, Ministers of Culture of Vanuatu, and Côte d’Ivoire also participated. While examining the oral expressions performed at the Jamaa’el-Fna Square in Marrakech, the meeting aimed to explore possible mechanisms through which UNESCO could effectively alert the international community to the urgent need for safeguarding oral heritage worldwide.

There were several factors driving UNESCO to take this initiative. During the first half of the 1990s, demands coming from its member states, mostly developing countries, prompted serious consideration of the protection of ICH. As Federico Mayor (1992), the then Director-General of UNESCO,
stated: ‘UNESCO could no longer remain a stranger to the interest [in ICH] expressed by the international community’. First, increasing frustrations were directed to the World Heritage Committee by countries from the southern hemisphere who protested that the World Heritage List hardly reflected a geographical balance as its selection criteria were not necessarily suitable for the cultural features of southern countries. Their rich cultures, it was argued, are expressed more in their living form than in their monuments and sites. UNESCO was therefore urged to take corrective measures to right this ‘imbalance’ by encompassing intangible components in the selection criteria. The World Heritage Committee, in response to this claim, expanded the criteria by adding a new category entitled ‘cultural landscape’ in 1992, which attempted to encompass intangible components. However, the pinpointed ‘imbalance’ was hardly rectified. Second, following the Rio Earth Summit (1992), the significance of Indigenous peoples knowledge had been increasingly recognised by international communities, as had its vulnerability to economic exploitation by multi-national industries. Third, the report *Our Creative Diversity*, pointed out that intangible heritage had been, and was still, neglected (Pérez de Cuéllar 1995). Thus, it was argued that the concept of cultural heritage should be revisited in order to ensure that both tangible and intangible aspects were encompassed.2 This argument was reiterated during the Intergovernmental Conference on Cultural Policies for Development in Stockholm, April 1998 (UNESCO 1998: Objective 3, para. 3).

Following the growing recognition of ICH, WIPO and UNESCO jointly organised a World Forum on the protection of folklore in Phuket, April 1997. This aimed to launch an international legal instrument to protect intellectual property rights of folklore. This initiative encountered a strong opposition from the countries that had been benefiting from the free use of traditional expressions. It appeared obvious, then, that a considerable obstacle would be placed in the path of negotiations. After their fact-finding missions of 1998, WIPO decided to increase the scope of the future treaty by adding the IPR protection of traditional knowledge and genetic resources to the expression of folklore. Given that this scope was much larger than UNESCO’s mandate, WIPO pursued, as of 1999, the negotiation without UNESCO. UNESCO therefore needed to pursue its own action for the safeguarding of ICH in response to its member states’ demands. Albert Sasson, former Assistant Director-General for the Bureau of Programme Planning at UNESCO, was sent to the Marrakech meeting to represent Federico Mayor, who took a particular interest in this meeting. As he stated in his opening speech:

UNESCO could begin preparing an international Convention specifically for ICH to promote its protection (with a global approach) but such a procedure would take a long time especially when it refers to a domain, which is difficult to define because it is intangible and evolving
permanently. Therefore before launching a procedure for a new international normative instrument, UNESCO tries to raise awareness of its Member States that the majority of their ICH are threatened with disappearing if they do not take urgent measures for the safeguarding these treasures which constitute their source of identity.

(Sasson 1997: 5)

However, the immediate issue that pushed UNESCO to organise the Marrakech meeting was the appeal made to Federico Mayor in 1996 by the Spanish writer, Juan Goytisolo, to save Jamaa‘el-Fna Square. This ‘cultural space’, where popular ‘artists’ had been performing since the Middle Ages, was threatened with being ‘cleaned up’ by the municipal authorities in favour of a modern urbanisation of the city. Goytisolo suggested that UNESCO could save this ‘cultural space’ by honouring it with an international recognition. Mayor, receptive to this appeal, supported Goytisolo’s suggestion (Fuentes 1997). I was instructed to follow Goytisolo’s suggestion and to develop a programme with an international dimension, taking the Marrakech case as a pilot study. UNESCO entrusted Marc Denhez, a Canadian heritage lawyer who had just finished his legal assessment of the 1989 Recommendation, to explore the different possibilities for UNESCO to grant international recognition to ‘cultural spaces’ worldwide that were under threat. The purpose of establishing such mechanisms was to encourage member states to become conscious of the significance of their ICH.

Denhez examined different frameworks whereby UNESCO could honour and distinguish certain actions, performances, persons and projects. Being a heritage lawyer, he immediately looked into the mechanism of the World Heritage List. He also examined the mechanisms and efficacy of different UNESCO prizes such as: the Sultan Qaboos Prize for Environmental Preservation; the UNESCO Prize for Peace Education; the Félix Houphouët-Boigny Peace Prize; and the Aga Khan Award for Architecture. It is worth mentioning here that an important prize for the ICH programme was then under negotiation with the United Arab Emirates. Denhez considered that drafting a new Convention modelled on the World Heritage Convention (WHC), or rearranging the WHC to include ICH, should be the logical solution. However, it was considered that it could take too many years to meet the urgent demands of member states. In addition, the model of the WHC is not necessarily applicable to ICH (Denhez 1997: 4). Denhez, therefore, proposed a mechanism combining the World Heritage List and the UNESCO Prize system as a framework for the new programme then entitled ‘Proclamation of the Oral Heritage of Humanity’. He argued that the ‘award system has a major impact on World consciousness and furthermore from the procedural standpoint the award system has the virtue of speed as well as of being more aptly tailored to the subject-matter’ (Denhez 1997: 5). Regarding the programme title, he argued that the programme bears a prestigious title, as ‘it is
important to reassure the prospective donors that "prestige" will be attached to any support they provide' (Denhez 1997: 6). Denhez (1997) suggested the following three objectives of the programme:

i) To grant an official recognition to a selection of 'cultural spaces' where there is an outstanding concentration of ICH and oral traditions.

ii) To encourage their safeguarding and to promote participation of individuals, groups, institutions or governments in the management of the safeguarding actions.

iii) To raise awareness of all stakeholders to the importance of ICH.

He proposed to apply the same definition given to the ‘traditional cultures and folklore’ in the Recommendation of 1989 to ‘oral history’ in this programme. Denhez (1997) also suggested the selection criteria should be defined as: i) cultural and ii) organisational. He thought the cultural criteria should be inspired by the general terms used for UNESCO Prizes (see, for instance, the Sultan Qaboos Prize). He also took the example of criteria used by the ‘living human treasures’ systems practised in different countries, and those of the World Heritage Operational Guidelines. For the organisational criteria, he was inspired by criteria used by the Getty Foundation. He finally proposed cultural criteria in a simplified form: ‘its authenticity, its cultural and social role to the community concerned today, its creative value, its testimony to a cultural tradition and history of the community concerned, its skill, its distinctive characteristics and the danger of its disappearing’ (Denhez 1997b: 7). With respect to the organisational criteria, to which he attached more weight, he proposed more detailed criteria that privileged the transmission and emphasised the primary roles of practitioner communities. The nomination files, Denhez (1997a) suggested, should be accompanied by:

i) an action plan;

ii) indication of the linkage between the action plan and the measures foreseen in the Recommendation of 1989;

iii) measures to empower the community concerned to preserve and promote its own oral heritage, name of responsible parties who will enter into a binding contract with UNESCO;

iv) name of the recipient of the award and the credentials of the proposed recipient and the way in which the recipient will apply the proceeds of the award in support of the action plan.

In assessing the action plan, the jury should consider:

i) the mandate of public authorities and of NGOs in assuring the protection and transmission of the relevant cultural values;
ii) the arrangement to raise awareness of the value of this heritage and the importance of its preservation among peoples belonging to the community concerned;

iii) the role assigned to the bearers of the heritage;

iv) the arrangement with the local communities to preserve and promote this heritage;

v) the arrangement to record this heritage;

vi) the arrangements with the bearers of these traditions, to advance the relevant skills, techniques or cultural expressions;

vii) arrangements with the bearers of these traditions, to pass on the relevant skills, techniques or cultural expressions to trainees and youth generally;

viii) recipients of an award should preferably be local NGOs.

(Denhez 1997b: 8)

Denhez finally suggested creating a jury to make selections as well as establishing a fund/prize for the new programme.

He presented his proposed System to Honour Cultural Space with Remarkable Intangible Heritage to the 1997 Marrakech meeting. The meeting, after examining the Jamaa’el-Fna case, scrutinised Denhez’s proposal. Experts agreed that UNESCO would confer on the idea of a list modelled on the World Heritage List. The term ‘Cultural Space’ was defined as: ‘locations where cultural activities occur, having the characteristic of shifting over time and whose existence depends on the presence of these forms of cultural expression’ (UNESCO 1997a: 9). According to experts, the principal goal of the project should be to encourage governments, municipalities, NGOs and local communities to undertake activities to identify, preserve, and promote their oral heritage. There should be two principal selection criteria: i) exceptional universal value as a general cultural criterion; and ii) organisational criteria. Experts stressed that ‘a continual or permanent existence of cultural expression within the cultural space’ and ‘respect for tolerance, multiculturalism and the role of women’ should be included within the cultural criteria (UNESCO 1997a: 9). In connection with organisational criteria, emphasis was placed on the integral participation of the communities concerned in the undertaking of protective measures. A caveat was formulated that before launching national protective measures, traditional apprenticeships and processes for the transmission of skills associated with oral heritage should be studied with a view to respect the traditional social structures within which the apprenticeships and transmission occur (UNESCO 1997a: 8). Participants underscored the importance of the creation of a financial mechanism, such as a fund/prize, to be connected to the new programme to ensure its efficient implementation. As there were a number of points which needed further discussion, the representative of the Director-General announced that what mattered most was to confer on UNESCO the immediate mandate of putting this system into operation, even if the