



## Chapter 2

2003 UNESCO Convention for the Safeguarding  
of Intangible Cultural Heritage and International  
Cooperation



## Challenges to the Implementation of the 2003 Convention

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*Mr. Chan Kim, Deputy Administrator of the Cultural Heritage Administration of the Republic of Korea, Madame Cécile Duvelle, Chief of Intangible Cultural Heritage Section of UNESCO, Mr. Seong-Yong Park, Executive Director of the Intangible Cultural Heritage Centre for Asia and Pacific, Professor Dawnhee Yim, Chairperson of the Advisory Committee of the Centre, Dear colleagues, ladies and gentlemen,*

I am greatly honoured to be invited at this memorable conference held to celebrate the signing of an agreement between the Government of the Republic of Korea and UNESCO regarding the establishment of an International Information and Networking Centre for Intangible Cultural Heritage in the Asia-Pacific Region Centre under the auspices of UNESCO (a category 2). May I join the previous speaker, Madame Cécile Duvelle, in congratulating the Authorities of the Republic of Korea for the successful establishment of the centre? As we heard earlier this morning, the relentless efforts pursued by Korean government since 2005 aiming at creating such a centre are indeed impressive. But the active involvement of this country in the UNESCO's activities related to Intangible cultural Heritage (henceforth ICH) goes back as early as 1993, the year when UNESCO established a programme entitled 'Intangible Cultural Heritage'. I have the privilege to

have witnessed personally, as a person in charge of this new programme, the audacious initiative taken by Ambassador Sang-Seek Park, then Permanent Delegate of the Republic of Korea, in introducing a new project entitled 'Living Human Treasures' to UNESCO through its Executive Board. As this term had been unknown to the most of UNESCO Member States, it intrigued them but they remained sceptical(Aikawa 2007). Ambassador Park recalls how it was difficult for him to convince other Ambassadors of the significance of the Living Human Treasure system in ensuring the transmission of ICH. Nevertheless this project contributed at large in raising awareness of the importance of the transmission of ICH and the crucial role of the practitioners' communities. The Living human Treasure project thus laid the foundations of the principal concept of the Convention for the Safeguarding of the Intangible Cultural Heritage (henceforth 2003 Convention). Since then, the Republic of Korea has been one of the most active supporters of the UNESCO programme of ICH.



## Introduction

The 2003 Convention was adopted without dissenting vote by the UNESCO General Conference at its 32nd Session in October 2003 and entered into force on 20th April 2006. Currently (November 2009), 116 states, of which 18 are from the Asia-Pacific region, are States Parties. The early adoption of this Convention, and its swift entry into force, has been without precedent. Since November 2006, the Intergovernmental Committee had met four times to prepare Operational Directives for the implementation of the Convention, and these were approved by the General Assembly of the States Parties in June 2008. The first inscriptions on the two Lists and the Register took place during the 4th Meeting of the Intergovernmental Committee held in Abu Dhabi from 28th September to 2nd October 2009. These Lists are the 'List of the Intangible Cultural Heritage in Need of Urgent Safeguarding' (henceforth Urgent Safeguarding List) and the 'Representative List of the ICH of Humanity' (henceforth Representative List). The Register is the 'Programmes, Projects, and Activities for the Safeguarding of the Intangible Cultural Heritage that best reflect the principles and objectives of the Convention'

set up under Article 18 of the Convention (henceforth the Register under Article 18). The first round of inscriptions onto the two Lists marked the entry into the operational phase of the Convention. Experience acquired from the procedures followed for the first inscriptions revealed a number of challenging issues for the future of the 2003 Convention, and points that need to be improved, reinforced or modified for the better management of the Convention were identified.

My presentation will be made in the following order:

- conceptual challenges facing the implementation of the Convention
- operational challenges
- suggestions on how the International Information Centre for Intangible Cultural Heritage in the Asia-Pacific Region could help to address these challenges.

## I. Conceptual Challenges

The recent nomination and inscription status on the Representative List, the Urgent Safeguarding List and the Register of good safeguarding practices are as follows:

- Representative List: 111 nominations only 5 were complete.
  - ◇ 76 elements inscribed + 90 masterpieces = 166
  - ◇ Of 35 not favorable recommendations, which were withdrawn, 26 did not satisfy the Criterion 1
- Urgent safeguarding List: Of 15 nominations, 12 elements inscribed
- Register of good safeguarding practices: Of 5 nominations, 3 elements inscribed (UNESCO 2009)

These figures reveal that many States Parties have not yet fully understood the Convention's definition of ICH, which is the most significant underpinning of the Convention along with Article 1 concerning its purposes.

The definition of ICH given in the 2003 Convention is a step ahead of prevailing ICH definitions. While most ICH definitions specify solely what

ICH means and what it is composed of by providing examples taken from different domains such as oral traditions, music, dance, handicrafts, etc., the 2003 Convention's definition is multi-dimensional.

It includes firstly what ICH is by pointing to 'practices, representations, expressions, knowledge, skills.' Unlike conventional ICH definitions, the elements constituting ICH in the ICHC definition are neither domains nor end 'products,' but rather are forms in on-going 'process.'

Moreover, the 2003 Convention characterizes how and under which circumstances elements should have been kept alive and how they should remain alive, saying that "[... ] *transmitted from generation to generation, [ICH] is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history [...]*." The Convention, therefore, considers that ICH should evolve within communities, which are themselves adjusting to changes in nature and in social history.

Furthermore, the Convention's definition specifies who the owners and actors of ICH are, stating that "[... ] *communities, groups and, in some cases, individuals, recognize [the cultural expression] as part of their cultural heritage.*" The Convention stipulates here that practitioner communities are the owners of heritage, and therefore that they should play significant roles in planning, deciding on and implementing any actions regarding that heritage.

Another important condition identified as belonging to ICH is that the element "*provides them [communities and groups] with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.*" This means that people belonging to the community should feel proud of the element as an expression of their identity. In addition, they should acknowledge that the element has existed without interruption and that it will continue to exist. ICH is thus constantly evolving and contributes to enriching cultural diversity, which is the well-spring of creativity.

The Convention's definition also says that elements should be compatible with international norms of human rights, as well as with requirements of mutual respect and sustainable development. This part of the definition allows it to be distinguished from cultural relativism.

Among the different dimensions encompassed in the definition, why are those related to questions of 'how', 'under which circumstance' and 'who' considered to be so important? The answer to this question is that these refer to the primary purpose of the Convention, which is the 'safeguarding' of ICH. (Article 1).

The term 'safeguarding' is defined in paragraph 3 of Article 2 as follows:

“Safeguarding’ means measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.” This means that the main objective of the Convention is to take necessary measures, as listed above, in order to ensure the viability of ICH.

Then, who can enable an expression of ICH to be viable ? The answer to this is neither researchers, nor governments, but rather the practitioner communities themselves. Researchers and governments can naturally help people from the communities concerned to maintain the viability of ICH elements. However, practitioner communities can only transmit the know-how associated with ICH expressions to next generations if these expressions are currently viable in their own societies. It is only they who can decide whether or not to keep the elements alive, or whether to transform or recreate them in response to their environment, their interaction with nature and their history.

With the introduction of this new multidimensional definition of ICH onto the international cultural-heritage scene, the 2003 Convention has created some misunderstandings in relation to the definition of ICH among States Parties.

The real challenge for States Parties is to understand fully the new definition of ICH given in the Convention. This challenge is all the greater for those States that to various extents have previously had different definitions of ICH.

A second conceptual challenge derives from a misunderstanding of the purposes, meanings and functions of the two Lists: the Urgent Safeguarding List and the Representative List which could be deduced by a striking imbalance between the number of nominations submitted to the Representative List and for the Urgent Safeguarding List (111 against 15 for 2009 inscription). This trend regrettably worsened in the 2010 cycle, when 147 nominations were received for the Representative List, as against four for the Urgent List (UNESCO 2009). It was noticeable that many elements inscribed on the Representative List could have been submitted to the Urgent List.

Of the two Lists, the Urgent List fulfils the principal purpose of the Convention, which is safeguarding, while the Representative List satisfies the third purpose, which is to raise awareness of the importance of ICH. Therefore, the governmental experts, during negotiations for the Convention,

Committee and General Assembly have stressed the importance of the Urgent List and its centrality to the purposes of the Convention (Aikawa 2009).

Why, then, did so many States Parties prefer the Representative List during the first and the second cycle of inscriptions? This was partly because they may have thought that the submitted nominations would be inscribed with less strict screening. However, mostly it was because they misunderstood the meaning and role of the Representative List. They appear to have thought that this List was more prestigious than the Urgent List, though the States Parties themselves might not be solely responsible for such misunderstanding. The title 'The Representative List of the ICH of Humanity' is ambiguous. The Convention neither provides a definition of the Representative List nor of the term 'representative.' Nevertheless, taking into account the definition given to ICH, it seems to be evident today that the term 'representative' should be understood as meaning 'representative of the community.' States Parties might have understood the Representative List to be the more prestigious by wrongly interpreting the term 'representative' to mean representative of the whole of humanity, as the title of the List could imply. Moreover, some States Parties thought that the inscription of an element of ICH on the Representative List would raise awareness about the inscribed elements, as well as their visibility (UNESCO 2009).

Another reason could be that States Parties have been used to dealing with the prestigious World Heritage List for more than 35 years, of which the principal criterion is 'universal and outstanding value.' For States Parties, the inscription of a site on the World Heritage List set up under the 1972 Convention involves the reputation of the state itself. States Parties have been so accustomed to the 'dishonour' that attaches to a site being placed on the List of World Heritage in Danger, the so-called 'Endangered List,' that they may also have taken the Urgent Safeguarding List of the 2003 Convention to be the equivalent of the List of World Heritage in Danger of the World Heritage Convention. However, the Urgent Safeguarding List has no connotation of 'dishonour' since its main purpose is to take urgent safeguarding measures within an international framework of the elements of ICH of which viability is at risk.

The challenge here is how to raise awareness among States Parties of the true meaning of the Urgent Safeguarding List of the 2003 Convention and the difference between the two Conventions, such that the current lack of balance will be reversed.

A third challenge emerged in my opinion from the differences in rigour

applied to the examination of the nomination files. The Lists have three criteria in common, which are (1) compatibility with the definition of ICH, (4) participation of the community, group or individuals and their free, prior and informed consent, and (5) inclusion in an inventory. All files are evaluated by the Committee, but prior to the Committee's evaluation they are examined by different entities. Consequently, the amount of rigour used in their examination varies. Nominations submitted to the Urgent List are scrutinized by a minimum of two bodies, such as specialized NGOs, research institutions, or experts, while those submitted for the Representative List are examined by the subsidiary Body(henceforth SB) composed of six Intergovernmental Committee members. Examination of the nominations received for both lists in the first cycle revealed that nominations for the Representative List were less strictly examined by the SB, which naturally took into account the political implications of its work.

The third challenge is, therefore, how to harmonize the amount of rigour used in the examination for both Lists, notably in relation to Criterion 1, IV and V, such that full compliance with the criteria is ensured.

## II. Operational challenges

Having examined the first 111 nomination files for the Representative List, the SB made a number of recommendations, mostly in respect of operational aspects. The most salient recommendations derived from the following factors: (i) difficulties faced by the submitting States Parties and the SB regarding Criterion 4, the 'widest possible participation by the community, group or individuals concerned;' (ii) serious geographical imbalances; (iii) the substantial number of nominations received when compared to the limited examination capacities of the SB, Committee and Secretariat; and (iv) the small number of multi-national nominations (UNESCO 2009).

The most difficult issue may be how to ensure the full participation of communities, groups and individuals who are practitioners of ICH in the process of the preparation of the nomination files (Criterion 4 for both lists), as well as in the safeguarding measures to be taken (Criterion 3 for the Urgent List, Form ICH-02 – Representative List para.3 c).

Indeed, the 2003 Convention marks a conceptual shift by introducing full



recognition of the role of practitioner communities and by saying that ICH can be identified only if “*communities, groups and, in some cases, individuals recognize [it] as part of their cultural heritage*” (2003 Convention, Article 2 Definition). However, this shift is not only conceptual. It is also operational, and it is this which makes this Convention an advanced instrument of cultural-heritage management. Yet, it should be noted that the governments of many States Parties have little experience of such methods of cultural-heritage management, which is why States Parties have encountered so many difficulties in fulfilling the requirements of Criterion 4.

A major operational challenge here could be how to encourage States Parties to increase participation by members of the communities in the management of safeguarding actions. The Committee might pursue further reflection on how to ensure such participation and might recommend more audacious and committed solutions.

Having discovered that of the 111 nomination files received, 61 (54%) were from the Asia-Pacific region, from which some countries had submitted more than 10 nominations, while only five were from the African region and one from the Arab States, the SB regretted that the nominations were not geographically representative (UNESCO 2009). This imbalance has been increased in the nominations received during the 2010 cycle. Among the 147 nominations received for the latter, more than 60 % are from Asia, while only one nomination has been received from Africa. The similar trend was seen in the Urgent Safeguarding List. Of 15 nominations, 8 elements were from Asia and only two elements were from Africa.

Having also noted the increasing number of nominations received for the Representative List, the SB recommended setting a ceiling of 100 nominations for annual evaluation by the Committee (UNESCO 2009). As one of the measures to correct the geographical imbalance, as well as the overwhelming number of nominations which makes the assessment process impractical, the SB recommended limiting the number of annual nominations to three for each State Party. However, the Fourth Session of the Committee decided in Abu Dhabi to continue its reflection on these issues and on possible amendments to the Operational Directives within the framework of the General Assembly, whose forthcoming session will meet in June 2010. As a temporary measure, the Committee decided that, among 147 nominations already submitted for the 2010 inscription, the Subsidiary Body will examine, in propriety, those submitted by the States Parties that do not have elements inscribed on the Representative List, have few elements inscribed on it or have

presented multinational nominations.

It was a matter for regret for the SB that only three multi-national files were submitted among the nominations of the Representative List for the 2009 cycle. There were no multi-national nominations for the Urgent Safeguarding List and there was sole one multinational element (Bolivia, Peru and Chile: ICH of Aymara communities) inscribed on the Register of the good safeguarding practices (UNESCO 2009).

Enhancing the number of multi-national nominations is, therefore, an additional challenge to the above-mentioned ones. Preparing a multi-national nomination requires long and complex negotiations, as well as laborious administrative procedures, in several countries. In order to promote multi-national nominations, substantial financial and technical assistance needs to be provided.

A new challenge also emerged during the recent Committee meeting in Abu Dhabi concerning the complex examination mechanism currently used for the Urgent List and requests for international assistance greater than US\$25,000. For each submitted element two examiners and two other substitute examiners are identified. In addition, the NGOs selected need to be accredited (98 NGOs are currently accredited), while research institutions and experts do not need to be accredited. As each examiner reviews files individually without being given the opportunity to consult others, yardsticks vary. An improved mechanism was therefore proposed by the Committee, which took note of the report of the examiners meeting held the day before the opening session of the Committee in Abu Dhabi, to remedy this possible incoherence. This improved mechanism would involve reinforcing the capacities of examiners, permitting them to conduct site visits. (DECISION 4 COM 18) However, when nominations for the Urgent Safeguarding List become more numerous, which I hope will occur, new challenges will certainly emerge.

The ICHC currently has a total of 116 States Parties. As a result, a further challenge is that though the number of States Parties signed up to the Convention has increased with unprecedented rapidity, 77 of UNESCO's 193 Member States still need to be convinced to become States Parties to the Convention.

### III. Roles of the International Information and Networking Centre for Intangible Cultural Heritage in the Asia-Pacific Region

The International Information and Networking Centre to be established in the Republic of Korea could contribute to addressing the above-mentioned conceptual challenges in its domains of information and networking. The Centre could promote greater understanding of the purposes of the 2003 Convention (Article 1) and of the definition of ICH (Article 2) through its networking activities, in order to ensure that the ground rules of the Convention are correctly understood by governments, institutions, experts, practitioner communities and civil societies in the countries of the Asia-Pacific region. The Centre could also raise awareness of the purposes, meanings, and functions of the two Lists and the Register of good safeguarding practices in order to ensure that adequate nomination files are prepared. In carrying out these tasks, it could also make selected good practices available: notably, those included by the Committee in the Register under Article 18 could be disseminated as models.

The Centre also has a role to play in addressing the operational challenges of the Convention. Asian countries have been pioneers in the safeguarding of ICH, and they played key roles in drafting the ICHC. It is for these reasons that so many nominations have been received from Asia, and they explain why four Category 2 Regional Centres will soon be created in Asia. The Korean Centre could establish partnerships with governments, institutions and civil societies in the Asia-Pacific countries, notably with those of the Pacific Sub-Region, in order to ensure the effective management of ICH data, the protection of the intellectual property rights of ICH practitioners, and the capacity to draw up complete nomination files. Such partnerships could even be extended beyond the region, in order that under-represented regions, such as Africa and the Arab States, could benefit from Asian experience, in conformity with Article 19 of the Convention concerning cooperation.

Further relevant contributions of the Centre in addressing operational challenges could include the building of networks among the communities and groups concerned, in order to foster the transmission and dissemination of ICH. Such networks could also be helpful in promoting multi-national nominations. The Centre could contribute to the Secretariat of the Convention by establishing a database of NGOs, research institutions, and individuals specializing in the ICH of the region. This database could assist the Secretariat

of UNESCO in its choice of examiners for the Urgent Safeguarding List, as well as requests for financial assistance superior to US\$ 25,000 .

Of the 48 UNESCO Member States in the Asia-Pacific region, only 18 are States Parties to the Convention. Of the 15 Member States of the Pacific Sub-Region, only Papua New Guinea is a State Party. The Korean Centre could therefore set up a network with ICH-related institutions in states that have not yet joined the Convention, providing them with information about it so that they could then encourage their governments to become States Parties.

## Conclusions

One of the aims behind the drafting of a new convention for ICH was to correct the geographical imbalances in the World Heritage List. However, it was noticed during the first inscription cycles for the Convention's two Lists and the Register under Article 18 that such imbalances had even grown. The primary reason for this unforeseen results could be that many States Parties have had difficulties in understanding the purposes of the Convention and its underpinning definitions, as well as the functions of the Lists and the Register under Article 18 and the fundamental requirement reiterated throughout the text of the Convention to ensure the participation of practitioner communities in the management of safeguarding actions. Conceptual confusion between the 2003 Convention and the 1972 Convention (World Heritage List) has also been seen, meaning that it is time for the 2003 Convention to emerge from the shadow of the 1972 Convention.

It is worth noting that the Committees of both Conventions have added their voices in favour of an integrated approach to tangible and intangible cultural heritage and natural heritage, and this was a feature of the 33rd Session of the World Heritage Committee in Seville (Decision 33 COM 5A) and the 4th Session of the 2003 Convention's Committee in Abu Dhabi. Already at least 10 elements are inscribed under both Conventions. An 'integrated approach' that conforms to the real situation of the heritage in situ could be the most challenging issue in the long term. There is, however, a fundamental conceptual difference between the two Conventions, namely that elements inscribed on the World Heritage List are selected under the elitist criterion of Outstanding and Universal Value, while those on the

2003 Convention Lists are not selected as elite but are inscribed under other criteria, such as safeguarding measures and the implication of the practitioner communities. It is important to signal these fundamental differences in any integrated approach.

First experiences of making inscriptions on the two Lists and Register under Article 18 allowed the Committee to clarify any shortcomings and discrepancies in the methods of implementation of the 2003 Convention, as well as to remedy a lack of pragmatism. Some of these shortcomings were to be corrected thanks to the recommendations of the recent Committee meeting in Abu Dhabi which proposed amendments to the Operational Directives (subject to the approval of the General Assembly). Others need further discussion. As noted above, the overwhelming Asian presence on the lists has also been remarked on. However, this is far from being a criticism. Instead, what is needed is that countries from the under-represented regions, notably Africa, are encouraged to become as enthusiastic as the Asian countries in safeguarding ICH. In order to achieve this, such countries need to receive the advice and technical and financial assistance of the Asian countries.

The International Information and Networking Centre for the Intangible Cultural Heritage in the Asia-Pacific Region can play an important role in raising awareness of the new concept of ICH embodied in the Convention. It can encourage States Parties to adopt new management methods involving more people from the practitioner communities in safeguarding actions. Through its networks, the Centre can also contribute to building a better understanding of the implementation mechanisms of the ICHC and to building the capacity of countries both inside and outside the region in safeguarding ICH.

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Speech, Ms Françoise Rivière, Representative of the Director-General of UNESCO, Assistant Director-General for Culture

WHC.09/33 COM/20 Decisions.