
**Towards Efficient Roles of NGOs
for Safeguarding ICH
in the Asia-Pacific Region**

Keynote Paper

**NGOs and the Implementation of the 2003 Convention:
Roles and Challenges**

Tim CURTIS

**Significance and Prospects of NGO Networks
in the Field of ICH**

Antonio ARANTES

NGOs and the Implementation of the 2003 Convention: Roles and Challenges*

Tim Curtis

Head of Culture Unit
UNESCO Office in Bangkok

This talk will present an overview of the roles of non-governmental organizations in the implementation of the 2003 Convention. It will also point to some challenges without necessarily pointing to solutions. However, we can at least set some stages for discussion over the next couple of days.

For those who are very ICH focused, here is some background information to situate the 2003 Convention in the broader, normative work that we do for UNESCO.

As the only United Nations (UN) agency with a specific mandate to promote creativity and safeguard the world's diverse cultural heritage, UNESCO has developed six main culture conventions and a number of declarations and recommendations as standard-setting instruments to work in the field.

A 1951 convention on copyright was actually the first UNESCO culture convention, but it left UNESCO to go to the care of WIPO, the World Intellectual Property Organization.

* This is a transcript of the oral presentation given by Tim Curtis at the Conference, based on his presentation with PPT file, and is not from a submitted written paper.

The conventions came in spurts. The first was in 1954 and dealt with the deliberate destruction of cultural property in armed conflict. Two happened in the 1970s; one on illicit trafficking of cultural objects and, the other, of course, was the very famous World Heritage Convention—perhaps UNESCO’s flagship program. And then suddenly, a flurry of conventions happened in the turn of the century – in 2001, 2003, and 2005.

The 2001 Convention went through fifteen or sixteen years of negotiation. It was a long process that was slow to get a critical mass of Member States signing on. However, both the 2003 and 2005 Conventions have had intense success in terms of quick ratification by Member States.

The 2003 Convention aims to ensure the viability of the intangible cultural heritage (ICH) through safeguarding measures with strong emphasis on the roles of concerned communities, groups, and individuals in its implementation. Perhaps less familiar to some is the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which deals mainly with cultural policies linked to the cultural cycle of production, including cultural goods and services, and the cultural industries.

As of June 2014, 162 State Parties have ratified the Convention, and 327 elements have been listed. In terms of UN Conventions, the rate of ratification of this convention has been extraordinarily high. The World Heritage Foundation Convention, for instance, took seven or eight years just to get the minimal number for the convention to go into effect. In comparison, the 2003 Convention went very quickly, which shows that it is responding to a clear need from Member States.

As the Convention is an international treaty, the State Parties are the main stakeholders, making them the main interlocutors. However, the Convention specifically states the stakeholders as: communities—in particular indigenous communities—groups, and in some cases, individuals who play an important role in safeguarding ICH to enrich cultural diversity and human creativity. Identifies communities, groups, and individuals is rare for an international convention to do.

This brings us to NGOs, which clearly cut across all of those. We see NGOs intersecting or dialoguing with states quite often. Some large, international NGOs have significant budgets and the means to speak directly to States in UNESCO, but also in the broader international community. Very localized NGOs also exist, some working at almost village level. NGOs are thus active across a broad range of

spectrum.

NGOs can act as stakeholders and intermediaries. They have resources and competencies in various fields that deal with ICH, and have connections with communities as well as other actors. This position is unique to NGOs. They often function as platforms for strong civil engagement, and in that sense, can be crucial partners for UNESCO.

At the national level, the Operational Directives specifically say in paragraph 90 that communities, groups, and NGOs shall be involved at the national level “in identifying and defining ICH and in other appropriate safeguarding measures,” another specific reference to the roles of NGOs.

In 2013, the first of a series of reports of evaluations of UNESCO’s standard-setting work of the culture sector took place. With the Internal Oversight Service (IOS), the evaluation decided to review and evaluate normative work in culture and started with the 2003 Convention. The objectives of the evaluation were to generate findings and recommendations regarding the convention’s relevance and effectiveness with a focus on its impact on legislation, policies, and strategies of Parties for its implementation; as well as to evaluate the implementation of conventions at the national level.

Some conventions get a lot of support at the international level, and State Parties show a lot of enthusiasm to ratify, but then very little is done at the national level. Those cases can hardly be considered great successes since the bulk of policies and measures happen at the national level.

The report also looked at issues faced by NGOs and highlighted the roles that NGOs had in relation to the 2003 Convention. The following are some of the activities carried out by the NGOs that were listed in the report:

- explaining the Convention and its principles to communities
- functioning as a linkage to communities to conduct research
- functioning as a linkage with academia to help with the inventorying of ICH, a critical part of the Convention
- participating in the preparation of nomination files
- engaging in safeguarding activities
- defending the specific interests of local communities in relation to governmental authorities
- acting as legal representatives of local communities in contracts with

governmental bodies

- providing advice to governments and governmental bodies

All of these elements were mapped out in the evaluation as areas that NGOs were either engaged in, could be engaged in, or would be interested in being engaged in.

The report found overall a very positive impact of the Convention, particularly as far as awareness raising of ICH has gone. Within ten years, ICH has been much more widely recognized at the international level as a valuable and integral part of people's cultural heritage. ICH safeguarding measures have integrated sociological and anthropological aspects into their approach. ICH has received a much broader acknowledgment as a valid form of cultural heritage compared to a decade or so ago, when many people still thought that only monuments and sites could be cultural heritage. This achievement represents one of the successes of the Convention.

Safeguarding measures aimed at the viability of ICH have also been identified as an emerging area – although progress is still needed. There has been an increase of awareness of ICH as a living heritage that is evolving and recreating itself while earlier approaches tended to want to fixate ICH, and keep it in an unchanging form. The convention has pushed forward the notion of ICH as dynamic and evolving, a notion that was debated intensely when the Convention was elaborated.

Another contribution is the notion of communities as the actual bearers of the heritage, and hence the ones who should define ICH by participating actively in the safeguarding measures. Putting communities at the centre of the definition of safeguarding is a highly unusual way for an international convention to operate. This approach is not seen in any other international treaty because by their nature, international treaties are UN treaties where the main stakeholders are State Parties. However, with ICH, the definitions and identifications must be done by the communities.

The report pointed to some of the limitations and challenges that NGOs face at the national level. First, although NGOs had a good understanding of the Convention, and despite their connection to both local communities and governments, their contribution to the development of cultural policy and their linking role was less acknowledged. Evidence that NGOs had been properly involved in the development of policies related to ICH and evidence for their engagement with the Convention was less obvious.

The report also stressed the need for community participation to be enhanced in many aspects of the national safeguarding process.

Community-level participation was found to still be unsatisfactory at the national level. This is perhaps due to the unusual nature of the Convention's involvement of the community, a concept that could take time to be fully implemented.

At the international level, NGOs participate in the implementation of the Convention through their accreditation status. Accreditation by UNESCO brings them many advantages, as interviews with representatives of the accredited NGOs by IOS revealed. Accreditation gave them leverage in networking and opportunities to collaborate with others at the international level, kept them informed about latest developments at the international of ICH, and stimulated safeguarding capacities in line with international standards, especially for developing countries.

Importantly, accreditation allows NGOs to provide advisory functions to the Intergovernmental Committee for the Safeguarding of ICH through the formation of a Consultative Body, which comprises six accredited NGOs and six independent experts. All twelve members are appointed by the Committee and must represent equitable geographic representation and competence in the various domains of ICH. The Consultative Body makes recommendations based on the nominations for the inscriptions in the List of Urgent Safeguarding and the Register of Best Practices, and it oversees requests for international assistance from the fund that are greater than twenty-five thousand dollars.

However, the Representative List is reviewed by the Subsidiary Body, which consists of State Party representatives. This process presented some concerns. First of all, the rules and criteria in appointing the subsidiary body were unclear, causing many stakeholders to doubt the integrity of the Representative List process. Having two separate bodies to examine the files has also occasionally led to some discrepancies in evaluation standards.

At the eighth session of the Committee meeting, a proposal was put forward to merge the functions of the Consultative Body and the Subsidiary Body, which would lead to having a single evaluation body comprised of six ICH experts and six accredited NGOs, thus ensuring consistency in evaluation methods. This would also lead to more independence from the State Parties by allowing the NGOs and the experts make the recommendations, although these would just be advisory recommendations; the State Parties would still be making the decisions.

This proposal was recently approved and should be implemented soon. The implementation of the above mentioned proposal will increase consistency within the Representative list; however the IOS identified other issues as well.

After speaking to many of the accredited NGOs, IOS reported that many NGOs felt that their role in the Convention was not taken seriously enough. The NGO forum, individual contributions, and other observers voiced concerns that they are often not sufficiently considered during the debate. In other words, the NGOs claimed that their advisory service has insufficient influence in the decision-making process of the committee.

The report also found that, according to the NGOs themselves, the accreditation criteria and procedure are not stringent enough and that they allow for rapid approval of many inactive organizations to get UNESCO accreditation.

Some of the issues that were raised were lack of abilities to communicate in English or French and lack of experience in examining files.

This situation raises the question of the definition of an NGO. An NGO can be anything from a large multi-million dollars organization with quite a large number of staff to five people, paying out of their pocket to try to work on a specific expression in a country with very limited resources.

Part of the problem is that the accreditation forms only get the basic type of organization profiles, which do not allow for the Committee or the Secretariat to clearly understand the contributions and nature of the NGOs' work nor their potentials in the implementation of the Convention.

Currently, more than a hundred and sixty NGOs are accredited, which is too many for the Convention to manage. Looking at how the World Heritage Convention functions may help. The World Heritage Convention deals with the other extreme; only three NGOs are accredited as advisory bodies, and only three will ever be accredited. However, they also function as umbrella organizations that bring together many others.

Several proposals for revising the accreditation procedures and criteria will be examined in next year's Committee.

NGOs will have to demonstrate that they possess the capacities for evaluating nomination files, proposals, and requests. They will have to have experience in various fields of ICH, in extrapolation from the local context to the international context; and in document evaluation and analysis. They will also have to show a

very good command of English or French by showing experience in drafting texts in one of those two languages.

It will also be proposed that NGOs already accredited be involved in the accreditation revision process. This does not imply that accredited NGOs should be the only NGOs involved in the process; it only defines an additional role for NGOs in relation to the 2003 Convention. Nor does it imply that only accredited NGOs work in ICH; many non-accredited NGOs do excellent community-based ICH, but may not be the best-suited for evaluating files in an intergovernmental committee, which requires a different type of competency.

For instance, of the 162 NGOs that have been accredited since 2014, only ten have actually served in the Consultative Body, meaning that only 10 percent of these NGOs have actively engaged with the the life of the Convention.

When looking at the 1972 World Heritage Convention, we find three global advisory bodies, which have large networks of experts and people across the world that they draw on for the evaluations. The three bodies are ICCROM, ICOMOS, and the International Union for Conservation of Nature (IUCN).

The IUCN deal with natural sites, and ICCROM and ICOMOS deal with cultural sites. ICOMOS has national chapters in every country, who each have their own networks ranging across all areas of expertise.

Such umbrella organizations do not exist for the 2003 Convention at the global level, nor do they exist at the level of specific ICH domains.

An analysis of the accredited NGOs within the UNESCO Convention may also help stimulate some discussion. Geographical representation is uneven. 51 percent of NGOs are in group 1, which comprises Western Europe and North America. This number is disproportional to the level of ratification and to the rate of nominations. This is not surprising given the level of NGO activity in those regions. The Asia-Pacific region is second, with 22 percent of NGOs. Next come Africa, Latin America, Eastern Europe, and the Arab states.

These numbers may simply reflect different abilities to access UNESCO mechanisms and accreditation processes.

Within the Asia-Pacific region, 65 percent of NGOs are operating within their own countries only. The national level is often where very valid safeguarding work happens; however as already mentioned, whether or not these are also the right kind of NGOs to engage at the international Convention level remains to be determined.

Only 6 percent of the NGOs mentioned that they worked on only one of the five specific domains of the Convention whereas 60 percent said they worked on all five. Further analysis is likely to reveal that NGOs rarely work on all five domains. However, a large number work on more than one without working on all five.

Some NGOs indicated that they worked in other domains, including cultural industries, conflict resolution systems strengthening, income generation, and poverty reduction, among others.

As presented, the information above shows only an overview of organizations' profiles and does not provide a complete picture of their potential contributions to the Convention. Therefore, in addition to the proposal to revise the criteria to include fundamental abilities as an advisory role, the Committee also requested that the Secretariat propose an evaluation form to assess such contributions quantitatively and qualitatively.

Another area where NGOs felt they were not participating actively enough—and this is an area where national NGOs could have a very important role—is in the periodic reporting process. According to some NGOs, State Parties were submitting periodic reports to UNESCO without taking into consideration the NGOs' input.

2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions is the only convention that explicitly has room for NGOs of civil society to formally have input in the periodic reporting, and the IOS recommended that we encourage State Parties to more actively engage NGOs in periodic reporting for the 2003 Convention. This would be a very important function for national NGOs irrespective of the status of their accreditation to the international committee.

This recommendation is in line with the results of the analysis of the periodic reports, which indicates that approximately 25 percent of forty-seven periodic reports submitted by State Parties worldwide fail to mention accredited NGOs in their countries. Thirty-four reports mention NGO participation, but only a third has lists of referred organizations, though many do not describe the details of their contribution.

NGOs described several potential ways in which they would like to play a bigger role: by following up on the List of ICH in Need of Urgent Safeguarding; by auditing the level of actual community involvement in the nomination for the Representative List; and by having a monitoring system for the implementation of the Convention.

Throughout this presentation, issues were raised without necessarily providing solutions. However, the identification of these issues allows for discussion.

NGOs play a play a significant role in the implementation of the Convention, and their contribution and participation need to be acknowledged and further supported.

The Committee made four specific recommendations in their Eighth Session of the Committee's meeting in 2013:

- to promote NGO and community involvement in the development of policy, including in legislation plans, safeguarding plans, and sustainable development plans (at the national level)
- to encourage representatives of accredited NGOs to participate in the Committee meeting prior to voting on agenda items and include the outcomes of the NGO forums (such as the NGO statements) in the Committee agendas
- to revise the accreditation process and criteria for NGOs to ensure their capacity to advisory services to the committee (which will be discussed in 2016)
- to complement the data on implementation in the periodic reports submitted by State Parties with information provided by NGOs (However, State Parties wishing to provide periodic reports should be looking for information from all their NGOs—accredited or not.)

The points raised in this presentation are not meant to address the general role of NGOs in the work they do; rather, they point to the issue of the role of NGOs in the life of the Convention. Many NGOs do very good work for ICH safeguarding without concerning themselves with nominations and lists.