

UNESCO Considers Draft for Intangible Cultural Heritage Convention

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UNESCO, the United Nations Education, Scientific, and Cultural Organization, is considering a proposal for a new international law to "safeguard intangible cultural heritage" -defined as epics, tales, music, rituals and celebrations, craftsmanship, and systems of folk knowledge about medicine, astronomy, and other fields. The purpose is to help local cultural traditions around the world survive and even flourish in the face of globalization. In June, delegates from member nations and observers will convene in Paris for a third time to try to draft the document. Safeguarding traditional cultures or intangible cultural heritage is a good and reasonable idea whose time has come. But developing a legally binding, appropriate international instrument that would actually accomplish such a goal is an incredibly difficult challenge.

Why Now?

Many people around the world believe their local, regional, even national traditions are in trouble. The desires of a new generation, changes due to modernization, and the onslaught of global mass culture raise the question of whether valuable traditions, practices, and forms of knowledge will survive the next generation, or even the next decade. As the pace of cultural transformation and displacement has picked up, scholars and community advocates have sought means of encouraging contemporary linkages to their distinctive cultural past.

The draft convention follows decades of proposals and discussions beginning in the 1970s. In 1989, UNESCO adopted a Recommendation on the Safeguarding of Traditional Culture and Folklore. As a joint Smithsonian UNESCO conference in 1999 found, as an ill-defined, "top-down," "soft" international instrument, it had little impact around the globe (see *Safeguarding Traditional Cultures*, ed. Peter Seitel, published by the Center and on the web at www.folklife.si.edu). In 1999 UNESCO instituted a program, Masterpieces of the Oral and Intangible Heritage, which pointed to the value of such traditions. It was very well received, despite conceptual and practical problems (see *Cultural Anthropology*, February 2002). In the wake of these developments, UNESCO, under Director General Matsuura, moved aggressively toward a new convention.

What Does It Do?

The new convention is modeled on both the World Heritage list and the Japanese program for cultural preservation. It would commit nations to develop exhaustive inventories of their intangible cultural heritage. National governments would then seek to safeguard those traditions on their own, as well as seek UNESCO resources and recognition for those traditions deemed especially valuable and especially endangered. The convention would establish a funding mechanism, as well as unit in UNESCO an international committee to oversee the work.

What Are The Issues?

Delegates to UNESCO's meeting on the draft convention have debated a number of important issues bearing on its clarity, scope, and likely effectiveness. The definition of intangible cultural heritage is somewhat elusive. Is it all immaterial cultural expression? Is it language, for example, or specific uses of language? Currently, delegates seek to define

intangible cultural heritage, as recognized by UNESCO, as those traditions consistent with human rights. This is quite reasonable. UNESCO doesn't want to support or encourage traditions inimical to human rights such as slavery, infanticide, etc. But current wording also says ICH must be consistent with equity, sustainability, justice, and mutual respect. These provisions would eliminate most ICH; so many are based on a gender division of labor, are not sustainable, and may elevate certain peoples over others.

Another problem is strategy. Are inventories, lists, and registries of traditions the best way to "safeguard" them? Listing is a somewhat 19th century form of social science activity (one thinks of Spencer's encyclopedias of traits). On its own it is a cumbersome data collection activity with no practical consequences. In fact, some delegates worry it would detract from practical work with cultural communities. More lawyerly and governmental delegates see it as a management tool, but cultural scholars generally discount it and would rather see support for best practices rather than individual items.

Another general area of concern among some delegations is the unintended consequences of such a convention. Might it not create new legal categories for nations, such as cultural communities? Might it invest in people and groups new legal rights? Might it conflict with other international accords? Not much work has been done to assure consistency of a convention with prior agreements, those being developed by WIPO (World Intellectual Property Organization), and those moving onto the docket –such as that on Cultural Diversity. Even more so, some delegations have questioned whether indeed the new instrument compels nations toward action substantial and significant enough to merit a convention.

What about the Politics of Policy?

No policy is made in a vacuum. The proposed convention on ICH is seen by most nations as a corrective to the World Heritage List which is perceived as biased toward the archeological sites, historic buildings and monuments of the Western world. Recognizing ICH will give other cultures due respect and concrete support for preservation efforts. For some, it is important to complete this convention so as to then move on toward a more contentious one-that concerning culture and world trade. Indeed, some see in the ICH treaty a means for nation-states to establish intellectual property rights in all sorts of cultural expressions. For UNESCO, the draft convention is seen as bringing to legal fruition a topic of long-term concern. For the United States, having announced its return to UNESCO, the ICH instrument is a test case of sorts of its willingness to work cooperatively with other nations on measures of universal concern and appeal. The United States, through government agencies at federal, state, and local levels, and more so at the grassroots and through nongovernmental organizations has been a world leader in this field. I have found our participation quite welcome. We have expertise, experience, and potentially dues to contribute to UNESCO efforts to safeguard intangible cultural heritage the world over.