

2011-2012 IP Survey Report

**Field Survey on
Intellectual Property Issues
in the Process of
ICH Information Building and Sharing**

**International Information and Networking Centre for
Intangible Cultural Heritage in the Asia-Pacific Region
under the auspices of UNESCO**

In collaboration with the Sahapedia, India

Preface

ICHCAP, a UNESCO Category 2 Centre, has carried out activities for safeguarding intangible cultural heritage (ICH) in the Asia-Pacific region with a centralised function in ICH information and networking. In this role, the Centre has worked towards protecting intellectual property rights related to ICH information. The Centre held expert meetings on ICH safeguarding and intellectual property rights in 2009 and 2010, and in 2011, the Centre proposed a project for protecting ICH intellectual property (IP) rights in the process of ICH information building and sharing.

In 2011 and 2012, as part of the new project, field surveys were conducted with the cooperation of ICH information-related institutes in the Asia-Pacific region to examine IP issues that could arise in the process of ICH information building and sharing. The survey was conducted in eleven countries—Cook Islands, Fiji, India, Kazakhstan, Korea, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, and Viet Nam. The purpose of the surveys was to highlight the IP-related problems that ICH-related organisations may encounter while conducting ICH information-related activities, such as identification, documentation, digitisation, etc., and promoting the groundwork for a guide to protect IP-related aspects of ICH in the process of information building and sharing.

For the field surveys, a questionnaire developed by ICHCAP was provided to key organisations, and surveys were carried out by each organisation according to the questionnaire. A research team based in each organisation lead the surveys. Upon completing the surveys, the organisations involved compiled a report. ICHCAP collected the submitted reports and is now making them available in this publication, *Field Survey on IP Issues in the Process of ICH Information Building and Sharing*.

The survey reports from each country are being provided as a resource to exchange experiences related to the IP aspects of ICH information. Also, it is expected that publishing reports can foster an environment to understand and resolve problems related to IP aspects of ICH information in the Asia-Pacific region.



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IP Survey Report

I . Institute Overview

1. Profile of the Institute

Sahapedia is an open online encyclopedia on Indian culture and heritage. The project began in 2010 in New Delhi with the support of CMC Limited (a Tata enterprise), and in collaboration with International Institute of Information Technology, Hyderabad. As a comprehensive, collaboratively created multimedia web platform, Sahapedia will serve as a single-window resource on Indian culture.

At the preliminary stage, Sahapedia was conceived as an online encyclopedia consisting mainly of articles covering various aspects of Indian culture and heritage. However, realising the potential of the web, and the non-linear and multi-faceted nature of Indian culture, its mandate was enlarged to include other rich media formats for deeper and more experiential knowledge-sharing. For example, to capture the full extent of the grandeur and history of the TajMahal, the experience needs to extend beyond textual knowledge, to cover other multimedia features like interactive maps, images with audio commentary, and interviews with experts, heritage walks and learning modules for a richer experience. Such a format will also lend itself well to represent the non-linear and interdisciplinary nature of Indian culture.

Secondly, the motivating principle behind such an encyclopedic resource is that it will be dynamic and will offer a platform for multiple voices to co-exist. The web offers the possibility of bringing together a resource based on community ownership and sharing through collaboratively-generated content.

At Sahapedia efforts have been directed towards generating content, fostering collaboration, developing the technology platform, and formulating guidelines and protocols for knowledge-sharing and dissemination on the web.

The three goals of Sahapedia are information, education and action. It aims to foster knowledge, encourage engagement, and generate action towards

understanding and revitalising the diverse aspects of Indian culture. As an open online forum, Sahapedia is accessible across various user groups such as scholars, practitioners, students, teachers, travelers and enthusiasts. It is an interactive tool for both rural and urban educational institutions. Sahapedia also integrates activities and services including research, documentation, digitisation and conservation.

Vision

Sahapedia is an initiative to develop an online interactive encyclopedia on the arts, cultures and histories of India (broadly, South Asia) based on both curated and crowd-sourced content. Sahapedia is envisaged as web-based since the web as a medium is conducive to represent the inter-connected and non-linear nature of Indian culture and heritage across various domains.

Mission

Sahapedia's goals are to inform, educate and act. It aims to foster knowledge, encourage engagement and generate action towards understanding and revitalizing the diverse aspects of Indian culture. As an open online forum, Sahapedia is accessible across multiple user groups. It is an interactive tool for both rural and urban educational institutions. Sahapedia integrates activities and services including research, documentation, digitization and conservation.

Objectives

- To provide a unique experience of Indian history and culture on the web through multimedia content and tools;
- To position itself as a unique educational experience and toolkit;
- To generate and share knowledge among users with varying levels of interest and expertise;
- To facilitate dynamic access to content for users;
- To provide an inclusive space for civil conversation among members of different communities and groups;
- To become a forum for advocacy in the area of heritage conservation and revitalization; and
- To become the first-stop for reference on any aspect of India's cultural heritage.

Sahapedia is located in India. It focuses on Indian culture and heritage, and more broadly South Asian culture and heritage since these are fluid categories and have evolved syncretically.

Sahapedia is specialised in documentation, research and online dissemination of performing arts including theatre, dance, music; cultural practices; rituals; festive events; knowledge systems; culinary traditions; oral histories.

2. Characteristics of the institute

Sahapedia is a not-for-profit Society registered under Societies Act 1860 with a tripartite collaboration between three organisations. The organisations are:

- SAHA: Stirring Action on Heritage and the Arts
- CMC Limited (a Tata Enterprise)
- International Institute of Information Technology, Hyderabad.

SAHA

Stirring Action on Heritage and the Arts (SAHA) is a non-profit organisation dedicated to the documentation and transmission of India's knowledge systems, heritage and the arts. SAHA will be responsible for generating and managing the core content of Sahapedia. The SAHA team is composed of individuals with expertise and work experience in the fields of heritage management and cultural studies.

CMC

CMC, an IT solutions company and a subsidiary of Tata Consultancy Services Limited, will provide logistical support, expertise in web management and backend operations such as site development and maintenance.

IIIT- Hyderabad

International Institute of Information Technology (IIIT- Hyderabad) is an autonomous university focused on the core areas of Information Technology. IIIT-H will create background reference content using Wiki forms with a focus on high quality encyclopedic content.

As Sahapedia is a not-for-profit Society, the main source of funding is philanthropic organizations and agencies that promote education, arts and preservation of cultural heritage. The seed fund for Sahapedia has been provided by CMC limited (a Tata enterprise).

Potential investors in the project:

- Education foundations
- Culture philanthropists
- Heritage organizations/conservers
- Promotional agencies of local expressions
- Art enthusiasts

Sahapedia also seeks project-wise funding based on institutional partnerships for content and educational programmes. For instance, Sahapedia has

collaborated with the National School of Drama for creating a theatre archive and with the Archaeological Survey of India to document the 21 world heritage sites in India.

II. Information Building and Sharing

Sahapedia is involved in activities such as identification, documentation, database/archive building, utilising digital contents. It also organizes and facilitates workshops, seminars and other events to provide a platform for dialogue on Intangible Cultural Heritage (ICH).

1. Main activity

Sahapedia is an online encyclopedic web resource and platform. It offers various types of multimedia databases, multiple tools to use and create content and a new technology platform that facilitates dynamic access for users. The main activities involve documentation, content creation and compilation. Sahapedia identifies knowledge-holders, scholars, practitioners and experts from various fields. This is followed by extensive interviews and documentation of their work for instance performances, lecture-demonstrations, etc.

Content includes text articles and multimedia formats like photographs, audio-video recordings, maps, digitized documents, timelines, extensive interviews, lineage trees and much more.

Content is generated in three ways:

- Crowd-sourced content: Registered online users may contribute to the encyclopedia with articles, photographs and audio-visual resources. At this stage various IP issues could arise regarding the identification of the owner of the copyright and issues of bearers' ownership. Content in the encyclopedia section is registered under the not-for-profit Creative Commons Attribution Share-alike License. While due acknowledgement would be given to authors for their contributions, a strong and vigilant screening and moderating mechanism would be required to protect against misuse.
- Contribution by the editorial team of Sahapedia: A qualified editorial

team curates and monitors sections of participatory content to ensure that the encyclopedia conforms to established standards of credibility and authenticity.

- Caches of thematic material generated by partner institutions: Thematic content is generated in partnership with various institutions pertaining to their mandate. The IP issue here might arise with regard to the determination of ownership of both the database itself and its contents when created collaboratively with other institutions. A Memorandum of Understanding would be drafted with each partnering institution that would include aspects connected with copyright issues, ownership and content sharing policies, terms of use of ICH material, and management and access of the collaboratively created database. This would be based on non-commercial, non-exclusive, use of content for educational purposes. It would also safeguard the interests of the ICH subjects and knowledge-holders by providing acknowledgement wherever required and obtaining prior consent and approval.

Guidelines

Since the web platform of Sahapedia has not yet become live online, Sahapedia is currently in the process of developing guidelines connected with its various activities based on the following principles:

- Share-alike license: Content in all the Sahapedia databases, with the exception of the Indian Heritage Library, is registered under the not-for-profit Creative Commons Attribution Share-alike License. The copyright for all the material in the Indian Heritage Library rests with the copyright owner unless otherwise specified.
- Indian Copyright Act: All material available on Sahapedia is protected by copyright laws under the Indian Copyright Act, 1957. The Compilation Right and Performer's Right under the Copyright Act are specifically relevant to Sahapedia in its interactions with contributors, authors, performers, festival organizers and interviewees and for documentation. Section 52 Under the Act provides exceptions towards the use of a literary, dramatic, musical or artistic work towards educational and research purposes. (Indian Copyright Act is available on <http://copyright.gov.in/Documents/CopyrightRules1957.pdf>)

- Editorial policy: Sahapedia has a qualified editorial team consisting of experts on various aspects of Indian culture and heritage. A vigilant screening and moderating mechanism will be devised and operationalised when the web resource becomes live.
- Templates: The editorial team, in consultation with domain experts, has also created templates, style-sheets, manuals and guidelines in order to standardise the content generated for uploading on the web resource.
- Free use: Sahapedia allows the free use of its content for users. The copyright for the content rests with the respective authors. The Sahapedia web site may contain links to other web sites. These linked sites are not under the control of Sahapedia and Sahapedia is not responsible for the contents of any linked site.
- Permission: Sahapedia seeks permission from the content providers such as authors, performers, experts, etc. through a Non- Exclusive Copyright License for Contributors. (Attached in Annexure)
- Disclaimers and Terms of Use: In consultation with legal experts, Sahapedia is in the process of devising the Terms of Use and Disclaimers in order to prevent violation and infringement and to ensure legal remedy in case of abuse.
- Privacy Policy for users: This policy governs Sahapedia's treatment of any information, including personally identifiable information submitted by users during the process of registration on Sahapedia. According to this policy the user acknowledges that his/her submission of any information, statements, data, and content to Sahapedia is voluntary and Sahapedia promises not to misuse this information.

2. Sahapedia Projects

A. Documentation of Knowledge-Holders in Traditional Knowledge, Heritage and the Arts

Collaboration between the Indian Institute of Advanced Studies (IIAS) and Sahapedia.

Background

The project seeks to carry out extensive oral documentation of experts from various fields and create an archive of detailed interviews and autobiographical reminiscences. This is envisaged as a method of preservation of traditional, indigenous knowledge systems, skills and

practices. The project will identify specialists from different areas of traditional knowledge and practice. At this 'stage of preparation', the IP issues that could possibly arise pertain to the identification of knowledge holders who can be documented. This process of identification and selection would involve dialogues with the community concerned and consultation with a steering committee of experts (the committee would be constituted by IAS and Sahapedia). The second issue would be to obtain prior informed consent from the knowledge-holders for documentation. The consent forms and permissions from ICH subjects are in the process of being drafted in compliance with the Indian Copyright Act, 1957, and the UNESCO 2003 convention for the Safeguarding of the Intangible Cultural Heritage. The knowledge-holders would be duly acknowledged for sharing their knowledge and Sahapedia would be a facilitator for disseminating this knowledge.

Sahapedia will conduct in-depth interviews which would be documented in audio-visual formats and transcribed. In the first year of the project, 40 knowledge-holders will be identified and interviewed, following which the project would be further expanded in the next phase. The major IP concern at the stage of maintaining, processing and disseminating information could be regarding the determination of ownership of the database and content; and bearer's ownership rights. IAS and Sahapedia will have shared rights on this content and it will be made available in various formats on Sahapedia. The IAS was set up by the Ministry of Education, Government of India in 1965. It is primarily a research institute that will make available the ICH material compiled in the project for educational and academic purposes. As a not-for-profit society, Sahapedia would ensure that the content generated from this project is used for non-commercial, non-exclusive, educational public use. The knowledge-holders would be duly credited and prior informed consent would be obtained from the knowledge-holders for the use of this content for research and educational purposes and for online dissemination through Sahapedia. The content would be made available to scholars and researchers at the IAS library/archives as well.

Since the documentation would be in audio-visual format, related rights for transmission of audio-visual works such as feature films, the copyright protection in translations, and the copyright in photographs and films etc. would be referred to, as per the Indian Copyright Act, 1957.

Context

The critical knowledge and practices which form the bedrock of India's indigenous wisdom are dwindling. Efforts at organizing and systematically documenting the legacy of knowledge and heritage so far are sporadic. With the decrease and the gradual deterioration of qualified experts, there is the danger of losing much vital knowledge in this area. Therefore, there is an urgent need to compile and document this wisdom before it gets lost to the world.

Procedure

Parameters for identifying the persons to be interviewed:

- Those who have made significant contribution and have immense knowledge of their field of work.
- Preference would be given to those knowledge-holders who are less represented on the national mapping currently or whose knowledge is not recorded in writing in a comprehensive manner.
- Preference would be given to senior and elderly resource persons.

Nature of interviews:

- The interviews would cover their knowledge on the area of their expertise, set against the background of their own experience and involvement. The interview would also encourage them to share their views on key issues of their interest and importance in a focused manner for specific and short duration. These segments can later also be compiled as stand-alone versions of the views of experts on particular issues.
- The duration of the interviews will be between one to five hours.

Formats:

- Interviews will be recorded in audio (Wav and Mp3) and video formats (avi) and detailed transcriptions will be prepared.

Outcomes/effects

Sahapedia and IIAS will generate:

- Video (in avi/mov format) of interviews
- Audio of recordings (in wav and mp3 formats)
- Text transcriptions in doc file
- Meta-data documentation of all material generated

B. Heritage Education Project

Collaboration between Sahapedia and Central Board of Secondary Education (CBSE)

Background

Sahapedia will jointly create an online multimedia website/database on Heritage Education for schools under the CBSE. This database will exist as a separate link (micro website) made available on the CBSE website as well as a part of a larger database on Indian culture and history on the Sahapedia website.

Context

The micro-site seeks to link all the schools across the country associated with CBSE and to provide a resource for teachers and students to document their local heritage and to be the definitive online resource on heritage education in India. It will promote interdisciplinary studies and provide opportunities for cooperation among educators and students. It would focus on experiential learning, for instance it would provide information in multi-media formats like pdf-s of articles, photographs, AV recordings, interactive maps, so that the students can experience these sites even if they have not or cannot visit the actual sites. It also seeks to complement existing education curricula by enhancing the students' comprehension of a variety of scientific, aesthetic and historical concepts.

Procedure

Stage1: Preparation and set up (2 month)

- A four member (1 from each organisation) team will be designated to decide and develop the content for the website
- The team will seek and scrutinise the content from Sahapedia, INTACH and SPIC MACAY
- Office allocation (in CBSE) and set up with required technical infrastructure
- Appointment of a team of project coordinator and researchers, who will regularly seek relevant content from the stake holders and will upload the vetted content to the website
- CBSE will write to the schools to contribute and use the copyright free information.

Stage2:Database development and documentation (3 months)

- Sahapedia and the appointed team in consultation with all the stake holders will chart out the specific information for the website.
- The web designing team will design the website in consultation with the project management team.

Stage 3: Data processing and user testing (1month)

- At this stage all the data will be processed and quality checked before the upload. The user testing of the website will be done at this stage.

Stage 4: Data upload and launch (1 month)

- The data will be uploaded for the launch.
- CBSE and Sahapedia will share rights on the design and collected material and Sahapedia will upload it on its online encyclopaedia on Indian culture and heritage.

Outcome

To provide a unique internet resource for teachers and students on heritage education that will include:

- immersive experience of heritage sites and forms,
- space to share opinions on heritage
- games, puzzles, quizzes and fun but educational ways to learn about heritage
- guidelines, suggestions for activities, reference material, worksheets to support site visits and learning modules for the use of parents and teachers

C. Documentation of 21 World Heritage Sites

Collaboration between Sahapedia and the Archaeological Survey of India (ASI)

Background

Sahapedia will jointly create an online multimedia database of 21 World Heritage sites with the ASI. This database will exist as a separate link made available on the ASI website as well as a part of a larger database on Indian culture and history on the Sahapedia website.

Context

The project is part of the 150th Year celebrations of ASI commencing from December 2011.

Stage 0: Preparation and set up (1month)

- A twelve member team of photo, video documenters and researchers will be appointed in accordance with the essential with the essential qualifications against each post
- Office allocation and set up with required technical infrastructure'
- A documentation training of 15 days will be given to the recruited team in order to standardise the documentation output.
- Sahapedia in consultation with Archaeological Survey of India will chart out the specific information for each Sahapedia Web Feature (SWF). The targets will also be set for the team at this stage.
- Archaeological Survey of India will write to state/local ASI units to facilitate the documentation and for sharing of copyright-free material with Sahapedia.

Stage 1: Research and Needs assessment (1month)

- The team will research and assess the already available information (with ASI) on each monument.
- Based on the assessment a documentation plan/strategy will be prepared for the implementation.
- The technical and design requirements of the micro website will be evaluated.

Stage 2: Database development and documentation (8 months)

- The three teams of researcher cum producer, videographer and a photographer will be assigned a target of 7 sites (approx 1 site in a month) to document.
- The team will contact the local ASI contacts and fix appointments for the documentation
- The web designing team will design the website in consultation with the project management team.

Stage 3: Data processing and user testing (1month)

- At this stage all the data will be processed and quality checked before the upload. The user testing of the website will be done at this stage.

Stage 4: Data upload and launch (1 month)

- The data will be uploaded for the launch.
- Archaeological Survey of India and Sahapedia will share rights on the design and collected material and Sahapedia will upload it on its online encyclopaedia on Indian culture and heritage.

The micro-site on 21 world heritage sites of India has the following objectives:

- To be the definitive online resource on the 21 World Heritage Sites in India
- To provide information in multi-media formats (pdf's, photographs, AV recordings, interactive maps, so that user can experience these sites even if they have not or cannot visit the actual sites)
- To bring together diverse sources of information that already exist both on the internet and offline at various institutions

D. Online Theatre archives

Collaboration between Sahapedia and National School of Drama (NSD)

Background

The National School of Drama is the pioneering theatre training institution in India. It was set up by the SangeetNatakAkademi as one of its constituent units in 1959. In 1975, it became an independent entity and was registered as an autonomous organisation under the Societies Registration Act XXI of 1860, fully financed by the Ministry of Culture, Government of India. Sahapedia will collaboratively create an online theatre and drama archive with NSD, containing comprehensive modules on trendsetting modern Indian plays with scripts, existing documentation of past performances, interviews with artistes associated with the productions and various writings on them.

As a pilot project, two model web features will be created on two plays. In addition to digitizing available archival material on the play from NSD archives, fresh material like interviews, articles etc. connected with the plays would be generated. Following this pilot feature, similar web feature would be created for other documented plays. Transcriptions of recorded interviews of theatre personalities from NSD archives would also be made available online.

The IP issue here is to identify the affiliated copyright protection under which various dramatic works are protected under the Indian Copyright Act, 1957. To bring this data online might require permission from rights holders. Thus, verification of IP Status in identified ICH material would be needed:

- Dramatic works under intellectual property law refer to theatre protection, including performance of plays, operas, etc.
- Archives could be ranged in the database category. They contain records, documents, or other materials of historical interest such as ICH data. During documentation stage, IP rights are created in the fixation of the ICH theatre elements in archives.
- Digitized ICH related dramatic works refer to digital copyright. They could be protected under WIPO Internet treaties: WIPO Copyright Treaty, 20 Dec 1996, and WIPO Performances and Phonograms Treaty May 20, 2002. These treaties protect specifically the dissemination of protected material over the global networks that make up the Internet.

Context

India has a rich theatre tradition and there have been extensive documentation efforts around it in recent times. However, there is a lacuna with regard to the consolidation and accessibility of these resources, specifically online. Sahapedia in collaboration with the National School of Drama (NSD) envisages an online multimedia, multilingual theatre resource including textual knowledge and dramaturgical practices. This would comprise a wide range of material and multiple media such as interviews, play scripts, photographs, audio-visual material, ephemera, designs, sketches, database of theatrical forms, directory of performers, documentation of artists, performers, directors and other theatre personalities. The purpose of the project is to trace the trajectory of theatre in India, consolidate existing archival material and facilitate a comprehensive online resource in order to share and disseminate this knowledge.

Procedures

- A coordination committee of four (two members each from NSD and Sahapedia) would be formed to coordinate the pilot project.
- Commencing digitization of fifty interviews as soon as possible.
- Hiring a transcription team for the interviews.

- Collecting and collating audio-visual clips, photographs, ephemera, texts, etc to create a web feature on the iconic play by DharamvirBharati, Andha Yug. This has been produced by various directors in NSD through the years from the 1950s.

Outcomes

- To be the definitive single-window online resource for multilingual Indian theatre practices.
- To document theatre personalities and create a database of theatrical forms, traditions and histories.
- To integrate nation-wide institutional and individual theatre archiving efforts to provide a comprehensive and dynamic online resource on Indian theatre.
- To collaborate with NSD for a pilot project to initiate the process of bringing the existing NSD archive online.

3. Additional explanation of activities

Sahapedia obtain ICH-related data by:

- Field work and documentation
- Donation
- Collaboration with other institutions for content generation and digitisation and online dissemination of their existing archives
- Participatory content generation by users

Name of data types

- Encyclopedia: The community generated database on Indian history and culture that may be created and edited by registered users
- Indian Heritage Library: A collection of scholarly articles and digitized documents and books
- Saha Maps: A collection online maps generated by the community and by editorial team
- Saha Explore: A feature to encourage exploration of local cultural contexts via walks, stories and other activities
- Saha Learn: A feature containing learning modules, a space for students to share their experiences and impressions of cultural and historical events and for teachers to gain peer reviews of heritage education syllabi, courses etc.

All data is presently offline and would be made available online when the web resource is launched.

Types of data:

Text articles	Photographs
Sound recordings	Podcasts
Video recordings	Maps
Learning modules	Scholarly articles in pdf format
Digitized original source material (documents, old sound and video recordings)	Games and puzzles
Calendars	Blogs

Source of data

Content is generated in three ways:

- Contributions by the Editorial Team: A competent and qualified editorial team will make substantial contributions to the sections of the website that are curated.
- Caches of thematic material generated by partner institutions: Through partnerships with specialist institutions, material of various kinds will be generated on relevant themes. Some proposed initiatives are to create databases on theatre, modern architecture, built heritage and educational material with various institutions.
- Participatory content generation: The encyclopedia will be created and edited by registered online users. Articles, photographs and AV resources may be contributed by online users.
- Scholarly and Archival Material: Sahapedia compiles material on different topics by well-known scholars. This includes entries written specifically for Sahapedia and, under the Indian Heritage Library, pdfs of published articles and monographs. It is also a repository of digitised primary material such as original documents, manuscripts and photographs, available for public use.

Context of data

Sahapedia seeks to present Indian culture in all its multiple aspects and to emphasize its interconnectedness and non-linearity. For instance, the Mahabharata is an epic text, it also has associated performance forms, rituals, cultural events, built heritage and knowledge systems. India’s pluralistic cultural traditions - with a wide range of knowledge systems, cultural

practices, monuments, arts and crafts - need to be documented, discussed and promoted in a way that strengthens them for future generations. The target audience of Sahapedia includes scholars, practitioners, teachers, students, travellers and enthusiasts, thereby fostering a forum for creativity and dialogue. The Sahapedia platform is designed to be used offline as well, increasing its reach and relevance in rural education and in areas without internet access.

Person/Organisation who has rights on the data

Content in all the databases except for Indian Heritage Library will be registered under not-for-profit Creative Commons Attribution Sharealike License. Copyrights for published articles in the Indian Heritage Library will remain with the author.

Principle/guideline of data management

Since Sahapedia is an online repository, it is critical to ensure that the content, context and structure of records is preserved and protected when the records do not have a physical existence. This has important implications for the authenticity, reliability, and trustworthiness of records.

Particular concerns exist about the ability to access and read electronic records over time, since the rapid pace of change in technology can make the software used to create the records obsolete, leaving the records unreadable. Sahapedia is also partnering with a number of archives of performing arts and will attempt to collectively integrate and seek solutions for standardising the data management systems.

Sahapedia is in the process of organising its meta-data according to 12 key domains:

- | | |
|------------------------------------|-----------------------------|
| 1. History | 7. Performing arts |
| 2. Knowledge systems | 8. Arts and crafts |
| 3. Cultural practices | 9. Museums and institutions |
| 4. Built spaces and heritage sites | 10. Culinary traditions |
| 5. Literature | 11. Film |
| 6. Festive events | 12. Natural Heritage |

Sahapedia has multiple formats and preserves data as:

- Audio: mp3/wav
- Video: AVI/mov/mp4
- Images: JPEG/TIFF/PNG

III. IP Issues in Institute

Since Sahapedia is a relatively new enterprise, the Intellectual Property Rights (IPR) policies and guidelines are in the process of being finalized. Terms of Use, Privacy Policy, Permissions from contributors, Disclaimers and undertakings have been drafted. (Attached as Annexure).

Primarily, Sahapedia is concerned with two kinds of content which would be available in its database in various formats:

Copyrighted content

Sahapedia sources existing/published content from individual authors and institutions and is also in the process of creating fresh content through collaborations with various institutions in the field of art and culture.

- Sahapedia has a section titled the 'Indian Heritage Library.' This would be a resource of scholarly articles and digitized documents. Since some of these articles might have been published already in books, journals, newsletters, etc, the first IP concern would be to identify copyrighted works. In this case the copyright would rest with the publishers and due permissions would be obtained from the copyright owner and author to make the text available online. As the next step in preventing infringement of IP rights, prior informed consent would be procured from the author and copyright owner for the online reproduction, use and display of this copyrighted material.
- The text would thereafter be made available online strictly for educational purposes and will not be for commercial use. It would be available in the form of PDFs that cannot be edited or modified. The content would not be downloadable.

Similarly, there might be content that is copyrighted but has not been published yet, for instance Ph.D. dissertations, etc. In this case also, copyright would remain

with the author and prior informed consent would be obtained for sharing this content online. In accordance with the conditions placed by the copyright owners, and to prevent copyright infringement, certain restrictions might be placed on the content. For instance, images might be made available only in low resolution, or only a portion of the text maybe displayed. Appropriate disclaimers would be used in order to prevent misuse of the content.

- Sahapedia has entered into content partnerships with various institutions to disseminate their existing content online or to generate content collaboratively. For each of these partnerships, memorandum of understanding is drawn up, clearly outlining the roles and responsibilities of each party, and the nature of copyright sharing.

For instance, in the online theatre archive project, Sahapedia would bring online a part of the existing archive of the National School of Drama. The existing archive presently consists of documents, ephemera and audio-video recordings of interviews and performance documentation. This content would be digitised and parts of it would be shared online. In this case the online database would be shared by both parties. However, one issue that might arise concerns the identification of the owner of the copyright and related rights in the recordings, films and documents. Before bringing the archive online, it would be discerned whether the the host institution singularly holds the copyright and the status of performers' rights. This would also involve determination of ownership of both the database itself and its contents. Sahapedia has already obtained prior informed consent from the National School of drama for making parts of the archive available online for non-commercial, educational purposes. Issues pertaining to the digital copyright of dramatic works may be addressed through the WIPO Internet treaties: WIPO Copyright Treaty, 20 Dec 1996, and WIPO Performances and Phonograms Treaty May 20, 2002.

The second case is that of the collaboration between Sahapedia and IIAS. In this case, fresh content would be generated for the purpose of the project by the two parties together. The objective of this project is documentation of knowledge-holders in traditional knowledge, heritage and the arts, mainly within the format of extensive interviews. Since the documentation would be in audio-visual format, related rights for transmission of audio-visual works, copyright in photographs and films, etc. would be referred to, as per the Indian Copyright Act, 1957.

The major IP concern at the stage of maintaining, processing and disseminating information could be regarding the determination of ownership of the database and content; and bearer's ownership rights. IIAS and Sahapedia will have shared

rights on this content and it will be made available in various formats on Sahapedia, only for educational and non-commercial purposes. The content would also rest with the IAS archives for the use of researchers and scholars. The knowledge-holders would be duly credited and prior informed consent would be obtained from them for the use of this content for research and educational purposes and for online dissemination through Sahapedia.

Content available under Creative Commons Attribution ShareAlike License

Sahapedia encourages crowd-sourced content creation where registered users can contribute content. It also allows the free use of its content. It also seeks to have a number of interactive formats and features to engage users—for instance, interactive maps, learning modules and discussion forums.

- Sahapedia facilitates the participation of users in collaboratively creating content under its 'Encyclopedia' section. Registered online users may contribute to the encyclopedia with articles, photographs and audio-visual resources. At this stage, various IP issues could arise regarding the identification of the owner of the copyright and issues of bearers' ownership. Content in this section is registered under the not-for-profit Creative Commons Attribution Share-alike License. Due credit and acknowledgement would be given to authors for their contributions. A strong and vigilant screening and moderating mechanism would be required to protect against misuse. Therefore, content will be screened by the editorial team before it is uploaded on the website. This would also ensure that no promotional content is uploaded. It would be mentioned in Terms of Use that content should not be used for commercial purpose, it is only for educational purpose and the registered users who are keen to contribute content must accept these terms of use. Guidelines for 'reporting abuse' would be clearly outlined so that the editorial team can be alerted and the issues can be addressed and reported.
- In the section of interactive maps, the representation of disputed areas, for instance the state of Kashmir, would not be open for editing for users. These maps would be guided by the Archaeological Survey of India and Geological Survey of India. All maps would be updated, consistent with the integrity of geographical and political boundaries.

- Sahapedia has a section titled Saha learn which seeks to present learning modules on various topics. Keeping in view the expanding education sector, Sahapedia would ensure that lecture-demonstrations and other audio-visual recordings or text should not contain any promotional content.

Sahapedia is in consultation with IP experts and the legal team at CMC Limited to develop policies and guidelines regarding the same.

Sahapedia aims to have an ethical framework that protects the rights of authors, performers and knowledge-holders while providing free access to users. The IP issue to be addressed here is the integration of traditional holders' cultural interests in the management of their rights and dissemination of ICH works. Apart from overall terms and conditions, there are specific provisions for licensing issues, permissions from contributors and remedies in case of violation. Content in all the databases except for Indian Heritage Library will be registered under Creative Commons Attribution Sharealike License. Copyrights for published articles in the Indian Heritage Library will remain with the author.

Documents attached in Annexure. However, these are drafts and in the process of being finalized in consultation with IP experts.

IV. IP Issues in Information Building and Sharing

Although no issue has arisen as of now since Sahapedia has not been launched online yet, Sahapedia has been cautioned against issues that can be foreseen and is in the process of consulting IP experts for the same. These possible issues that could arrive in the future have been discussed in the above section.

Sahapedia seeks to carry out documentation through interviews of practitioners, scholars and other knowledge holders. Issues can arise around the aspect of permission for audio, video and transcription of the interview. Sahapedia has been in discussion with experts to clarify issues regarding Performer's Rights and Compilation Rights to counter questions regarding the rights of performers and authors and permission from the interviewee and the permission for Sahapedia to use the interviews and transcripts online. In the case of documentation of art festivals, there are multiple stakeholders like performers, festival organisers and the documentation team and often there is lack of clarity regarding permissions and rights for use of the content. The IP issues to be addressed are the establishment of written contract with all parties concerned, use of cautionary notices, performers' and exhibitors' rights release, accreditation agreements.

Issues might arise regarding the dissemination of already-published material on Sahapedia. Such content will be made available on Sahapedia, after the consent of the author as well as the previous publisher. This content will not be open for editing by users.

The use of maps online can also be a potentially contested area. Since Sahapedia would have interactive maps that can be edited by the users, it is critical to ensure that the political and geographical integrity is maintained by using the Archaeological Survey of India's guidelines. Secondly, only a specific layer of data would be open for editing and addition by users on the maps available on Sahapedia.

When Sahapedia web resource goes online, it would be important to have policies concerning violation, primary and secondary infringement and legal remedies in case of abuse. Screening of crowd-sourced content added by users and protection

against abuse are critical aspects. Although Sahapedia allows the free use of its content, prevention of commercial use or reproduction for commercial purposes is important. As a solution, for instance, low resolution images and videos may be used in some cases to prevent commercial re-printing.

Since Sahapedia has not been launched online yet, it is in the process of formulating guidelines and policies in consultation with experts, based on the principles and protocols mentioned earlier in section B.

Overall Activities

Sahapedia team consists of academicians, researchers and experts involved in the process of conducting field research, compiling data from various sources and organising data. Sahapedia also conducts documentation and interviews of knowledge-holders, practitioners and scholars on various issues. The relationship with ICH subjects is a two-way symmetrical relationship through which Sahapedia provides a platform to the subjects to disseminate their knowledge and generates content through this method.

The vision of Sahapedia involves a holistic approach to knowledge dissemination. Sahapedia is in the process of developing guidelines regarding terms of use, privacy policy for users, remedies against abuse and disclaimers. These form an integral part of the vision of Sahapedia.

Case of guaranteeing the right and the participation of ICH subjects in information building and sharing activities has not arisen yet, but Sahapedia ensures that appropriate permissions are acquired from copyright owners to prevent any breach of the copyright. It also prevents reproduction of content for commercial purposes.

Sahapedia is in the process of formulating policies and guidelines for protecting intellectual property rights of ICH.

Since Sahapedia is an open online encyclopedia on Indian culture and heritage, it believes in free dissemination of knowledge. At the same time Sahapedia will protect the copyrights of content owners and prevent misuse of content and violation of privacy of users. Crowd-sourcing from users will be one of the primary modes of content generation. Sahapedia will have mechanisms for monitoring and moderating the content uploaded by users to prevent infringement.

V. Legislation in India

The Indian Copyright Act, 1957 came into effect from January 1958. This Act has been amended five times since then, i.e., in 1983, 1984, 1992, 1994 and 1999. The Copyright Act Amendment Bill 2012 has also been passed and presently awaits final Presidential approval. The Copyright Act, 1957 protects original literary, dramatic, musical and artistic works and cinematograph films and sound recordings from unauthorized uses.

The Copyright Act is available at
[<http://copyright.gov.in/Documents/CopyrightRules1957.pdf>]

Certain important sections of Indian Copyright Act are quoted [Annex 1]

The Indian Copyright Act, 1957 came into effect from January 1958. This Act has been amended in 1983, 1984, 1992, 1994 and 1999 and the Amendment Bill has also been passed in 2012. A special committee was constituted by the Government of India in order to revise the Act. The Copyright Act Amendment Bill 2012 currently awaits final Presidential approval.

The Copyright Board is a quasi-judicial body, constituted in September 1958 and functions under the Ministry of Human Resource Development. The jurisdiction of the Copyright Board extends to the whole of India. The Board is entrusted with the task of adjudication of disputes pertaining to copyright registration, assignment of copyright, grant of licences in respect of works withheld from public, unpublished Indian works, production and publication of translations and works for certain specified purposes. It also hears cases in other miscellaneous matters instituted before it under the Copyright Act, 1957. The meetings of the Board are held in five different zones of the country. This facilitates administration of justice to authors, creators and owners of intellectual property including IP attorney's near their place of location or occupation. The Copyright Board was reconstituted under the Chairmanship Justice Ramesh Chandra Chopra (retired) for a period of five years or till further orders, whichever is earlier, with effect from the 15th July, 2011.

The Indian Copyright Act, 1957 is available at

[<http://copyright.gov.in/Documents/CopyrightRules1957.pdf>]

Complexities emerge over the subject of 'ownership' and intellectual property in ICH where individual innovations are often fore-grounded within a traditional, collective knowledge base of the community. In these cases it is difficult to ascertain the 'authorship' since many performing/craft traditions are based in community knowledge and individual artists may not have claim to the product.

For instance, traditional designs and patterns are often freely appropriated by contemporary artists, designers or dealers. Many artists also use the skills of the craftspersons to create art works based on traditional crafts. In such cases, the ambiguities regarding the ownership of ideas and knowledge become magnified and it becomes more difficult to design and implement suitable intellectual property rights policies. The IP issue here is related to the role played by customary or cultural interests. This implies: Integration of communities' cultural interests in ICH management through customary laws, guidelines, and protocols.

There is also lack of clarity regarding copyrights of oral histories.

VI. Future Plans

Sahapedia is in the process of formulating guidelines and policies for protecting ICH intellectual property related rights in the process of information building and sharing. This is based on an overall vision where cultural production is promoted and knowledge is shared and disseminated in an ethical manner at the same time preventing any infringement on the rights of the ICH subjects.

Sahapedia, in consultation with IP experts and the legal team at CMC limited is drafting the overall terms and conditions, license for content sharing, consent form for authors, performers and other knowledge-holders in compliance with the Indian Copyright Act, privacy policy for users and legal remedies in case of violation of terms of use.

Summary

The ICHCAP ICH-IP field survey in India has been led by SAHAPEDIA, a national not-for-profit Society. SAHAPEDIA is an online encyclopedia about the histories, arts and cultures of India. The carried survey was in cooperation with the Indian National Crafts Museum.

1. Information Building and Sharing Activities

SAHAPEDIA aims to provide a window access to India's culture and history, and also promote engagement and generate action towards its understanding and revitalization. SAHAPEDIA serves as a forum for advocacy in the area of heritage conservation and revitalization.

The Institute is involved in many activities in the field of information building and sharing:

- Identification
- Documentation
- Database/Archive building
- Utilising digital contents
- Facilitation of workshops and other events

However, the main activity remains the Sahapedia online encyclopedic web resource and platform. The institute offers various types of multimedia databases, multiple tools to use and create content and a new technology platform that facilitates dynamic access for users.

1) Different Stages in Activities

The main activities involve documentation, content creation and compilation.

- Identification of knowledge-holders, scholars, practitioners and experts from various fields.
- Extensive interviews and documentation of their work for instance performances, lecture-demonstrations, etc.
- Contents generation: Inclusion of contents such as text articles and multimedia formats like photographs, audio-video recordings, maps, digitized documents, timelines, extensive interviews, lineage trees and much more.
 - Contributions from registered online users
 - Contributions by the editorial team of Sahapedia
 - Caches of thematic material generated by partner institutions

- Types of data
 - Text articles: sound recordings, video recordings, learning modules, documents, old sound and video recordings, calendars.
 - Photographs: podcasts, maps, scholarly articles in pdf format, games and puzzles, blogs.

2) Related Guidelines used in Activities

Various guidelines have been developed in SAHAPEDIA and connected with its various activities:

- Share-alike license: Content in all the Sahapedia databases, with the exception of the Indian Heritage Library, is registered under the not-for-profit Creative Commons Attribution Share-alike License.
- Indian Copyright Act: All material available on Sahapedia is protected by copyright laws under the Indian Copyright Act, 1957.
- Editorial policy: The institute editorial team proceeds to a screening of the web resources.
- Templates creation: In order to standardize the content generated for uploading on the web resource.
- Free use: The institute allows the free use of its content for users.
- Permission: The institute seeks permission from the content providers such as authors, performers, experts, etc. through a non-exclusive copyright license for contributors.
- Disclaimers and terms of use: Devising by the institute of terms of use and disclaimers in order to prevent violation and infringement and to ensure legal remedy in case of abuse.
- Privacy policy for users: According to this policy the user acknowledges that his/her submission of any information, statements, data, and content to Sahapedia is voluntary and Sahapedia promises not to misuse this information.

2. Institute Projects

The Institute runs two main projects related to ICH:

- A project on documentation of knowledge holders in traditional knowledge, heritage and arts.
- A project on online theatre activities.

Apart from these projects are two other projects:

- A project on heritage education
- A project on documentation of 21 world heritage sites

1) Documentation of Knowledge-Holders TK, Heritage and Arts

The project seeks to carry out extensive oral documentation of experts from various fields, and create an archive of detailed interviews and autobiographical reminiscences:

- Identification of specialists from different areas of traditional knowledge and practice.
- Documentation in audio-visual format and transcribe of ICH interviews. The institute will have shared rights on this content with another one (IIAS). The content will be made available in various formats on the website.

The generated outcome is either a video of the interview, audio of recordings, text transcription, or meta-data documentation.

2) Online Theatre archives

The project consists in the creation of an online theatre and drama archive, containing comprehensive modules on trendsetting modern Indian plays with scripts, existing documentation of past performances, interviews with artistes associated with the productions and various writings on them. Digitizing archival materials are made available on the play from NSD archives; also, fresh material like interviews, articles etc. connected with the plays is generated.

3) Future Plans

The institute plans to engage in drafting of terms and conditions, license for content sharing, consent form for authors, performers and other knowledge-holders in compliance with the Indian Copyright Act.

3. Intellectual Property Issues in Institute

The institute reported about some IP policies/guidelines, and also some relevant issues.

1) IP Policies and Guidelines in Institute

SAHAPEDIA is equipped with several intellectual property rights policies and guidelines among which:

- Copyright notice: All material available on Sahapedia web site is protected by copyright laws.
- Trademark: All of Sahapedia trademarks, trade names, service marks and other Sahapedia logos and brand features, also, the product and service names are trademarks and the property of Sahapedia.
- Website Access Restriction: Sahapedia reserves the right, in its sole discretion, to terminate user's access to the Sahapedia web site and the related services or any portion thereof at any time, without notice.

2) Indian Copyright Act, ownership, and IP in ICH

SAHAPEDIA aims to have an ethical framework that protects the rights of authors, performers and knowledge holders while providing free access to users. Complexities however emerge over the subject of ownership and intellectual property in ICH, where individual innovations are often foregrounded within a traditional, collective knowledge base of the community.

Others IP issues have been mentioned by the institute as arising in the course of ongoing projects plans:

- Establishment of written contract with all parties concerned
- Use of cautionary notices
- Performers' and exhibitors' rights release
- Accreditation agreements

List of co-researchers

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Project Manager, Sahapedia
- **Yashaswini Chandra**
Research Coordinator, Sahapedia
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Research Coordinator, Sahapedia
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Annex 1 | *Questionnaire*

1. Introduction

Intangible cultural heritage (ICH), which is the source of human creativity and cultural diversity, has been diminishing since the onset of globalisation and urbanisation. In this regard, international society, working in tandem with UNESCO, has garnered public attention on ICH safeguarding, and the Convention for the Safeguarding of the Intangible Cultural Heritage was adopted in 2003.

According to Article 13, d.iii of the 2003 Convention, States Parties should establish documentation institutions for ICH and facilitate access to them to ensure the safeguarding, development, and promotion of ICH present in each State Party's territory. This is to say, the Convention encourages managing an institute related to information building and sharing—one that collects, produces, and disseminates ICH information.

The process of ICH information building and sharing could be the cornerstone to safeguarding ICH. However, as with most kinds of information activities in other fields, the process of ICH information building and sharing includes many intellectual property (IP) issues.

Many problems could arise while collecting and creating ICH information, while processing and producing ICH information, and while disseminating and utilising ICH information. Additional, diverse problems could also develop from the communities, institutes, or individuals involved in the process.

In particular, with the development of technology and the appearance of new media, ICH intellectual property issues can manifest themselves in many ways, and these problems have expanded into much more complicated arenas.

The International Information and Networking Centre for Intangible Cultural Heritage in the Asia-Pacific Region under the auspices of UNESCO (ICHCAP) has been concerned with IP issues related to ICH information building and sharing. To cope with these concerns, ICHCAP has endeavoured to develop a guideline for protecting IP in the process of ICH information building and sharing.

ICHCAP has proposed a project for a field survey to examine IP issues, focusing on activities of ICH information-related institutes in the Asia-Pacific region and on cases about how to deal with problems that arise in the process of ICH information building and sharing.

The survey is expected to contribute by allowing an exchange of experiences and know-how in the Asia-Pacific region to foster an environment to understand and resolve problems related to IP aspects of ICH. Furthermore, the survey results could be the foundation for developing a guideline for protecting IP rights during ICH information building and sharing.

2. Glossary

For the current survey, the terms below will have the given meanings.

- 1) Bearer
A member of a community who recognises, reproduces, transmits, transforms, creates, and forms a certain culture in and for a community. A bearer can, in addition, play one or more of the following roles: practitioner, creator, and custodian.¹
- 2) Community
People who share a self-ascribed sense of connectedness. This may be manifested, for example, in a feeling of identity or in common behaviour, as well as in activities and territories. Individuals can belong to more than one community.²
- 3) Custodian
A practitioner who has been entrusted by the community with the responsibility of safeguarding their intangible cultural heritage.³
- 4) Documentation
The recording of ICH in tangible forms.⁴
- 5) Identification
Technical description of a specific element constitutive of the ICH, often done in the context of a systematic inventory.⁵
- 6) Information Building and Sharing
A series of activities that build and utilise ICH information, such as identification, inventory making, documentation, and digitisation. The process of ICH information building and sharing consists of several stages: a stage for preparation, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for utilising and disseminating information.
- 7) Informants
Local experts from whom information about particular cultural practices is obtained, in the context of cultural field research.⁶

¹ UNESCO Glossary Intangible Cultural Heritage. Prepared by International Meeting of Experts on Intangible Cultural Heritage. The Hague, August 2002, p.4

²*Ibid.*

³*Ibid.*

⁴*Ibid.* p.5

⁵*Ibid.* p.5

⁶ Peter Seitel, *Proposed Terminology for Intangible Cultural Heritage: Towards Anthropological and Folkloristic Common Sense in a Global Era*. UNESCO International Round Table 'Intangible Cultural Heritage', 2001 p.9

- 8) Intangible Cultural Heritage (ICH)
Practices, representations, expressions, knowledge, and skills—as well as the instruments, objects, artefacts, and cultural spaces associated therewith—that communities, groups, and in some cases, individuals recognise as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature, and their history, and it provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.⁷
- 9) Intellectual Property (IP)
Legal rights that result from intellectual activity in the industrial, scientific, literary, or artistic fields.⁸ Common types of intellectual property rights include copyrights, trademarks, patents, industrial design rights, and trade secrets.
- 10) Inventory Making
Drawing up one or more inventories of the intangible cultural heritage present in territories to ensure identification with a view to safeguarding.⁹
- 11) Moral Rights
Owner’s right to claim authorship of the work and to object to any distortion, mutilation, or other modification or derogatory action in relation to the said work that would be prejudicial to the owner’s honour or reputation.¹⁰
- 12) Practitioner
A member of a community who actively reproduces, transmits, transforms, creates, and forms culture in and for the community by performing and otherwise maintaining social practices based on specialised knowledge and skills.¹¹
- 13) Stakeholder
Various levels of agency in ICH information building and sharing activities, including public and private institutions, and more specifically artists and creators of the cultural communities concerned.¹²
- 14) Subjects of ICH
Bearers, practitioners, and communities.

⁷ Art.2 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, 2003

⁸ World Intellectual Property Organization, *WIPO Intellectual Property Handbook: Law, Policy and Use*, WIPO Publication No. 489(E). p.3

⁹ Art.12.1. UNESCO Convention for the Safeguarding. *opcit*

¹⁰ Art.6Bis Berne Convention for the Protection of literary and Artistic Works, Paris Text 1971

¹¹ UNESCO Glossary Intangible Cultural Heritage. *opcit* p.5

¹² Noriko Aikawa, *State of Intangible Heritage Development in the Lead Up to the 2003 Convention*. UNESCO Shanghai meeting in the lead up to the adoption of ICH Convention. Training of the trainers. Asia and Pacific. Module 1. p.21

3. Specific Questionnaire

A. Institute Overview

- 1) Profile of the institute
 - a) What is the name of institute?
 - b) Where is the institute located? (City/Country)
 - c) Please introduce the history of institute.
 - d) What are objectives and functions of the institute?
 - e) In what country/region have your institute's activities been carried out?
 - f) What kind of ICH is your institute specialised in?
Ex) performing arts, dance, music, rituals, ceremonies, etc.

- 2) Characteristics of the institute
 - a) Your institute can be classified as
 - Government department
 - Public institution
 - Public enterprise
 - Private enterprise
 - NGO
 - Other (Please explain the classification)
 - b) Is your institute affiliated with other organisations? If yes, please describe the parent or affiliated organisations—name, classification, objectives and functions, specialisation, etc. (over 200 words in English)
 - c) What are the institution's sources of budget?
Ex) a national budget, fund-raising activities, etc.

B. Information Building and Sharing Activities of Institute

- 3) Information building and sharing activities of the institute
 - a) Please indicate the kinds of activities your institute has done or is doing.
 - Identification
 - Documentation
 - Inventory making
 - Database/Archive building
 - Publication and distribution
 - Utilising digital contents
 - Other (Please explain other activities your institute has done)

- b) Among your answers in [B-3-a], which activity does your institute mainly focus on? (multiple answers allowed)
- (1) Please explain the activity (over 250 words in English)
 - (2) If any, please also provide guidelines, internal regulations, or other principles regarding the activity.
- c) Regarding your answers in [B-3-b], please describe specific projects related to the activity by giving a set of answers below. If you have more than one project, please provide a set of answers for each one (One to three examples are recommended, but you can also give more than three examples)
- (1) Name of project
 - (2) Duty department
 - (3) Background of project (over 150 words in English)
 - (4) Context of project (over 250 words in English)
 - (5) Procedures of project
 - (6) Outcomes/Effects
- d) If you indicated in [B-3-a] that your institute did activities related to database/archive building, please provide an additional explanation about the activities.
- (1) How did/does your institute obtain ICH-related data or archives?
 - Field work and documentation
 - Purchase
 - Donation
 - Other (Please explain how your institute obtains(ed) ICH-related data or archives)

If you checked more than one answer, what is the primary way your institute obtains(ed) ICH-related data or archives? Please arrange your answer according to the order of priority.
 - (2) Please provide an index of data or archives of your institute by giving a set of answers below.
 - (a) Name of data
 - (b) Online/Offline data
 - (c) Type of data
 - Ex) text, photograph, recording, video, etc.
 - (d) Source of data
 - (Where did the data originate?)
 - (e) Context of data
 - (f) Person/Organisation who has rights on the data
 - (g) Principle/Guideline of data management, if any.

C. Intellectual Property Issues in Institute

4) Does your institute have experience with a project regarding IP aspects of ICH?

- Yes
- No

If yes, please describe the project by answering the questions below. If you have more than one project, please provide a set of answers for each one.

- a) Name of project
- b) Duty department
- c) Background of project (over 150 words in English)
- d) Context of project (over 250 words in English)
- e) Procedures of project
- f) Outcomes/Effects

5) Is there a department, a unit, or an individual undertaking tasks related to intellectual property?

- Yes
- No

If yes, please provide information below.

- a) Name of department (which covers the unit or the individual)
- b) Name of duty person (in the department, the unit)
- c) Tasks of department
 - (a) Main task
(What is the main task of the department? [over 100 words in English])
 - (b) Tasks relating to intellectual property
(Please describe the tasks that are related to intellectual property [over 100 words in English])
- d) Contact information
 - (a) Contact number and e-mail of department
 - (b) Contact number and e-mail of duty person

6) Does your institute have a principle for protecting IP aspects of ICH?

- Yes
- No

If yes,

- a) Please describe the principle (over 150 words in English)
- b) If any, please attach documents related to answers in [C-6-a].

D. Intellectual Property Issues in the Process of Information Building and Sharing

ICH information building and sharing constitutes a series of activities that build and utilise ICH information, such as identification, inventory making, documentation, and digitisation. The process of ICH information building and sharing consists of several stages: a stage for preparation, a stage for collecting and creating information, a stage for maintaining information, a stage for processing and producing information, and a stage for utilising and disseminating information. Each stage is detailed below.

- The stage for preparation: conducting preliminary investigations, planning activities, selecting ICH objects to be investigated, undergoing prior consultation on an activity, etc.
- The stage for collecting and creating information: conducting field surveys (interviews, recording, filming, etc.), purchasing data, receiving donations, etc.
- The stage for maintaining information: building a database, keeping the data in its original form, classifying the data, constructing a security system for the data, etc.
- The stage for processing and producing information: editing, modifying, and upgrading information collected and maintained in the previous stages towards forms of documents, videos, web pages, etc.
- The stage for utilising and disseminating information: disclosing and disseminating information produced, distributing commercially, and utilising existing information for broadcasting, advertising, publicity, etc.

The management of ICH information raises equally different intellectual property issues from one category to another, be it in the phase of preparation, collection, production, or dissemination.

In **the stage for preparation**, intellectual property issues that could arise are below.

- Problems regarding identifying the nature of rights existing in ICH that will be targeted in information building and sharing activities
 - Identifying copyrighted works
 - Identifying unpublished or unknown authors' works
- Problems regarding compliance with a country's laws and regulations or customs concerning ICH information building and sharing activities

- Identifying a country's laws and regulations or customs that could affect information building and sharing activities
- Examining the range of protection under national statutes of IP rights of ICH practitioners and creators
- Others
 - Other intellectual property issues that could arise during the preparation stage

In the stage for collecting and creating information, the stage for maintaining information, the stage for processing and producing information, and the stage for utilising and disseminating information, intellectual property issues that could arise are below, grouped into categories of IP rights.

Ownership

- Identification of the owner of the copyright and related rights in the recordings, films, or manuscripts embodying ICH
- Determination of ownership of both the database itself and its contents
- Issue of bearers' ownership rights in adaptations such as lawful inspiration or the borrowing of work based on one or several pre-existing ICH work(s)
- Custodians', owners', and/or managers' rights of ownership of secondary materials embodying ICH (secondary materials include items such as films, sound recordings, photographs, and written documents.)
- Bearers' ownership of ICH-derived materials that are legally owned by the creator of the document, recording, and/or database embodying ICH
- Issue of joint ownership in work involving ICH material

Prior Informed Consent or Approval

- Issue of an approval or an agreement related to collecting ICH information
 - Identifying the authority who has been granted power to approve (permission or agreement from bearers, practitioners, communities, or other stakeholders)
 - Determining the terms and scope of the approval or agreement from bearers, practitioners, communities, or other stakeholders

- Prior informed consent to the reproduction, use, and display of ICH material
- Bearer's, practitioner's, or community's objections to utilising and disseminating information
- Determination of the format of agreements: consent forms to access and use ICH materials, licenses, undertakings, etc.

Maintenance of Collected Information

- Determination of data classification in an area of protection under IP related law
- Determination of the database to be built according to its uniqueness in IP related law

Adaptations

- The issue of unauthorised adaptations
- Issue of legal rights that could arise during secondary utilisation of information
 - Permission from stakeholders about secondary utilisation, such as broadcasting, advertising, publicity, etc.
 - Intellectual property of the secondarily used information

Secret, Sacred, or Confidential ICH

- Issue of secrecy, sacredness, or confidentiality under customary laws and practices of ICH material collected
- Problems regarding disclosure of secret information

Access, Control, and Use

Communities' Involvement

- Determination of communities' participation in the recording, digitisation, and dissemination of ICH for safeguarding, promotional, and income-generating purposes
- Communities' involvement in the decision-making processes related to the management of ICH elements held by institutes
- Authority of ICH subjects and their capacity to manage information once produced
- Bearers' agreement on modification or transformation of ICH materials

- Determination of communities' legitimate rights holders
- Management of access and use of ICH information by communities
- General public's interests to benefit from and enjoy the information building and sharing activities of ICH

Relationships

- Issue of database users' interaction with bearers for use of ICH
- Issue of relationships between an institution that holds the material, and a bearer, be it the owner, custodian, or manager.

Terms of Use of ICH Material

- Code on management, access, and use of ICH information
- Compliance with restricted ICH use under customary laws and practices
- Establishment of IP-related protocols, policies, and practices

Infringement of Rights and Responsibilities

- Infringement of intellectual property rights existing in the ICH information
 - Copyrights in literary, musical, and artistic expressions
 - Related rights (performers', phonograms', producers', and broadcasting organisations' rights) in performances, rituals, recordings, etc.
 - Trademark in cultural names, signs, indications, marks, symbols, etc.
 - Indigenous know-how and knowledge protected under trade secrets, patent law, etc.
 - Design rights in cultural textiles, poetry, etc.
- Legal responsibilities of institutes leading the activities
 - Vis-à-vis communities from which the ICH was collected
 - Vis-à-vis users to whom ICH is delivered
 - Vis-à-vis website viewers of digitised ICH collections

Licensing

- Licensing by institutions of ICH material in a recording, database, or collection
- Terms of licensing
- Content of ICH material to be licensed
- Identification of the exact licensee and licensor

Bearers' Moral Rights

- Disclosure of ICH ownership information on any related use
- Problems regarding the determination of the range of disclosure
- Case of derogatory work related to ICH
- Respect of bearers' right to integrity

Sharing of Benefits

- Issue of respect of bearers' economic rights
 - Right to translation
 - Right to reproduction
 - Right to communication to the public
 - Others
- Problems regarding the distribution of profit that comes from utilising and disseminating information
 - Economic compensation for bearers, practitioners, or communities
 - Economic compensation for other affiliated organisations or individuals, such as collectors, researchers, agencies, or collective management organisations

Unfair Use or Misuse of ICH

- Misappropriation of ICH material by an institute
- Misappropriation of ICH material by a third party

Portraits, Filming, or Reproduction of ICH Material

- Right to use for commercial purposes
- Respect of motion pictures right in ICH digitisation
- Moral rights of bearers in portraits or films
- Respect of the sacredness, secret, or sanctity of portraits or films
- Right to reproduction in digitising a photograph
- Exception to copyright in cases of promotional or educational purposes

Use of ICH as Trademark, Geographical Indication, or Domain Name

- Bearers' approval in using ICH material as logos or product identifiers
- Misuse of cultural words as trade name, domain name, or geographical indication

7) Have any of the above issues arisen in any of the stages at your institute?

- Yes
- No

If yes, please describe the issue by answering the questions below. If you have more than one issue, please provide a set of answers for each one.

a) Please explain the activity your institute did.

(a) Name of project

(b) Sort of activity

(What kind of information building and sharing activities did your institute do in the project?)

Ex) identification, documentation, inventory making, database building, etc.

(c) Objective of project

b) What kinds of issues have arisen?

- Problems regarding compliance with a country's laws and regulations or customs concerning ICH information building and sharing activities
- Problems regarding identifying the nature of rights existing on ICH that will be used in information building and sharing activities
- Problems regarding identifying the nature of rights existing in ICH
- Problems regarding ownership of ICH
- Problems regarding prior informed consent or approval
- Problems regarding maintenance of collected Information
- Problems regarding adaptations
- Problems regarding secret, sacred, or confidential ICH
- Problems regarding bearers' moral rights
- Problems regarding sharing of benefits
- Problems regarding unfair use or misuse of ICH material
- Problems regarding portraits, filming, and reproduction
- Problems regarding the use of ICH as a trademark, geographical indication, or domain
- Other (Please indicate the issue)

c) Please indicate all stages in which the issue has arisen.

- The stage for preparation
- The stage for collecting and creating information
- The stage for maintaining information
- The stage for processing and producing information
- The stage utilising and disseminating information

- d) What was the cause and content of the issue? (over 500 words in English)
 - e) Who were the stakeholders involved with the issue?
 - f) What did the institute do to resolve the issue? Please describe the process and the results of the resolution. (over 500 words in English)
 - g) What was the institute's principle in the process of dealing with the issue?
 - h) Does your institute have a guideline, policy, or protocol regarding legal issues that could arise during the stage?
 - Yes
 - No
 If yes, please attach the copy of the guidelines, policies, or protocols.
 - i) Please attach any other forms (ex. form of agreement) that were used during the stage.
- 8) Through your institute's experience, what kind of legal issues regarding IP aspects of ICH do you think could arise in each stage? (over 400 words in English)
- 9) In relation to [D-7] and [D-8], what kind of alternatives, guidelines, policies, or protocols do you think should be prepared? (over 400 words in English)

E. Institute's Activities

Here are questions on issues that could arise in the entire process of the institute's activities.

- 10) What kind of relationship does your institute have with ICH subjects, such as informants, collectors, researchers?
- Ex) one-way asymmetrical relationship, one-way symmetrical relationship, two-way asymmetrical relationship, two-way symmetrical relationship, owner vs. custodian, etc.
- 11) Does your institute include intellectual property issues in the institute's vision, purpose, function, policies, etc.? If yes, please indicate your institute's vision, purpose, function, policies, etc. that addresses intellectual property issues.
- 12) Does your institute have a representative legal dispute regarding the institute's information building and sharing activities?
- Yes
 - No

If yes, please describe the case. If you have had more than one case, please provide a set of answers for each one.

- a) Name of project
- b) Sort of activity
- c) Purpose of project
- d) Procedures and context (over 200 words in English)
- e) Issue activated (over 200 words in English)
- f) Response to the issue

(Who or what department was in charge of the issue? How did the department cope with the issue? Were the principles or guidelines adjusted to the case? [over 300 words in English])

- 13) Does your institute have a case of guaranteeing the rights and the participation of ICH subjects (bearers, practitioners, or communities) in the institute's information building and sharing activities?

- Yes
- No

If yes, please describe the case below. If you have more than one case, please provide a set of answers for each one.

- a) Name of project
- b) Sort of activity
- c) Purpose of project
- d) Participation of subject in the procedure (over 300 words in English)
- e) Rights of subject guaranteed
- f) Please attach related documents.

- 14) Have policies or guidelines for protecting intellectual property rights of ICH in the process of information building and sharing been well organised in your institute?

- Yes
- No

If yes, please provide information on the policy or the guideline, including

- a) Context of the policy or the guideline
- b) Please attach related forms. (ex. form of agreement)

F. Related Legislation

- 15) In your institute's country, is legislation or the legal system for the protection of cultural heritage organised?

- Yes
- No

If yes, please describe the legislation or the legal system below.

- a) Full title
- b) The relevant sections or paragraphs
- c) Date of coming into force
- d) Details of the office responsible for administering the laws
- e) Copies of laws and regulations
- f) What are issues or problems regarding IP aspects of ICH that cannot be covered by the legislation or the legal system described above?
- g) What kind of legal systems or devices need to be added for the protection of IP aspects of ICH?

If no, please provide additional information below.

- h) Legal systems or regulations expected to be issued
- i) Status of processing

G. Future Plans

In case your institute has not been equipped with policies or guidelines for protecting intellectual property related aspects of ICH, please answer the following questions.

- 16) Does your institute have plans for organising guidelines or regulations for protecting ICH intellectual property related rights in the process of information building and sharing?
 - Yes
 - No
 - a) If yes, please describe your institute's future plans (manner and context) for organising guidelines or regulations. (over 250 words in English)
 - b) If a future plan is in the process of being organised, please provide additional information below.
 - (1) Guidelines or regulations expected to be organised
 - (2) Status of processing
- 17) Does your institute have plans for projects regarding the protection of intellectual property related rights in the process of information building and sharing?
 - Yes
 - NoIf yes, please describe the project below.
 - a) Purpose of project
 - b) Term and duration
 - c) Context
 - d) Anticipated procedures

H. Other Opinions

18) Please provide any kind of information related to the purpose of this survey.

4. Contacts

Please provide contact information of the person who is in charge of this survey report.

Name	
Position	
Department	
Address	
E-mail	
Telephone	
Mobile	
Fax	

5. Reference materials

Please provide all attached materials with information below.

Distinction (relevant question)	
Form of material	
Name	
Source	
Context	

6. Results

Replies to this questionnaire should kindly be sent no later than the prearranged date to the following address.

Ms Saymin Lee (Information & Research Section)
Intangible Cultural Heritage Centre for Asia and the Pacific (ICHCAP)
National Research Institute of Cultural Heritage Bldg (4F)
132 Munji-ro, Yuseong-gu, Deajeon 305-380
Republic of Korea
Tel. +82 42 820 3513 / Fax. +82 42 820 3500

The survey may also be e-mailed to the address below, but in addition to the e-mailed materials, please kindly send the requested references materials to the above address.

E-mail: ichcap@gmail.com
smlee@ichcap.org

Reference materials can be submitted using Webhard.

Address: www.webhard.net
Id: ICHCAP
Password: ichcap

Thank you for your valuable contribution to the survey.

Annex 2|*Copyright Act*

CHAPTER III Copyright

13. Works in which copyright subsists.-

(1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,-

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) 45 [sound recording];

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless,-(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;(ii) in the case of an unpublished work other than a 43 [work of architecture] the author is at the date of the making of the work a citizen of India or domiciled in India; and(iii) in the case of 44 [work of architecture] the work is located in India.

Explanation.- in the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist-

- (a) in any cinematograph film a substantial part of the film is an infringement of the copyright in any other work;
- (b) in any 45 [sound recording] made in respect of a literary, dramatic or musical work, if in making the 46 [sound recording], copyright in such work has been infringed.

(4) The copyright in a cinematograph film or a 47 [sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the 48 [sound recording] is made.

(5) In the case of a 49 [work of architecture] copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

14. Meaning of copyright.-For the purposes of this Act, "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely:-

- (a) in the case of a literary, dramatic or musical work, not being a computer programme, - (i) to reproduce the work in any material form including the storing of it in any medium by electronic means;(ii) to issue copies of the work to the public not being copies already in circulation;(iii) to perform the work in public, or communicate it to the public;(iv) to make any cinematograph film or sound recording in respect of the work; (v) to make any translation of the work;(vi) to make any adaptation of the work;(vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);
- (b) in the case of a computer programme,-(i) to do any of the acts specified in clause (a);“(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme:Provided that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.”
- (c) in the case of an artistic work,-(i) to reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;(ii) to communicate the work to the public;(iii) to issue copies of the work to the public not being copies already in circulation; (iv) to include the work in any cinematograph film;(v) to make any adaptation of the work;(vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv);
- (d) In the case of cinematograph film, -(i) to make a copy of the film, including a photograph of any image forming part thereof;(ii) to sell or give on hire, or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions;(iii) to communicate the film to the public;
- (e) In the case of sound recording, -(i) to make any other sound recording embodying it;(ii) to sell or give on hire, or offer for sale or hire, any copy of the sound recording regardless of whether such copy has been sold or given on hire on earlier occasions;(iii) to communicate the sound recording to the public.

Explanation.- For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.

CHAPTER V

Term of Copyright

22. Term of copyright in published literary, dramatic, musical and artistic works.- Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until 62[sixty] years from the beginning of the calendar year next following the year in which the author dies.

Explanation.- In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

23. Term of copyright in anonymous and pseudonymous works.-

- (1) In the case of a literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until 63[sixty] years from the beginning of the calendar year next following the year in which the work is first published :Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until 64[sixty] years from the beginning of the calendar year next following the year in which the author dies.
- (2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship, be construed,-
 - (a) where the identity of one of the authors is disclosed, as references to that author;
 - (b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.
- (3) In sub-section (1) references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,-
 - (a) where the names of one or more (but not all) of the authors are pseudonymous and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such of those authors who dies last;
 - (b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and
 - (c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is

disclosed or if the identity of two or more of such authors is disclosed, as references to such of those authors who dies last.

Explanation.- For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author.

24. Term of copyright in the posthumous work.-

- (1) In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which, or any adaptation of which, has not been published before that date, copyright shall subsist until 65[sixty] years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year.
- (2) For the purposes of this section a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold to the public or have been offered for sale to the public.

25. Term of copyright in photographs.-In the case of a photograph, copyright shall subsist until 66[sixty] years from the beginning of the calendar year next following the year in which the photograph is published.

26. Term of copyright in cinematograph films.-In the case of a cinematograph film, copyright shall subsist until 67[sixty] years from the beginning of the calendar year next following the year in which the film is published.

27. Term of copyright in records.-In the case of a 68[sound recording], copyright shall subsist until 69[sixty] years from the beginning of the calendar year next following the year in which the 70 [sound recording] is published.

28. Term of copyright in Government work.- In the case of Government work, where Government is the first owner of the copyright therein, copyright shall subsist until 71[Sixty] years from the beginning of the calendar year next following the year in which the work is first published.

28A. Term of copyright in works of public undertakings.- In the case of a work, where a public undertaking is the first owner of the copyright therein, copyright shall until 73[sixty] years from the beginning of the calendar year next following the year in which the work is first published.

29. Term of copyright in works of international organisations.- In the case of a work of an international organisation to which the provisions of section 41 apply, copyright shall subsist until 74[sixty] years from the beginning of the calendar year next following the year in which the work is first published.

CHAPTER VI LICENCES

30. Licences by owners of copyright.- The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing signed by him or by his duly authorised agent: Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

Explanation.- Where a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

30A. Application of sections 19 and 19A.- The provisions of sections 19 and 19A shall, with any necessary adaptations and modifications, apply in relation to a licence under section 30 as they apply in relation to assignment of copyright in a work.

31. Compulsory licence in works withheld from public.-

(1) If at any time during the term of copyright in any Indian work which has been published or performed in public, a complaint is made to the Copyright Board that the owner of copyright in the work-

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by 76[broadcast], of such work or in the case of 77[sound recording] the work recorded in such [sound recording], on terms which the complainant considers reasonable; the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by [broadcast], as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Copyright Board may determine; and thereupon the

Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed.

Explanation.- In this sub-section, the expression "Indian work" includes- (i) an artistic work, the author of which is a citizen of India; and(ii) a cinematograph film or a record made or manufactured in India.

- (2) Where two or more persons have made a complaint under sub-section (1), the licence shall be granted to the complainant who in the opinion of the Copyright Board would best serve the interests of the general public.

31A. Compulsory licence in unpublished Indian works.-

- (1) Where, in the case of an Indian work referred to in sub-clause (iii) of clause (a) of section 2, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, any person may apply to the Copyright Board for a licence to publish such work or a translation thereof in any language.
- (2) Before making an application under sub-section (1), the applicant shall publish his proposal in one issue of a daily newspaper in the English language having circulation in the major part of the country and where the application is for the publication of a translation in any language, also in one issue of any daily newspaper in that language.
- (3) Every such application shall be made in such form as may be prescribed and shall be accompanied with a copy of the advertisement issued under sub-section (2) and such fee as may be prescribed.
- (4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, direct the Registrar of Copyrights to grant to the applicant a licence to publish the work or a translation thereof in the language mentioned in the application subject to the payment of such royalty and subject to such other terms and conditions as the Copyright Board may determine, and thereupon the Registrar of Copyrights shall grant the licence to the applicant in accordance with the direction of the Copyright Board.
- (5) Where a licence is granted under this section, the Registrar of Copyrights may, by order, direct the applicant to deposit the amount of the royalty determined by the Copyright Board in the public account of India or in any other account specified by the Copyright Board so as to enable the owner of the copyright or, as the case may be, his heirs, executors or the legal representatives to claim such royalty at any time.
- (6) Without prejudice to the foregoing provisions of this section, in the case of a work referred to in sub-section (1), if the original author is dead, the Central Government may, if it considers that the publication of the work is

desirable in the national interest, require the heirs, executors or legal representatives of the author to publish such work within such period as may be specified by it.

- (7) Where any work is not published within the period specified by the Central Government under sub-section (6), the Copyright Board may, on an application made by any person for permission to publish the work and after hearing the parties concerned, permit such publication on payment of such royalty as the Copyright Board may, in the circumstances of such case, determine in the prescribed manner.]

32. Licence to produce and publish translations.-

- (1) Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language 2[after a period of seven years from the first publication of the work].
- (1A)80 Notwithstanding anything contained in sub-section (1), any person may apply to the Copyright Board for a licence to produce and publish a translation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than an Indian work, in any language in general use in India after a period of three years from the publication of such work, if such translation is required for the purposes of teaching, scholarship or research: Provided that where such translation is in a language not in general use in any developed country, such application may be made after a period of one year from such publications.
- (2) Every 81[application under this section] shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.
- (3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.
- (4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in 82[the application-(i) subject to the condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner; and(ii) where such licence is granted on an application under sub-section (1A), subject also to the condition that the licence shall not extend to the export of copies of the translation of the work outside India and every copy of such translation shall contain a notice in the language of such translation

that the copy is available for distribution only in India: Provided that nothing in clause (ii) shall apply to the export by Government or any authority under the Government of copies of such translation in a language other than English, French or Spanish to any country if-

- (1) such copies are sent to citizens of India residing outside India or to any association of such citizens outside India; or
- (2) such copies are meant to be used for purposes of teaching, scholarship or research and not for any commercial purpose; and
- (3) in either case, the permission for such export has been given by the Government of that country]83[Provided further that no licence under this section] shall be granted, unless-
 - (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him, 82[within seven years or three years or one year, as the case may be, of the first publication of the work], or if a translation has been so published, it has been out of print;
 - (b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright to produce and publish such translation, or that 84[he was, after due diligence on his part, unable to find] the owner of the copyright;
 - (c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for 85[such authorisation by registered air mail post to the publisher whose name appears from the work, and in the case of an application for a licence under sub-section (1)], not less than two months before 85[such application];(cc)84 a period of six months in the case of an application under sub-section (1A) (not being an application under the proviso thereto), or nine months in the case of an application under the proviso to that sub-section, has elapsed from the date of making the request under clause (b) of this proviso, or where a copy of the request has been sent under clause (c) of this proviso, from the date of sending of such copy, and the translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or nine months, as the case may be;(ccc) in the case of any application made under sub-section (1A),-(i) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation;(ii) if the work is composed mainly of illustrations, the provisions of section 32A are also complied with;]
 - (d) the Copyright Board is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the

means to pay to the owner of the copyright the royalties payable to him under this section;

- (e) the author has not withdrawn from circulation copies of the work; and
- (f) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

(5)84 Any broadcasting authority may apply to the Copyright Board for a licence to produce and publish the translation of-

- (a) a work referred to in sub-section (1A) and published in printed or analogous forms of reproduction; or
- (b) any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities, for broadcasting such translation for the purposes of teaching or for the dissemination of the results of specialised, technical or scientific research to the experts in any particular field.

(6) The provisions of sub-sections (2) to (4) in so far as they are relatable to an application under sub-section (1A), shall, with the necessary modifications, apply to the grant of a licence under sub-section (5) and such licence shall not also be granted unless-

- (a) the translation is made from a work lawfully acquired;
- (b) the broadcast is made through the medium of sound and visual recordings;
- (c) such recording has been lawfully and exclusively made for the purpose of broadcasting in India by the applicant or by any other broadcasting agency; and
- (d) the translation and the broadcasting of such translation are not used for any commercial purposes. Explanation.- For the purposes of this section,-
 - (a) "developed country" means a country which is not a developing country;
 - (b) "developing country" means a country which is for the time being regarded as such in conformity with the practice of the General Assembly of the United Nations;
 - (c) "purposes of research" does not include purposes of industrial research, or purposes of research by bodies corporate (not being bodies corporate owned or controlled by Government) or other associations or body of persons for commercial purposes;
 - (d) "purposes of teaching, research or scholarship" includes-(i) purposes of instructional activity at all levels in educational institutions, including Schools, Colleges, Universities and tutorial institutions; and(ii) purposes of all other types of organised educational activity.]

32A. Licence to reproduce and publish works for certain purposes.-86

- (1) Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary, scientific or artistic work,-
 - (a) the copies of such edition are not made available in India; or
 - (b) such copies have not been put on sale in India for a period of six months to the general public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in India for comparable works by the owner of the right of reproduction or by any person authorised by him in this behalf, any person may apply to the Copyright Board for a licence to reproduce and publish such work in printed or analogous forms of reproduction at the price at which such edition is sold or a lower price for the purposes of systematic instructional activities.
- (2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the work to be reproduced.
- (3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.
- (4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a reproduction of the work mentioned in the application subject to the conditions that,-(i) the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the reproduction of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner;(ii) a licence granted under this section shall not extend to the export of copies of the reproduction of the work outside India and every copy of such reproduction shall contain a notice that the copy is available for distribution only in India :
Provided that no such licence shall be granted unless-
 - (a) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright in the work to reproduce and publish such work or that he was, after due diligence on his part, unable to find such owner;
 - (b) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered airmail post to the publisher whose name appears from the work not less than three months before the application for the licence;
 - (c) the Copyright Board is satisfied that the applicant is competent to

reproduce and publish an accurate reproduction of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;

- (d) the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Copyright Board, being a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subjects;
 - (e) a period of six months in the case of application for the reproduction and publication of any work of natural science, physical science, mathematics or technology, or a period of three months in the case of an application for the reproduction and publication of any other work, has elapsed from the date of making the request under clause (a), or where a copy of the request has been sent under clause (b), from the date of sending of a copy, and a reproduction of the work has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or, three months, as the case may be;
 - (f) the name of the author and the title of the particular edition of the work proposed to be reproduced are printed on all the copies of the reproduction;
 - (g) the author has not withdrawn from circulation copies of the work; and
 - (h) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.
- (5) No licence to reproduce and publish the translation of a work shall be granted under this section unless such translation has been published by the owner of the right of translation or any person authorised by him and the translation is not in a language in general use in India.
- (6) The provisions of this section shall also apply to the reproduction and publication, or translation into a language in general use in India, of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.

Explanation.- For the purposes of this section, "relevant period", in relation to any work, means a period of-

- (a) seven years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, fiction, poetry, drama, music or art;
- (b) three years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, natural science, physical science, mathematics or technology; and
- (c) five years from the date of the first publication of that work, in any other case.

CHAPTER XI

Infringement of Copyright

51. When copyright infringed. -Copyright in a work shall be deemed to be infringed-

- (a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act-(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or(ii)101 permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or
- (b) when any person-(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or(iii) by way of trade exhibits in public, or(iv) imports 102***** into India, any infringing copies of the work103Provided that nothing in sub-clause (iv) shall apply to the import of one copy of any work for the private and domestic use of the importer.

Explanation.- For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an "infringing copy".

52. Certain acts not to be infringement of copyright. -

- (1) The following acts shall not constitute an infringement of copyright, namely:
 - (a) a fair dealing with a literary, dramatic, musical or artistic work 104[not being a computer programme] for the purposes of-(i) 105private use, including research;(ii) criticism or review, whether of that work or of any other work; "
 - (aa)106 the making of copies or adaptation of a computer programme by the lawful possessor of a copy of such computer programme, from such copy-(i) in order to utilise the computer programme for the purposes for which it was supplied; or(ii) to make back-up copies purely as a temporary protection against loss, destruction or damage in order only to utilise the computer programme for the purpose for which it was supplied;"121A"
 - (ab) the doing of any act necessary to obtain information essential for operating inter-operability of an independently created computer

programme with other programmes by a lawful possessor of a computer programme provided that such information is not otherwise readily available;

- (ac) the observation, study or test of functioning of the computer programme in order to determine the ideas and principles which underline any elements of the programme while performing such acts necessary for the functions for which the computer programme was supplied;
- (ad) the making of copies or adaptation of the computer programme from a personally legally obtained copy for non-commercial personal use; ;

52A. Particulars to be included in records and video films. 117 (1) No person shall publish a¹¹⁸[sound recording] in respect of any work unless the following particulars are displayed on the[sound recording] and on any container thereof, namely:-

- (a) the name and address of the person who has made the [sound recording];
 - (b) the name and address of the owner of the copyright in such work; and
 - (c) the year of its first publication.
- (2) No person shall publish a video film in respect of any work unless the following particulars are displayed in the video film, when exhibited, and on the video cassette or other container thereof, namely:-
- (a) if such work is a cinematograph film required to be certified for exhibition under the provisions of the Cinematograph Act, 1952, a copy of the certificate granted by the Board of Film Certification under section 5A of that Act in respect of such work;
 - (b) the name and address of the person who has made the video film and a declaration by him that he has obtained the necessary licence or consent from the owner of the copyright in such work for making such video film; and
 - (c) the name and address of the owner of the copyright in such work.

Annex 3|*Principles in Sahapedia*

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- Privacy Policy
- Non-Exclusive Copyright License
- Terms of Use

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You understand that any system that is open enough to allow the greatest possible participation to the general public may be abused and misused.

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There is also information about your computer hardware and software that is automatically collected by _____. This information can include: your IP address, browser type, domain names, access times and referring Web site addresses. This information is used by _____ for the operation of the service, to maintain quality of the service, and to provide general statistics regarding use of the Initiatives in Art and Culture Web site.

Please keep in mind that if you directly disclose personally identifiable information or personally sensitive data through _____ public message boards, this information may be collected and used by others.

_____ encourages you to review the privacy statements of Web sites you choose to link to from _____ so that you can understand how those Web sites collect, use and share your information. _____ shall not be responsible for the privacy statements or other content on Web sites outside of the _____ and _____ family of Web sites.

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Annex 4|*Photographs*



▲ Colonial Photographs of Indian tribals, an exhibition in Vadodra



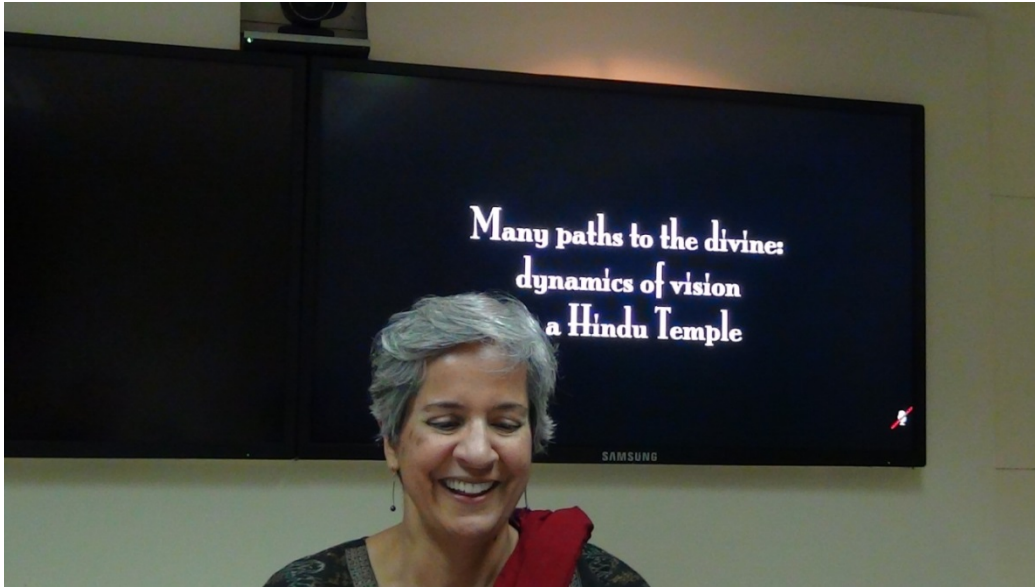
▲ Documenting the life in Nizamuddin Basti, Delhi



▲ Dr Ganesh Devey on Indian Tribal Languages



▲ Dr SudhaGopalakrishnan talks about the challeges in documenting ICH in Indian context



▲ ICH Temple Rituals Talk by Prof. Padma Kaimal of Colgate University



▲ Safeguarding India's ICH Seminar



▲ Sahapedia team documents Sufi Music festival in Kolkata

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