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[SUMMARY]

ICHCAP Field Survey Report on ICH Safeguarding Efforts in Some Pacific Countries (2009-2013)

Introduction

Based on the *ICHCAP Field Survey on Intangible Cultural Heritage Safeguarding Efforts* in some Pacific countries (2009-2013), this summary provides a brief overview on the ICH situation in Fiji, Papua New Guinea, the Cook Islands, the Marshall Islands, Tonga, Palau, Vanuatu¹ and Federated States of Micronesia

The summary focuses mainly on ICH safeguarding systems, safeguarding policies, and ICH inventories as well as on pending issues and the urgent safeguarding needs of these countries. Moreover, information on the main entities in charge of ICH safeguarding and opinions of each country on the issue of community involvement are provided. To give a quick overview these countries' participation in ICH safeguarding at the international level, some additional information related to UNESCO is specified as well. Apart from the main topic, information on the situation of intellectual property related to ICH safeguarding in each country is included.

This survey report offers a large sample of the diverse ICH situations in Pacific countries. Each country has a different background on the issue of intangible heritage. Although all countries participating in the survey are concerned with the threats facing their ICH, most of them haven't defined ICH and haven't established inventory national ICH list or inventory. However, each country expresses a high degree of motivation and encouragement for safeguarding ICH, sharing experiences, and participating in international cooperation efforts.

Compared to some Asian countries, Pacific countries seem to be well aware of the emerging intellectual property issues related to ICH. This might be related to the internationally publicized infringement and violation of intellectual property rights by outsiders on the Pacific's traditional knowledge, cultural expressions, and genetic resources². Moreover, these countries appear to collaborate closely with the World Intellectual Property Organization on various awareness-raising and capacity-building activities on protecting traditional culture in a broad sense. To date, out of the eight Pacific countries participating in the survey, five countries (Fiji, Papua New Guinea, Cook Islands, Palau, and Vanuatu) are drafting laws on the protection of traditional knowledge and expressions of culture.

Furthermore, in terms of technical terminology, the Pacific countries tend to use "traditional knowledge" and "expressions of culture" as equivalent terms to "intangible cultural heritage". Pacific countries are also conducting cultural mapping projects, which is another common point that they share. Finally, the Pacific region has the highest rate of indigenous populations of any other region of the world and the highest rate of customary or traditional land ownership.³

¹ Listed according to the date of the field survey.

² Retrospectively, majority of cases on the violation of IP rights of traditional culture that urges the need for an international standard-setting instrument for the protection of traditional culture that learnt, cited and studied by international researchers seems to cover the African, Pacific, as well as Southern Asian and Southern American countries. For more information, consult the WIPO website for key resources on the subject. <http://www.wipo.int/tk/en/resources/#casestudies>

³ ICHCAP Field Survey on ICH Safeguarding Efforts, Report of Vanuatu, p.9

Abbreviation

- ICH Intangible Cultural Heritage
- UNESCO United Nations Educational, Scientific and Cultural Organization
- RL Representative List
- USL Urgent Safeguarding List
- IGO Inter-Governmental Organization
- NGO Non-Governmental Organization
- GO Governmental Organization
- IP Intellectual Property
- IPR Intellectual Property Rights

FIJI

- Ratified the ICH Convention in 2010; conducted survey in 2009
- As of December 2014, has no element on the ICH Lists of UNESCO and no accredited NGO

Safeguarding System and Policy

At the moment Fiji does not have any legislation that specifically deals with ICH. The focus is primarily on tangible cultural heritage. However, existing legislation—namely, the Fiji Museum Act, the Copyright Act, and the Trademarks and Patent Act—loosely give legislative authority to protect ICH to a certain degree. Moreover, the Fijian Affairs Act (1978), and the Native Land Trust Act (1940) deal with the issues related to different rights and land ownership of indigenous groups.

A significant legislative instrument on the protection of traditional culture entitled Model Law on Traditional Knowledge and Expressions of Culture is being drafted by engaging foreign and domestic experts. In this law, “traditional or indigenous knowledge” and “expressions of culture” are used as terms equal to the ICH while the five domains that the ICH Convention promulgates are used. This legislation serves a dual function—it seeks to protect indigenous knowledge from misappropriation and non-customary use, such as commercialization, and it targets the safeguarding of indigenous Fijian ICH for continuity. This law is expected to be a general legal instrument that encompasses the policies on intangible, tangible, movable, and immovable heritage and cultural industries. A draft of this law is annexed to the field survey report along with an explanatory memorandum for the protection of traditional knowledge and expressions of culture.

ICH Inventory

Although Fiji hasn't yet established a national ICH inventory, it is currently implementing a project to establish and maintain a database that will count as an inventory for the iTaukei indigenous cultural heritage. Known as the *Cultural Mapping Programme*, this project involves field research and ICH documentation in all fourteen provinces of Fiji to establish the Database of Traditional Knowledge & Expressions of Culture. To date, there are twenty-two types of items in the domains of traditional knowledge, oral heritage, festive events, crafts, and heritage sites. Specific criteria are outlined for incorporating ICH elements into the database, on which a question of authenticity and uniqueness is strongly emphasized. For sacred or secret information related to an element, consent from the heritage custodian is required before asking questions.

In regards to the non-governmental inventory, the report provides the oral history collection held by the Fiji Museum. This collection has about over 500 tapes of music, chants, stories, and family histories related to the Blackbird period as well as the World War II and colonization periods.

Concerning the Living Human Treasures system, Fiji piloted the program in 2005, but it hadn't been established by the time the survey project was undertaken in 2009.

Pending Issues and Urgent Needs on Safeguarding ICH

Westernization and modernization influence the younger generation and leading them to lose interest in traditional culture. In addition, past governmental policies have shown little to no interest in

safeguarding ICH, and this has partially placed Fijian ICH at risk. Fiji also has not yet established a national RL or USL.

Customary practices and customs are losing their authenticity. *Kuta* weaving is an example of a disappearing ICH element. In most cases, ICH bearers are passing away without transmitting their knowledge to the next generation. Moreover, the lack of financial support to carry out different projects, such as documentation and inventory-making ICH projects, is a challenge.

Although Fiji implemented the Living Human Treasures System in 2005, the programme is currently on hold due to the lack of funding, but there is a critical need to reactivate it. Diversity, resource personnel, and funding and transportation issues are listed as the encountered problems while implementing the safeguarding projects. Other than the Living Human Treasures System, which is on hold, there are no plans for safeguarding Fijian ICH at the moment.

Fiji expects personnel training, exchange programs, and technical and financial assistance from international society and ICHCAP. There is an urgent need for a cultural mapping programme and a need to upgrade The Database of Traditional Knowledge and Expressions of Culture. In relation to this, funding for research and transportation is required.

Main Governmental Body in Charge of ICH

Ministry of Indigenous Affairs—Indigenous Affairs Institute of Indigenous Language & Culture

Community Involvement

No comments provided, as the survey didn't include this question at that time.

Remarks

IP issues in ICH safeguarding are already being considered thorough deliberations for adopting a national standard-setting instrument. Tourism plays a key role for the revival of traditional craftsmanship; meanwhile, traditional tools for crafts are being replaced by modern devices.

Out of the domains of ICH, traditional knowledge is highlighted (in the Database of Traditional Knowledge and Expressions of Culture), unlike the general tendency of countries paying much attention to the performing arts.

PAPUA NEW GUINEA

- Ratified the ICH Convention in 2008; conducted survey in 2010
- As of December 2014, has no element on the ICH Lists of UNESCO and has one accredited NGO

Safeguarding System and Policy

Papua New Guinea does not have specific provisions on ICH safeguarding. However, the following pieces of legislation generally cover intangible culture

- National Cultural Commission Act (1994)
- the National Cultural Property (Preservations) Act (1965)
- National Museum & Art Gallery Act (1994)
- Organic Law on the Provincial and Local Level Government (1998)
- Environmental Act (2000).

Moreover, a highly important legal document concerning ICH, the Draft Bill on Traditional Knowledge and Expressions of Culture (2010) is yet to be submitted to the National Executive Council for endorsement. In addition to this, the National Traditional Knowledge and Expressions of Culture Policy is being drafted.

ICH Inventory

Papua New Guinea has not established a national ICH inventory yet. However, a national cultural mapping programme is currently being implemented. In light of this, documentation on the intangible and tangible heritage of four provinces representing each of the four regions of the country is conducted progressively. Launched in 2009, this programme aims to establish and maintain a database registry system, a first-time documentation exercise in the country. Within the framework of this programme, the database system entitled Papua New Guinea Cultural Database has been established, but it needs further reviewing and evaluation.

By the time of the field survey, the Pilot Project of Cultural Mapping in the southern region of the country had been completed, and the following nine categories of ICH registry were developed accordingly: social organization, life crisis, material culture, ritual objects, ceremonies/expressions of culture, economics/subsistence activities, technology, herbal and healing techniques, and others. The four regional cultural mapping projects in each selected province will form the basis of inventory work for the entire country. No information on the Living Human Treasures System or similar programme is provided.

Pending Issues and Urgent Needs on Safeguarding ICH

A national RL or USL hasn't been established yet. The report states that Papua New Guinea has more than 850 languages and over 1,000 living cultures and that the country's vast wealth of ICH is on the verge of disappearing.

Absence of specific legislation on the topic is indicated as the main reason why the ICH of Papua New Guinea is in danger.

Presently, the nation anticipates conducting a second regional cultural mapping pilot project for the New Guinea Islands region in West New Britain Province. This will be followed by another two regional pilot projects for the Momase and Highlands regions, respectively. For the continuation of the three remaining regions before the actual project starts, funding will be another challenging issue. However, the National Cultural Commission continues making efforts in seeking assistance from the national government for funding, and it hopes to secure funding from other sources as well.

Concerning the problems encountered during the safeguarding project, language barriers and dialect differences, lack of education and effective awareness on the concept of ICH and the whole cultural mapping project, lack of funding, lack of professional capacity, and difficulties to access remote areas are noted.

Papua New Guinea expects international assistance in the form of training and capacity building, technical advice, and financial contributions to enhance safeguarding mechanisms in the country. Moreover, it remarks the need for strengthening cooperation and exchanging ideas with other Pacific island states and territories, for provisions related to technical assistance to process nomination documents for possible inscription of ICH elements as well as for technical and financial assistance for its cultural mapping programmes and for the setting up and maintaining its database registry system.

Main Governmental Body in Charge of ICH

National Cultural Commission

Community Involvement

Enhancing the current cultural festivals by rotating them to different locations that have not staged a festival is a way to consider for ensuring effective involvement of communities in ICH safeguarding activities. Moreover, it states that since Papua New Guinea has legislation that empowers the provincial governments to interact with local governments in cultural matters, encouraging respective provincial governments to further favour local level governments to develop programmes and activities for their respective wards (villages) is a good way as well.

Remarks

Papua New Guinea is drafting a standard-setting instrument to protect its traditional knowledge and traditional cultural expressions. It is well aware of the respect of prior and informed consent of communities for any activity aiming to safeguard ICH. Moreover, Papua New Guinea has an experience of conducting an *en face* exchange with the community leaders and elders on the essential questions related to the IP and ICH such as access of sacred/secret traditional knowledge.

THE COOK ISLANDS

- Has not ratified the ICH Convention yet; conducted survey in 2011
- As of December 2014, has no element on the ICH Lists of UNESCO and no accredited NGOs

Safeguarding System and Policy

Five legal acts are provided as legislative instruments that protect traditional culture:

- House of Ariki Act or the Act for Council of Chiefs (1966)
- Ministry of Cultural Development Act (1990)
- Maori Language Act (2003)
- Copyright Bill⁴ (2010)
- Traditional Knowledge Bill (2010).

By 2011, the last two acts expected possible enactment in 2012. There is no cultural policy in place as the current head of the Ministry of Culture feels that the Ministry of Cultural Development Act is efficient in providing the necessary protection to the cultural heritage of the Cook Islands.

ICH Inventory

There is no national inventory of ICH for the Cook Islands. There is, however, an inventory of oral traditions collected and a list of national performing arts festivals and competitions since 2003 on DVD and video cassette. The Ministry of Cultural Development holds a collection of oral histories recorded in the 1970s from holders of traditional knowledge. The collection is divided into two archives: the National Archives and the Anthropology Division. The National Archives has the Cook Islands' oral history collection—100 audio cassettes and 10 manuscripts. The Anthropology Division runs an ongoing oral tradition project which currently has 80 audio cassettes, 120 digital video recordings, and 3 manuscripts. The subject matter of the recorded materials includes genealogies, the arrival of the founding ancestors of each community, songs, chants, mythology, and cosmology. The inventory's categories are formed by the islands and districts. No information on the Living Human Treasures System or similar program is provided.

Pending Issues and Urgent Needs on Safeguarding ICH

The survey reports that the knowledge and practice of traditional voyaging and navigation, the *tivaivai* traditional quilt making, and the traditional hymn of the Cook Islands are endangered. A national RL or USL hasn't been established yet. The state of ICH in the Cook Islands varies, depending on geographic location. The report suggest that ICH in the northern islands of the country is more intact, whereas the southern coastal areas demonstrate ICH elements that have greater issues of danger, as they are more exposed to the modernization and tourism effects. Moreover, reluctance of younger generations to engage in safeguarding and transmitting ICH is a problem to resolve.

⁴ According to the website of WIPO, the Cook Islands has no copyright law of its own, but has adopted and applied the New Zealand Copyright Act of 1962. Source: <http://www.wipo.int/wipolex/en/details.jsp?id=8524>, accessed on May 7, 2013.

Important points to consider in ICH safeguarding include how to promote the use and practices of ICH while ensuring authenticity and passing the heritage on to the next generation as well as how to make encourage analysis of ICH and see how it can contribute to economic wellbeing in the country.

A cultural mapping project, which is a form of national inventory making, is being planned by the Ministry of Cultural Development. This activity will identify the ICH holders and other practitioners in the cultural sector. In the 2011-12 Business Plan of the Ministry of Cultural Development, cultural mapping is the first step towards formulating a national strategy to encourage creative industries in the local communities.

With regards to the difficulties encountered while safeguarding ICH, IPR infringement is strongly emphasized. The report states that IPR exploitation has compelled practitioners to withhold information relating to their particular field of ICH. Some have refrained from partaking in safeguarding projects; others remain reserved on passing on their knowledge for fear of abuse. Moreover, NGOs have a critical need of funding. The government should help NGOs with financial and professional capacities. Furthermore, the fragmented involvement of stakeholders in ICH safeguarding needs to be consolidated to form a unified body for effectiveness.

Concerning the expectations from the Cook Islands on international society, it notes that international society can contribute through providing technical assistance in inventory making as well as providing examples of successful projects that have been implemented in other communities. Finally, the Cook Islands expects ICHAP to design a general template with simple instructions for inventory making, to organize cultural exchange programs, to produce documentaries on different communities that have ICH at risk, to encourage governments to be more vigilant and make ICH safeguarding a priority in their development plans, and to continue promoting the UNESCO 2003 Convention and encourage all Member States in the region to sign.

Main Governmental Body in Charge of ICH

Ministry of Cultural Development

Community Involvement

For the Cook Islands, communities are naturally passionate regarding ICH and will engage in safeguarding ventures. The ideas on the most effective means to safeguard and promote ICH should originate at the community level. The communities shall also be implementing agents for any strategies designed. Moreover, awareness raising programs to educate communities on the importance of ICH to enable them to assist modelling, monitoring, and supervising the safeguarding policies and systems required.

Remarks

Emphasis is given on the intactness of the ICH. Moreover, intellectual property issues are already visible in the Cook Islands, as it stated the exploitation of IP rights as a big challenge. In relation to this, the Traditional Knowledge Bill is drafted. This Bill considers communal ownership of cultural property and allows for the formation of an authority to investigate claims of traditional ownership.

Attention on ICH safeguarding is coupled with the development of the creative economy. The report states that the cultural sector will undergo training and development within the next five years to empower ICH practitioners to engage in economically viable activities. This will assist in preserving the heritage through practice and performance.

THE MARSHALL ISLANDS

- Has not ratified the ICH Convention yet; conducted survey in 2011
- As of December 2014, has no element on the ICH Lists of UNESCO and one accredited NGO

Safeguarding System and Policy

The Marshall Islands has a basic legislative framework on the protection of cultural heritage. The main acts concerning this matter follow:

- Language Commission Act (1983)
- Environmental Protection Act (1984)
- National Archives Act (1989)
- Resolution to Provide for the Preservation of the Cultural and Historic Heritage of the Republic of the Marshall Islands (1990)
- Historical Preservation Act (1991)

The Historical Preservation Act is a main legal instrument for protecting natural heritage and cultural heritage, including both tangible and intangible. Oral tradition and the Dri Kabeel (or a person possessing traditional knowledge and skills) are defined in this legislation. In relation to this act, the following regulations were promulgated in 1992 and thus govern their respective fields:

- Regulations Regarding the Conduct of Archaeological and Anthropological Research in the Republic
- Regulations Governing the Taking and Export of Artefacts
- Regulations Governing the Disposition of Archaeologically Recovered Human Remains
- Regulations Governing Land Modification Activities
- Regulations Governing Access to Prehistoric and Historic Submerged Resources.

ICH Inventory

There is no national ICH inventory in the Republic of the Marshall Islands. On this matter, the field survey report provides an overview of the ICH domains in practice, which are divided into the following three categories: Pillar of the Land (includes eleven ICH elements—canoe building, Marshallese stories, medicine, taboo, family and society, sorcery, play and sports, dances, tattooing, foods and their preparation, and funerals), Pillar of the Sea (includes traditional fishing methods), and Pillar of the Sky (includes traditional knowledge related to navigation and is associated with knowledge on astronomy, meteorology, and geography).

Pending Issues and Urgent Needs on Safeguarding ICH

The field survey report notes that the art and skill of navigation is at the risk of being lost forever. Traditional navigation is rarely used especially in urban areas. Knowledge of stars, weather, and sea conditions, and the capacity for making and interpreting sea charts is slowly at a risk of total disappearance. Traditionally, the people with this kind of traditional knowledge transmit it to specific persons that they choose, so this limit may have also contributed to the knowledge being almost lost. There is no national RL or USL established yet.

Modernization is a main factor causing the Marshallese ICH to be in danger of disappearance. In the face of this, the Marshall Islands has a specific provision in the Historical Preservation Act to designate an ICH bearer and support him/her to transmit knowledge and skills to the next generation for a certain period. This system is somewhat similar to the Living Human Treasures System.

Another on-going and successful activity related to safeguarding Marshallese ICH is the Waan Aelon in Majol (WAM) programme. This programme targets mostly youths-at-risk and dropouts and teaches them canoe building and sailing methods.

In regards to the difficulties encountered during ICH safeguarding activities, interviewing people and getting detailed answers is a big challenge. In Marshallese culture, traditional knowledge and skills in each family or in each clan are considered secrets, so people are reluctant to talk.

Concerning the future plan, the Marshall Islands is planning to establish an apprenticeship programme on traditional navigational knowledge and associated skills. Moreover, the nation is willing to encourage the aforementioned WAM programme to transmit Marshallese ICH to young generations.

For ICH safeguarding, the Marshall Islands is expecting mostly technical assistance, consultation, and IEC (information, education, and communication) materials from international society. Furthermore, funding, training on advocacy, and technical assistance are expected from ICHCAP as a role to play in the safeguarding of ICH. Except for training, the importance and relevance of media and dissemination of information on ICH is strongly emphasized as well. Moreover, raising the government leaders' awareness about the importance of ICH is critically needed.

Main Governmental Body in Charge of ICH

Ministry of Internal Affairs—Historic Preservation Office

Community Involvement

Regarding this question, the report highlighted the importance of identifying ICH bearers and stakeholders as well as brainstorming to find the most effective way to ensure interest and involvement of communities.

Remarks

Although the Marshall Islands hasn't ratified the ICH Convention, its main legal instrument for the protection of cultural heritage, the Historical Preservation Act (1991), appears to have very important and specific provisions that are aligned with the spirit of the ICH Convention. For instance, the significance of oral traditions is noticed in this law. Oral traditions are defined, and they are reflected in the definition of cultural heritage and landmarks. Moreover, a very interesting point in the law is the idea of vesting local communities with the right to determine whether an element has cultural and historical value. Furthermore, specific items are stipulated on individuals with traditional knowledge and skill as well as on relevant measures to promote and support those individuals.

There is no IP-related information noticed in the field survey report.

TONGA

- Accepted the ICH Convention in 2010; conducted survey in 2011
- As of December 2014, has one element on the RL and no accredited NGOs

Safeguarding System and Policy

Kingdom of Tonga has no national legislation on culture and ICH safeguarding. However, the National Cultural Policy and the National Cultural Implementation Plan for 2012–2015 were drafted. By the time of the field survey, the Cultural Mapping Planning and Policy (2010–2011) had been implemented. This programme aims to preserve, maintain, support, promote, and integrate Tongan culture and values into educational programmes and activities.

The report notes that this policy covers the five domains of culture that were identified in the cultural mapping exercise. These include the foundation of culture, land, culture and education, cultural industries, and government. Being most relevant to ICH, the section on the foundation of culture elaborated more on what is considered to be valued to Tongan culture, which includes cultural identity, social cohesion, and traditional knowledge systems. It also covers cultural rituals, customs, values, religion, and other beliefs that guide Tongans in their everyday life.

ICH Inventory

Tonga hasn't established a national inventory yet. The report acknowledges the demand to establish one and the idea that Tonga needs to have international expert and technical assistance from UNESCO to conduct workshop on inventory making and to learn from the states that have established national ICH inventories.

Pending Issues and Urgent Needs on Safeguarding ICH

The following information on the pending issues concerning ICH safeguarding is extracted from the Cultural Mapping Report 2010.

Tonga has not established a national RL or USL yet. The gradual loss of the Niufo'ou language and traditional knowledge systems is observed particularly in the areas of navigation, agriculture, fishing, and traditional medicine. One of the two Tongan languages, Niufo'ou, is under threat as it is not taught in schools. A great deal of symbolic and metaphoric meaning of the language is being lost. Moreover, the traditional social ranking system is under transformation. Also, as the traditional Tongan knowledge system is not on the school curricula, it is at risk of disappearance. Significant changes have been observed in the traditional navigation system, Tongan time keeping, music, traditional performing arts, agriculture, fishing, medicine, and rituals and customs.

Modernization and new technology affects the use of the Niufo'ou language. Migration and traditional leaders' lack of power contributes the weakening of the traditional social structure as well as kinship ties. Climate change also affects traditional practices, especially those related to fishing and agriculture, and demands solutions. In addition, young people are losing interest in traditional culture.

There are a number of insufficiencies that are causing issues, and they need to be resolved. They include the lack of

- financial capacity in the ICH sector
- a strong cultural sector
- teaching and learning materials and technical equipment
- professional human resources in culture and arts management and cultural economy
- cultural statistics
- awareness of the Intellectual Property and Copyright Act
- coordination amongst government and non-government agencies on cultural activities
- a focal point through which artists, cultural producers, and entrepreneurs can refer for administrative, marketing, and other sorts of assistance

Other than stressing the importance of ensuring proper archiving, the report highlights that promoting the preservation of Tonga's traditional knowledge system and traditional performing arts could be implemented through educational programmes, events, encouragement to use traditional knowledge system where it is still appropriate, and the usage of media and documentary films to raise awareness of traditional knowledge systems and traditional performing arts.

By 2011, Tonga was planning to submit a project proposal to establish the Living Human Treasures System. Also, it was planning to establish the National Intangible Cultural Heritage Committee by 2012.

Tonga expects international assistance on sharing and exchanging expertise on ICH safeguarding and inventory making. Furthermore, funding for technical and consultancy assistance, as well as technical and professional capacity building are in demand.

Tonga stresses the need for developing programmes to promote traditional knowledge associated with handicrafts, arts, music, and performing arts as well as developing programmes and activities to assess the economic potential of the cultural industry. In addition, implementing educational and training programs to include the production of uniquely Tongan products and promotion with communication and marketing strategies are stressed as efforts that need to be made.

Main Governmental Body in Charge of ICH

Ministry of Education, Women's Affairs and Culture—Cultural Division to be affiliated to the Ministry of Internal Affairs—Cultural Division, Tonga Traditions Committee

Community Involvement

No comments provided on this matter.

Remarks

Attention is taken not only for ICH safeguarding but also for the creative economy and cultural industries to generate economic profits for development purposes, which is in line with the Millennium Development Goals.

PALAU

- Ratified the ICH Convention in 2011; conducted survey in 2012
- As of December 2014, has no element on the ICH Lists of UNESCO and one accredited NGO

Safeguarding System and Policy

The Republic of Palau has several laws and policies in place to safeguard and promote its cultural practices and knowledge. The main laws on the protection of cultural heritage are the following:

- Constitutions of the Republic of Palau (1981)
- Historical and Cultural Preservation Act (1995)
- Copyright Act (2003), Language Commission Act (2009)

In addition, the Protection and Promotion of Traditional Knowledge and Expressions of Culture Act (2005) and the Orthography Act (2007) are pending in Palau's national congress for further enactment.

Furthermore, Palau's National Policy on Culture for 2012-2021 was developed in 2012 and is currently underway for further enactment. Objectives of this policy include strengthening traditional political and societal systems, protecting authenticity of Palauan art and expressions, protecting and promoting Palauan language, strengthening Palauan epistemology, protecting and promoting Palauan knowledge and expressions, maintaining the integrity of Palauan money, strengthening the economic base, and improving access to Palauan knowledge.

ICH Inventory

A national inventory has not been established yet in Palau. However, the Bureau of Arts and Culture of Palau identifies and documents oral history and cultural expressions of Palau on a regular basis. To date, it has published two volumes about the cultural and traditional practices and processes as well as ethnographic and oral history surveys for all sixteen states of Palau.

Under the coordination of the Bureau of Arts and Culture, every state has a developed oral history booklet that includes the identified historical and cultural sites as remnants and tangible evidence to the oral history. As a result, various traditional knowledge and practices handbooks were published on the following themes:

- pregnancy and birth
- death, funerals, and related responsibilities
- traditional leadership in Palau
- hereditary status and strength
- economics and trade
- medicine and therapy
- traditional items of a household
- entertainment
- relationships between villages
- traditional laws and principles
- settlement of a deceased person's estate
- traditional education

- proverbs of Palau
- stories with moral lessons
- clubs

Regarding the non-governmental inventory, Belau National Museum holds a collection of over 6,000 items of Palau cultural materials while Etpison's Museum keeps a collection of Palauan bead money, wood carvings, war relics, books, and other Pacific island materials.

Pending Issues and Urgent Needs on Safeguarding ICH

Some elements of traditional performing arts, indigenous architecture/designs, and traditional sports and games are at the risk of disappearance. Moreover, the issue of transforming secret ICH into a public ceremony or event has been observed. Palau hasn't established a national RL and USL yet.

The report states multiple causes for the threatened state of Palau's ICH. Aside from social changes influencing behaviour and cultural practices, knowledge is not being passed on in any formal manner. Social events that require the frequent use of traditional knowledge have diminished, yet at the same time, the current school systems have not offset this loss by integrating cultural heritage knowledge and practices into the curricula. As such, any plans or policies to ensure continuity of the heritage is lacking. Except for a few policies here and there regarding documentation and protection, very little is in place for the promotion and continuity of cultural practices in Palau society.

In 2011, a pilot cultural mapping project of Palau was completed and provided an overview of Palau's current cultural heritage protection and promotion as a means to feeding the development of a cultural policy. However, there is still a need for a complete mapping of Palau's ICH and the development of national plan.

Palau expects international assistance in financial and technical resources for mapping its ICH, ensuring a complete situational analysis, and in developing a plan for safeguarding and promoting its heritage.

Although there is an increased effort to document the ICH and knowledge, the materials have yet to be electronically digitized for preservation and easy access for application and promotion by educational mediums or individual users.

Main Governmental Body in Charge of ICH

Ministry of Community and Cultural Affairs

Community Involvement

Using a bottom-up planning strategy in community-based programmes and employing community members' knowledge and contributions into planning and implementing effective protection and promotional activities for cultural or natural properties are essential.

Remarks

Republic of Palau is well aware of the IPR issues of traditional culture and is working on establishing a sound legislation.

The Palauan Copyright Act's definitions don't cover traditional culture in terms of the protected subject matters, derivative works, or performers. So it seems that the Palauan Copyright Act leaves these issues to the pending Protection and Promotion of Traditional Knowledge and Expressions of Culture Act.

VANUATU

- Ratified the ICH Convention in 2010; conducted survey in 2012
- As of December 2014, has one element on the RL and two accredited NGOs

Safeguarding System and Policy

The field survey report notes that there is no comprehensive or up-to-date legislation dealing with the protection and management of cultural heritage (tangible or intangible) in Vanuatu. Relevant legislation that provides a basis for legal and non-legal protection of cultural heritage includes the following:

- National Constitution (1979)
- Vanuatu National Cultural Council Act (1986)
- Convention on Biological Diversity (1992)
- Copyright and Related Rights Act (2000)
- Trade Secrets Act (2000), Forestry Act (2001)
- Environmental Management and Conservation Act (2002)
- Kava⁵ Act (2002)
- Trade Marks Act (2003)
- Patents Act (2003)
- Designs Act (2003)
- National Council of Chief Act (2006)
- Preservation of Sites and Artefacts Act (2008)

In addition, the Act for the Protection of Traditional Knowledge and Safeguarding for the People of the Republic of Vanuatu is being drafted. This bill contains the traditional rights of the owner and the administration for traditional knowledge.

With regards to the cultural policies, a national cultural policy has been drafted and is currently pending for further enactment. Moreover, the custom policy called *Malvatumauri* the National Council of Chiefs (1983) is a type of soft law, and relevant work is underway to empower this policy. Another important document is the Vanuatu Cultural Research Policy (1995), which defines *kastom*.⁶ This policy advocates recognizing traditional ownerships of resources under the Ni-Vanuatu culture as well as promotes and protects traditional biological knowledge. In the absence of an official national cultural policy, it also provides elements of a de facto policy statement for the Vanuatu National Cultural Council and Cultural Centre. Furthermore, the National Education Policy, the Vanuatu Cultural Council Policy, and the National Policy on Filming in Vanuatu contribute the arrangements and regulations in the cultural sector.

ICH Inventory

⁵ "Kava" means: plants of the species, *Piper methysticum* or the traditional beverage obtained by cold water extraction of the plant's underground organs, *ICHCAP Field survey report on the ICH safeguarding efforts in Vanuatu*, p.17

⁶ The indigenous knowledge and practice and the ways it is expressed and manifested

Vanuatu hasn't established a national ICH inventory yet. The need for creating a national database or inventory of ICH is addressed in the report. An intranet network of databases on Ni-Vanuatu cultural heritage was established at the Vanuatu Cultural Centre in 2006. It has about 5,000 mini DVDs of 225,000 hours of cultural materials and 3,000 VHS tapes of 12,000 hours. This network is inaccessible to the public, but it does include the databases from the following institutions:

- National Museum (artefacts)
- National Library
- Public Library
- NFFSA Audio Archives
- National Archives
- Photo Archives of the National Photo, Film and Sound Archives
- Vanuatu Cultural and Historical Sites Survey

This network of databases requires proper management and maintenance.

Pending Issues and Urgent Needs on Safeguarding ICH

Vanuatu has not established a national USL and RL yet. Indigenous language is in critical need of safeguarding, as the local dialects are no longer in use. The factors threatening Vanuatu ICH include modernization, the lack of a relevant legal system for protecting traditional knowledge, misappropriation of traditional knowledge, decreased interest in traditional culture, limited transmission of traditional knowledge, and the dilution and loss of culture. There is a need to establish a database for cultural mapping inventory at the Vanuatu Cultural Centre. Moreover, developing an ICH strategy for Vanuatu, identifying the endangered ICH, and inscribing elements on the USL are pressing needs.

The main challenge facing ICH safeguarding activities is finding financial and human resources. Furthermore, obtaining interview permission and influence from resource persons as well as a lack of interest and knowledge on safeguarding are listed as the difficulties encountered.

Concerning the future plans for ICH safeguarding, the Vanuatu Culture Centre is planning to conduct research on the diversity of language and traditional culture in different provinces of Vanuatu. It has also established the National Council of Arts to take care of the crafts and visual and performing artists. There is an on-going project for digitizing the archives of the National Film and Sound Unit, which started in 2012.

From international society, Vanuatu expects funding, awareness-raising, and technical and professional capacity building (office equipment for the national database record keeping, funds, workshop, and training). Moreover, Vanuatu expects ICHCAP to designate a permanent focal point for ICH in the region and to organise internships, training and exchange programmes to enhance the professional capacity in Vanuatu. Raising awareness at the government and community level is much required. There is a need to strengthen and link stakeholders together to conduct consultation meetings. To enhance the process of developing safeguarding policies and systems, a certain policy or law must recognize property rights over traditional knowledge holders first.

Main Governmental Body in Charge of ICH

Ministry of Internal Affairs—Vanuatu Cultural Centre

Community Involvement

No specific comments provided on this matter.

Remarks

Being a multicultural nation that has more than a hundred distinct languages, the Republic of Vanuatu is well aware of the IPR issues of the traditional culture. The Ni-Vanuatu Copyright and Related Rights Act (2000) defines expressions of indigenous culture. Moreover, definitions of “expressions of indigenous culture” and “indigenous knowledge” are stipulated in the Patents Act (2003) and the Designs Act (2003), respectively. These refer to the registration of patents or designs involving indigenous knowledge. The Ni-Vanuatu National Cultural Council and the National Council of Chiefs have the power to act as the custodian of copyrights on behalf of disputing custom owners or recognition of the IP of individuals, clans, and communities who inherit the indigenous knowledge.

FEDERATED STATES OF MICRONESIA

- Ratified the ICH Convention in 2013; conducted survey in 2013-14
- As of December 2014, has no element on the ICH Lists of UNESCO and no accredited NGOs

Safeguarding System and Policy

The Federated States of Micronesia (FSM) is comprised of four individual states: Yap, Chuuk, Pohnpei, and Kosrae. Each state has unique and similar characteristics at the same time because of the cultural alignment and the geological background. The constitutions of the FSM, Pohnpei, Chuuk, and Yap clearly address traditional rights which are used alongside common law or civil law to preserve these customary systems within its boundaries of the customs and traditions. However, there are no specific regulations in each state and they are still in a process of developing the legal framework for safeguarding ICH.

Cultural policy was developed and adopted by FSM in 2011. The proposal included several options and objectives aimed at enhancing the role of the traditional cultural heritage which includes the following;

- establishing educational programs
- certifying traditional experts
- establishing cultural observatories
- establishing copyright legislation
- establishing protocols for traditional knowledge sharing
- promoting creative industries
- promoting the performing arts

ICH Inventory

FSM has yet to establish a national ICH inventory and the report suggests some recommendations to build the ICH inventory system. Firstly, it is fundamental that developing practical policies that identify and document inventory lists. Additionally, plans for ICH safeguarding under private ownership should be developed. Traditional chiefs and village leaders should be recognized and empowered to maintain historic properties where they exist.

Pending Issues and Urgent Needs on Safeguarding ICH

The most vulnerable aspect in great danger of vanishing in ICH is oral histories. Although Yap is considered the most traditional islands of the Pacific, most of its oral histories and myths have been lost. In Yap there is a rich oral history that takes seven days to perform; This oral history illustrates the story of the travels of Pululap and his sons and all the islands they held within their empire. Today only few people can recount the full stories. In Pohnpei, the oral history is traditionally considered as a secret. Due to its secrecy it is difficult to assess how well it is retained. Moreover, the survival of oral history is increasingly threatened because of the influx of modern culture.

Main Governmental Body in Charge of ICH

National Archives, Culture and Historic Preservation Office (NACH)

Community Involvement

No comments provided in the report.

Remarks

ICH represents indigenous people's identities in the region. The unique ICH heritage has been developed with semi-isolation, and also has suffered from extinction or variation effected by the successive influences of occupation including that of Germany, Japan, and America. However, the rich ICH has persisted due to the deep-rooted attachment by local people.