Ferran Estrada i Bonell

Professor of the Department of Cultural Anthropology and History of the Americas and Africa
Universitat de Barcelona
BARCELONA_CATALUNYA

A professor of Anthropology at the University of Barcelona with a PhD in Social Anthropology, Estrada i Bonet has worked on home and family, transhumance and cultural heritage in rural environments. He has conducted his research in Pla d'Urgell, Val d'Aran, and Alta Ribagorça counties and around Montseny.

Camila del Mármol Cartañá

Professor of the Department of Cultural Anthropology and History of the Americas and Africa
Universitat de Barcelona
BARCELONA_CATALUNYA

A professor of Social Anthropology at the University of Barcelona, Mármol Cartañá's studies focus on heritage conversion processes and the social changes resulting from them. She is also interested in the implications of cultural policies in international bodies, and especially the concept of intangible heritage.

ICH Inventories

Implementation of the UNESCO Convention[1]

In this article we analyze the unfolding of inventories and specific practices recommended in the Convention for the Safeguarding of Intangible Cultural Heritage. We focus on how the variety of inventories in diverse countries is organized within specific juridical frames. We also pay attention to the different possibilities when drawing up inventories and their implications. We will also discuss how these rules have been turned into specific inventory projects and how the theoretical and methodological challenges in drawing up inventories are tackled.

En aquest article, examinem com es concreta l'obligació de realitzar inventaris en lleis i pràctiques específiques en relació amb la Convenció per a la Salvaguarda del Patrimoni Cultural Immaterial. Volem conèixer els marcs jurídics i com integren els inventaris, comprendre'n les opcions adoptades i determinar-ne les repercussions. També volem analitzar com s'han traduït aquestes normes en projectes concrets d'inventari i com es fa front als reptes teòrics i metodològics que l'elaboració d'inventaris planteja.

Introduction

In 2003, UNESCO approved the Convention for the Safeguarding of Intangible Cultural Heritage after giving much thought to protecting folklore, traditional culture and ethnological heritage since the 1970s. This is the regulatory instrument that has had the greatest impact on the field of heritage in the last 10 years. First, it has helped to establish a new, wider and more complex concept of *heritage* by formulating a widely accepted legal definition of *intangible heritage*. Second, it has aroused interest in the intangible dimension of heritage in academic, political, economic and civil society circles. Finally, it has prompted many states to develop laws and policies to safeguard and evaluate these types of heritage.

The main aims of the Convention include safeguarding intangible cultural heritage (ICH), ensuring respect for it and raising awareness about its importance (Art. 1). To achieve these goals, general measures are proposed that each state ought to undertake through specific laws and policies (Art. 11). The creation of inventories stands out among the measures suggested and is considered the first step for safeguarding ICH (UNESCO, 2011a: 10, 2011b: 4). It has its own exclusive article (Art. 12) and is the most specific proposal for protection made. It is also the sole measure imposed on the states that have signed the Convention[2] (UNESCO, 2011b: 4; Grenet, 2013: 17).

In this article, we examine how the obligation to create inventories is specified in concrete laws and practices. We intend to look at the legal frameworks and how they integrate inventories, understand the options adopted and determine their repercussions. We also aim to analyse how these standards have been reflected in specific inventory projects and how the theoretical and methodological challenges linked to creating inventories are being dealt with. The purpose of this article is not to conduct an exhaustive study of all the standards and of all the inventories developed, but to aid thinking on measures to safeguard ICH based on a few cases.

The Regulatory Framework for Safeguarding ICH

Various lawyers and heritage specialists have underscored the complexity of establishing specific legal measures to safeguard ICH (Blake, 2001; IPCE, 2011; Martínez, 2011; Alegre, 2012; Lixinski, 2013). The problems come partially from the lack of concrete proposals in the Convention itself and in subsequent documents that firm it up: due to its general international regulatory nature, the Convention is limited to making generic suggestions that the states can develop later in a flexible manner, adapted to their political, social and cultural contexts[3].

But the most important problems are related to two more substantial issues. The first is related to the difficulty of establishing specific legal measures stemming from the characteristics of intangible heritage and of the ambiguities of the concept, such as the scope and complexity of the field it covers; the unclear limits of the manifestations to which the laws must be applied; the diversity of the elements linked to each of these manifestations (social relations, practices, knowledge, values, spaces, objects, constructions); the constant transformation of the manifestations; the impossibility of extricating the elements from the context in which they are used and make sense; and, finally, the difficulties of clearly determining from a Western legal point of view who the authors and owners of this collective heritage are, meaning who has the right to control the ICH.

The second issue is the Convention's definition of ICH as a living, dynamic and ever-changing reality (UNESCO, 2003a, 2011a) and how that affects the purpose of regulations. Thus, while the goal of these tangible heritage laws is to conserve property from the past, the goal of the Convention is to safeguard living intangible heritage. Conservation seeks to maintain heritage as it is found. Thus, conserving intangible heritage could mean fossilising it and causing it to lose its vitality (Querol, 2009: 81). However, safeguarding means "guaranteeing viability" (UNESCO, 2003a: Art. 2.3). To be viable, heritage should continue

TO BE VIABLE, INTANGIBLE HERITAGE MUST CONTINUE FORMING PART OF PEOPLE'S LIVES, HAVE MEANING FOR THEM AND BE PRACTICED AND LEARNED IN COMMUNITIES OVER SUCCESSIVE GENERATIONS

to form part of people's lives, making sense to them, and it should be practiced and learned in communities and by successive generations (UNESCO, 2011a: 6-8, 2011b: 4). Transmission between generations here is essential. From this standpoint, communities and individuals that create, maintain and transmit heritage acquire a key role in safeguarding it (UNESCO, 2003a, 2011a: 7-8, 2012: Chap. III.1). As such, it is impossible to safeguard ICH without the involvement of bearer communities (Hottin, 2013: 16).

In brief, measures to safeguard ICH may not be the same as those applied to protect tangible heritage and should be aimed at strengthening the conditions necessary for ICH to persist, evolve and get passed down to future generations (UNESCO, 2005b: 6, 2011b: 4). Safeguarding ICH necessarily involves preserving the social and cultural context in which it is created, maintained and transmitted (Blake, 2001; Kirshenblatt-Gimblett, 2004:

53). However, legislating these issues is more difficult and politically more conflictive than doing the same for subjects that may be separated from people and their context.

Despite these challenges, international states and bodies have created regulations on ICH since the mid-20th century. However, they are legal instruments very different in nature and scope, ranging from international standards to local and regional laws and from recommendations about the cultural rights of peoples to intellectual property laws. We will take a closer look at these regulations below.

Many international bodies have issued legal texts applicable to ICH, such as the United Nations, UNESCO, ILO, ICOM and WIPO, to name a few. Some of these documents are non-binding (soft law), like recommendations and declarations. Others are binding upon states that signed the conventions or agreements. In any case, the measures proposed are usually general in nature and the states have to translate them into specific laws later.

There are also regulations created by states and regions. Examples include the Constitution of the Republic of Brazil (1988), the law on Catalan cultural heritage (1993), the law on biodiversity in Costa Rica (1998) and the law on the cultural heritage of the Autonomous City of Buenos Aires (2003). It is in this sphere where legislation is more specific and regulates use, establishes measures of protection and punishes non-compliance with the law and actions that endanger heritage.

The regulations that apply to safeguarding ICH vary widely and relate to the instrumental use expected to be made of heritage and of the interests that come into play in protecting it (Lixinski, 2013). Generally speaking, we find three different types of legisla-

tion: 1) regulations related to human rights; 2) legislation on intellectual property; and 3) laws on the cultural sphere.

The first and final types correspond to a legal pathway promoted by UNESCO that addresses intangible cultural heritage as an expression of identity and cultural diversity that must be legally protected. Thus, it seeks to preserve some general rights. However, the second type, promoted by WIPO, is related to a concept of heritage as a financial resource and aims to protect the rights of its owners (Hottin, 2013: 13; Lixinski, 2013: 8).

These three types of regulations correspond to two different visions of culture. The first type of laws corresponds to the idea that culture is intrinsic to human beings and stresses social and cultural processes linked to heritage. The second and third types of laws reflect a view of culture as something that exists separately from people and that may be segregated into different sectors or elements. Thus, safeguarding ICH calls for specific laws focused on protecting certain human creations, defending particular interests of a community from other people and groups.

Human Rights-related Regulations
Laws in defence of human rights, cultural rights and indigenous rights make up the first legal framework for safeguarding intangible heritage. The maximum expression of this guidance is the condition established by the Convention to only consider elements of intangible heritage that are compatible with human rights, mutual respect and sustainable development (UNESCO 2003: Art. 2.1), despite the difficulties of defining these three conditions accurately (Santamarina, 2013: 275).

While this guidance corresponds primarily to international standards[4], we also find it in state laws. Thus, since

the 1990s, many countries in Latin America have recognised indigenous peoples and their rights in their constitutions, which also contemplate the multicultural and multilingual nature of the state. This means that laws and policies must be established that recognise cultural diversity and give support to respecting, maintaining and transmitting specific cultures (Urrutia, 2012: 62; Lixinski, 2013).

SAFEGUARDING ICH REQUIRES PRESERVING THE SOCIAL AND CULTURAL CONTEXT IN WHICH IT IS CREATED, MAINTAINED AND PASSED ON

This kind of regulatory framework is related to two aspects. The first is a comprehensive and indivisible conception of culture defined as a lifestyle that includes both tangible and intangible aspects (knowledge, values, ideas, symbols, practices, language, etc.). From this perspective, each group has the right to maintain and develop its own culture, meaning to maintain its own cultural identity (Blake, 2001: 5), hence the emphasis on cultural rights and cultural identity in the definition of ICH. Moreover, the right to cultural identity is also a fundamental right for all people and is related to other basic rights like the freedom of expression, the freedom of religion, equality and the right to private and family life, among others (Lixinski, 2013).

Second, this kind of regulation emerges from the definition of cultural diversity as a universal value. Cultural diversity is essential to the survival of humankind[5]. From this standpoint, loss and damage to ICH are not only treated as harmful to the individuals and communities that see their cultural iden-

tity affected, but to the human race in general, which loses cultural diversity.

The use of international standards on human rights to safeguard intangible heritage clearly demonstrates the political dimension of heritage and the conflict among international bodies, states and communities to control it, as highlighted by some authors (Smith, 2006; Lixinski, 2013). The way that intangible heritage relates to universal values means that safeguarding it could come before the interests of the states or bearer communities. However, the possibility of using cultural identity politically pushes states to control intangible heritage as an instrument for dominating minorities. Nevertheless, both positions contradict the role that the Convention grants to communities in defining and safeguarding heritage. This emphasis on community may give power to local groups and minorities that use heritage to advance their own interests (Lixinski, 2013). Therefore, some states, like France, have shown little interest in the Convention, due to disagreement over the role granted to states in controlling ICH: first, it rejects the interference of international bodies in the heritage-based dynamics of the state; second, it does not agree with the predominant role that the Convention gives to bearer communities at the expense of the state (Hottin, 2013: 11).

Legislation on Intellectual Property
The use of intellectual property laws is another strategy used to safeguard ICH. It was the first option raised to protect folklore and traditional knowledge in the discussions begun by UNESCO and WIPO in the 1970s and has continued to be an alternative adopted by international organisations (UN, WIPO, FAO, WHO) and some states.[6]

These types of regulations were especially used by Latin American, Asian and African countries from the 1960s

to the 1990s (Ruiz, 2006). In contrast, in most Western countries, except those with an indigenous population, like the United States, Canada and Australia, traditional and popular culture has been left out of legislation on intellectual property (Blake, 2001: 29).

THE POSSIBILITY OF USING CULTURAL IDENTITY FOR POLITICAL PURPOSES INSPIRES STATES TO CONTROL INTANGIBLE HERITAGE AS AN INSTRUMENT FOR DOMINATING MINORITIES

The argument to justify these laws defends the rights of local or indigenous populations to traditional knowledge and practices related to health, using the environment, the variety of native plants and expressions of folklore, among others (Blake, 2001; Kiene, 2006; Ruiz, 2006). This point of view considers that there are certain expressions of intangible heritage that must always be under the control of the bearer communities and must never be transferred to the public domain or to third parties (Gauthier, 2012: 2).

Legislation on intellectual property, which includes copyright (and moral rights), registered trademarks, designations of origin and industrial designs, is a *strong* form of protection: it defines who has the right to use and manage certain elements of intangible heritage, how that is done and to what end.

As a result, it also establishes penalties for appropriating and improperly using this heritage.

But standards of this kind have some drawbacks that limit their application

for safeguarding ICH (Blake, 2001; Garrote, 2009; Lixinski, 2013). 1) Their scope is limited and cannot be applied to intangible heritage in the broad sense: the elements that must be protected have to meet some requirements (delimitation, stability, property) with which many manifestations of ICH do not comply. Furthermore, they are aimed at protecting the products of heritage, but not the processes of creation or even their social and cultural context. 2) They tend to fossilise intangible heritage, which is seen as a defined product that exists outside of social relations, and to separate it from the context in which it is produced and used and that gives it meaning. 3) They turn ICH into merchandise and are geared mainly to deal with the problems of using it commercially. As a result, they protect heritage outside of its context of creation, but do not mediate any means to do so within that context. 4) Finally, they establish a monopoly over some elements that are appropriate in their context in very different ways, which implies privatising them.

Specific Legislation in the Field of Culture
Since the 1970s, and especially during the 1980s, UNESCO promoted a series of debates on safeguarding folklore or traditional and popular culture as cultural heritage. Faced with the option of preparing a legal instrument that unites intellectual property with cultural orientation, the idea was imposed that a specific cultural orientation proposal would safeguard ICH better than regulations taking into account economic rights linked to the exploitation and use of intangible heritage (Blake, 2001: 92). The discussions led to the drafting of various documents throughout the 1980s and 1990s and culminated with the approval of a recommendation for safeguarding traditional and popular culture issued by UNESCO

in 1989 and, later, the Convention for the Safeguarding of Intangible Cultural Heritage of 2003.[7]

Since the mid-20th century, legislation in many states and regions has gradually included intangible manifestations in laws on cultural heritage or else has created specific standards for it. This is the case in many Latin American countries that have adapted their legislation to this new concept of heritage and to the need to safeguard it since the 1990s, and especially since the Convention was approved (Urrutia, 2012: 63). In addition, legislation in the central government and autonomous regional governments of Spain on cultural heritage created since 1985 also deals with intangible heritage, although it relates it to ethnological heritage defined in terms of traditional and popular culture (Querol, 2009; IPCE, 2011; Martínez, 2011; Alegre, 2012).

But whether or not it is specifically about ICH, legislation on cultural heritage does not rule out the dangers of commodification and of subordination to political and financial interests. All too often, heritage policies depend on

DESPITE THE CONVENTION'S EMPHASIS THAT ICH IS LIVING HERITAGE IN CONSTANT TRANSFORMATION, THE WAY THAT INTANGIBLE HERITAGE IS DEALT WITH IN LAWS ORIENTS IT TOWARDS THE PAST

tourism, which influences how ICH is understood, recorded and showcased (Urrutia, 2012: 64). Likewise, the uses of intangible heritage in conflicts between states and between states and minorities are well known.

Cultural regulations present another problem. The way that heritage is treated in law guides it to the past: it is associated with tradition, but one prior to processes of globalisation, with elements that are in danger of vanishing. The Convention contributes to this orientation, despite the insistence that ICH is living heritage in constant transformation, with considerations for the urgency and effects of globalisation.

Finally, the existence of specific laws on heritage may encourage the disparagement of manifestations of intangible heritage to which they apply. Some elements of intangible heritage like language, beliefs, knowledge of the environment, food production and health information and practices are governed by regulations on intellectual property, language, education, health, urban development, religion and the environment. Cultural legislation is insufficient for covering these elements and *strong* laws are needed that govern use, recognise rights and responsibilities, mete out punishment and are not limited to making recommendations and promoting study and inventories.

Thus, a significant difference is established between these elements and the manifestations situated around heritage laws, giving them a larger financial, political and social profile. In contrast, manifestations of intangible culture to which heritage regulations apply take a lower position. Therefore, heritage laws may have effects opposed to safeguarding.

Likewise, the cultural identity that is built or strengthened from ICH may also be considered second-rate compared to national identity coming from citizenship in a state. The identity that comes with sharing intangible cultural heritage should not question national state identity. Assessments of particular

■ Transhumance was declared property of intangible cultural interest of Aragon in 2011. Transhumant herd in Lloveto de Cardet, near Tolba (Ribagorça, Osca).
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cultures that the Convention stimulates must only be made to the extent that they form part of a whole and reveal facets of a unity that transcends diversity (Hottin 2012: 99).

Measures to Safeguard ICH and Inventories in Legislation

The measures regulated by the different types of legislation applicable to safeguarding ICH have very diverse levels of detail and different orientations. In general, they may be grouped into the following proposals:

a) Create inventories, catalogues, databases, atlases, record books, etc.
b) Recognise and declare certain elements of intangible heritage to be *property of cultural interest*, applying a higher level of protection to them.
c) Study manifestations of intangible heritage scientifically.
d) Document and open files on heritage in textual and audiovisual material supports and create archives to conserve and disseminate it.

e) Promote actions to recognise the value of intangible heritage, such as creating representative lists of ICH.
f) Promote actions to manage, promote the use of and pass on heritage elements to following generations.
g) Punish actions that come down against the heritage, manifestations and cultural rights of bearer populations. According to the penal or administrative nature of said actions, punishment is covered in the same specific laws or in more general regulations like the penal code, for example.

These measures respond to different lines of reasoning, ranging from the idea that there is only one kind of heritage, so proposals to protect it must always be the same, to the idea that the characteristics of intangible heritage are so particular that specific provisions must be employed to safeguard it. In total, we can identify five different arguments.

The first line of reasoning applies the same type of measure to all forms of heritage, whether tangible or intangible. This approach could result in a holistic view of heritage, which aims to overcome the tangible/intangible dichotomy. However, this does not apply in most cases, since the proposed measures have only been designed for tangible heritage without taking into account the particular features of ICH.

The second argument establishes specific measures to safeguard ICH that are especially aimed at protecting bearer groups and strengthening the conditions necessary for it to persist, evolve and get passed down. However, these types of measures are the least common.

The third approach consists of adapting the measures defined for tangible heritage to the characteristics of ICH. This is the case, for example, when creating ICH inventories. But regardless of the effort made to adjust the measures, their application remains problematic because intangible heritage is viewed from the perspective of tangible cultural property (Martínez, 2011: 139). The manifestations of ICH are perceived and dealt with as objects, as finished products that have value in themselves, as limited realities that can be identified, inventoried, protected and disseminated. Significantly in this respect, the concepts *intangible property, intangible cultural property* and *intangible ethnological property* have appeared in some laws[8], derived from the concept of *cultural property* used to refer to tangible heritage in the World Heritage Convention (1972). However, UNESCO abandoned the concept of *property* to refer to the specific manifestations of ICH during the 1990s[9] (Smeets, 2012), and this is reflected in some derived laws.[10]

A fourth option is to gear protective measures to ICH-related tangible elements, because conserving them allegedly implies the same for the intangible elements associated with them. In this regard, we find proposals to protect the intangible dimension of tangible property or landscape protection laws that affect both tangible and intangible elements linked to a territory. However, this approach attributes accessory value to the intangible dimension of tangible property, which is considered useful as long as it enhances appreciation of what is see as most important: tangible property (Lixinski, 2013: 20). There are also measures to protect tangible property linked to intangible practices, as proposed in the Convention. In some cases, this springs from the idea that intangible manifestations may only be safeguarded by conserving their tangible components.[11]

CULTURAL IDENTITY THAT IS BUILT OR STRENGTHENED BASED ON ICH MAY ALSO BE CONSIDERED AS SECOND RANK, COMPARED WITH NATIONAL IDENTITY BASED ON CITIZENSHIP IN A STATE

The fifth and final way to safeguard intangible heritage is to record it in textual or audiovisual format and create archives to store the resulting documents and files. These measures assume that safeguarding intangible elements is only possible by conserving tangible property, whether involving objects associated with the practices or documentary support (Bortolotto, 2013: 29). This approach proceeds as if safeguarding natural history required keeping an herbarium and taxidermy collections.

Most of these approaches move away from the idea of ICH as a process, as a dynamic and living manifestation that acquires value and meaning in context and relationships. As a result, many of the conservation measures pursued end up having the opposite effect: while they do take note of intangible manifestations of culture, those very elements become fossilised and divorced from the context and relationships that give them meaning (Kono, 2009; Martínez, 2011: 139).

Inventories are the key tool of the Convention. They are the first step in planning other specific protective measures and are also considered a tool for raising public awareness about ICH and its importance (UNESCO, 2011b: 4). This is why the Convention guides safeguarding action towards the creation of ICH inventories. As we have seen, it is the only specific measure prescribed to the states that have signed the Convention. However, it is also a process that never ends: because ICH is a living and changing reality, inventories of it may never be considered exhaustive and must be updated regularly (UNESCO, 2003a: Art. 12.1).

The inventories, which consist of catalogues, books, atlases and other forms of documentation, also play a prominent role in many international, national, regional and local regulations. While ratification of the Convention by different countries has helped to promote laws on ICH or to adapt existing laws, it was not until the final quarter of the 20th century that specific and general regulated approaches to inventory included intangible elements.

But drawing up an inventory means approaching ICH from the perspective of tangible heritage. Identifying elements and recording them in documents, books and inventories is a practice found in most regulations

related to tangible, archaeological and monumental heritage. This standpoint means conceiving intangible heritage as property, as things that can be identified, delimited, defined and classified in a clear and objective way. It means separating heritage as a product of social processes of creation, use and appreciation.

Taking an ICH Inventory, from Regulation to Practice: Examples from around the World

While the Convention stresses the importance of creating ICH inventories (Art. 12), it does not clearly specify what an inventory is or how one is to be conducted. What must be inventoried, how and for what purpose?

In later documents, UNESCO provides some details of what these inventories should be like, comparing them to inventories of tangible cultural heritage and especially of artistic and architectural objects. Thus, it is stated that "… just as monuments and works of art are identified and collected, intangible cultural heritage may also be compiled and documented. In fact, the first step that a state should take to safeguard this kind of heritage is to identify, document or inventory the expressions and manifestations likely to be considered intangible cultural heritage" (UNESCO, 2011a: 10). In addition, " … inventories may later be used as a basis for crafting measures to safeguard the manifestations or expressions of intangible cultural heritage included or described therein. Communities should participate in identifying and defining intangible cultural heritage, since they are the ones that decide which uses form part of their cultural heritage" (UNESCO, 2011a: 10).

The creation of inventories has proliferated in recent years, probably because it was one of the first actions recommended in the Convention, as well as an element that at first glance seems more concrete and easier to achieve. The analysis of different ICH inventories in various countries around the world allows us to see recurring questions and doubts arise that are reflected in the creation of the inventories. The variety of inventory formats presents us with problematic terrain where contradictions are solved differently in every case and give rise to a varied and even opposed landscape.

We have analysed a total of 22 finished ICH inventories and 30 more that are under development in different countries around the world. With such a variety of formats, contradictions arise quickly.

One possible way to create ICH inventories is to regroup or reorganise various past projects to record and classify cultural elements. Very often, this consists of research accumulated over the course of many years by public and private ethnological or local history associations or institutes that end up becoming organised systematically in the context of new guidelines in the Convention. Likewise, intangible heritage-related actions prior to UNESCO, like the programme of the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity (1998), are used by some countries as a foundation for cataloguing ICH. One example of this is France, where two inventories were planned in 2007. The first was a project to create an inventory of inventories, which grouped and ordered a pre-existing series of inventories and databases on intangible culture in France. The second project, begun in 2008, consisted of creating a repertoire of living cultural practices with the support of the communities involved according to one of the emphases in the Convention (Hottin, 2012; Grenet, 2013).

In many cases, these inventories identify intangible heritage as equivalent to *traditional popular culture*, without taking contemporary practices of the various cultural groups into account. At the same time, they fail to realise that the practices cannot be preserved or conserved by themselves if they do

■ Image of a Garifuna dance. This Afro-Caribbean culture is currently spread across the countries of Belize, Guatemala, Honduras and Nicaragua. In 2001, UNESCO declared the Garifuna language, music and dance a Masterpiece of the Oral and Intangible Heritage of Humanity. 2009. RICK GOLDMAN. WIKIPEDIA COMMONS (CC BY-SA 2.0)

not serve a social use or readapt to new realities. Many of the projects that we studied are not a direct product of the guidelines set out in the Convention, but are the continuation and reuse of inventories, lists and databases created in different countries since the 1980s that were focused on the idea of identifying national folklore. This is the case of the Catalogue of Traditional Dances of the Nicaraguan Pacific, the inventory of folklore of Seychelles, the Asia-Pacific Database on Intangible Cultural Heritage and the Bulgarian inventory, among others.

A common aspect we find in the inventories analysed is the lack of specificity in the criteria used to define the elements of ICH. In most cases, there is not even explicit guidance about which elements are considered intangible heritage and which are not, nor are the contradictions inherent in the concept discussed. In fact, subsequent documents published by UNESCO on the creation of inventories (UNESCO 2011b: 10) recognise that states are not required to adapt to the definition of intangible heritage that appears in the Convention, though it does encourage them to do so. The inventories that we analysed do not usually mention the criteria used by the Convention to define ICH, nor do they take the time to discuss the ambiguities present in it. However, some exceptions do exist. The intangible heritage inventory created jointly by the Bulgarian Ministry of Culture and the Folklore Institute of the Academy of Sciences of Bulgaria defines the following main criteria for adding elements to the list: authenticity, representativeness, artistic value, vitality and rootedness in tradition. Many of these concepts are difficult to define, meaning that they may cause problems when drawing up inventories.

Many inventory projects that we analysed display different solutions

regarding the complexity of defining elements of ICH, as well as the political implications that come up in classificatory practices. The Intangible Cultural

> **ONE OF THE MAIN CHALLENGES IS HOW TO RESOLVE THE PARADOX THAT ARISES WHEN CREATING AN INVENTORY, WHICH IS ESSENTIALLY STATIC, COMPOSED OF LIVING, NATURALLY DYNAMIC ELEMENTS**

Heritage in Scotland is presented as an inventory of living heritage, or the practices and customs of the land, without entering into further details. This inventory takes the form of a wiki, meaning a website of content that may be edited by different users. This overcomes the problem of collecting information on a limited number of fixed categories, adapting the idea of an inventory to the possibilities offered by the format, always under production

by definition. In other cases, we see that one criterion for selecting ICH elements has been the risk or danger of their imminent disappearance and threats to their survival. Examples of this include the Data Bank on Traditional/Folk Performing Arts in Asia and the Pacific, as well as the inventories created in Brazil and Colombia.

Another subject that must be stressed is that of the territorial scope of the inventories. While some states develop inventories that cover all their national territory, like Mexico and China, others decide to create different inventories based on their administrative divisions, like Belgium and Colombia, or draw up specific inventories for the various communities or ethnic groups in the country.

A shared interest in trying to overcome the dangers of reification implicit in practices to define heritage may be observed. This is an attempt to respond to the Convention's emphasis on the *living* nature of ICH. Thus, one of the main challenges it raises is how to resolve the paradox that appears when adding living, naturally dynamic ele-

■ Interior of a tomb decorated to celebrate the Day of the Dead in the pantheon of Iguala de la Independencia, Guerrero, in Mexico. 2010. WIKIPEDIA COMMONS (CC BY-SA 3.0)

ments to an inventory that is essentially static. The inventories of tradition bearers, such as those of the Répertoire Suisse du Patrimoine Culturel Immatériel and the Inventaire des Ressources Ethnologiques du Patrimoine Immatériel (IREPI) from Quebec, Canada, are answers to these questions. The idea of living heritage highlighted in the Convention has put the spotlight on inventories focused on tradition bearers, where data is collected on people and groups considered representative of ancestral knowledge, different artistic specificities and other activities considered traditional. This model can be used to create inventories that specify the existence of merchants and craftspeople boosting the economic development of a region. In these cases, attention must be paid to processes of institutional interference in artisanal and local production practices. Defining artisanal knowledge and practices often involves normalising these phenomena, which is expressed by institutionalising the practices and takes plasticity and autonomy away from the subjects.

Another recurring problem arises when trying to accommodate the ICH categories defined in the Convention, though UNESCO raises the possibility of using other classifications (UNESCO, 2011b: 10-11). The breadth and vagueness of these categories makes inventory creation a daunting task,
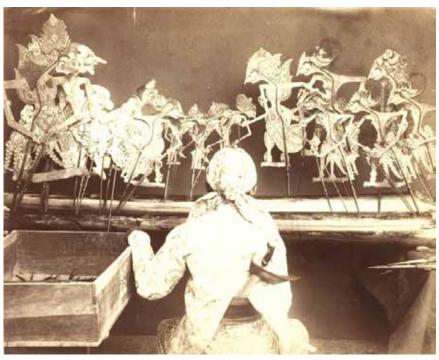
TO AVOID THE DANGER OF REIFYING ELEMENTS AND THE LIMITATIONS IMPLICIT IN CREATING INVENTORIES, MANY PROJECTS SEEK TO GUARANTEE THE DEVELOPMENT OF ETHNOGRAPHIC RESEARCH

since it is not possible to establish the precise limits where the classifications end. This is why few ICH inventories created so far have aimed to be exhaustive. Conversely, some inventories focus on a specific category and define

new subcategories based on the region studied, or organise the entire inventory into precise categories that do not always coincide with those defined in the Convention. This is the case of the Atlas of Intangible Cultural Heritage of Buenos Aires, which is limited to the sphere of festivals, celebrations and rituals. Other such cases include the Catalogue of Traditional Dances of the Nicaraguan Pacific and the Inventory of Intangible Cultural Heritage of Cambodia, which focuses on the performing arts and elements of oral cultural heritage.

Thus, we could underscore the flexibility of the categories in use in different inventories and the need to not apply them to the social world as a definitive taxonomic system. The definition of the categories in the Convention is based on an *etic* classification abstracted from the ethnocentric ideas of the UNESCO editors and advisors. Its use in *emic* contexts presents a contradiction and limits the scope and local understanding of the inventories. This is why many inventories are restricted to selecting a general topic or various ones considered as belonging to intangible heritage and use it to establish a series of categories to accommodate and order the elements selected in their territories. As such, many inventories focus on specific areas and do not aspire to be exhaustive. Even though the Convention implies that inventories must be exhaustive and include the entire ICH, later documents recognise the difficulties inherent in such a task (UNESCO, 2011b): how can something intangible be inventoried comprehensively?

Therefore, we can say that in most cases, creating an inventory entails abandoning the criterion of exhaustiveness and focusing on seeking out the representativeness of the elements selected, as illustrated by the ICH inventory of Mexico, which explicitly asserts the

■ **Wayang Kulit puppet theatre from the islands of Indonesia. Declared a Masterpiece of the Oral and Intangible Heritage of Humanity by UNESCO in 2003.** *Photo circa* 1890.
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impossibility of drawing up an exhaustive inventory due to the breadth of the Mexican cultural sphere. However, this option raises other problems: how can the representativeness of the elements be determined? This may involve

MOST INVENTORY ACTIONS SEEK OUT FORMULAS AND SOLUTIONS TO AVOID THE LIMITATIONS INHERENT TO THE CONVENTION: HOW CAN WE INVENTORY WHAT IS INTANGIBLE? IT WOULD BE LIKE TRYING TO COUNT THE GRAINS OF SAND IN THE OCEAN...

establishing criteria of legitimacy and hierarchy that hoist certain elements above others as more representative (see Hafstein, 2009). One way to apply these ideas is to develop *emic* criteria of representativeness, based on exhaustive ethnographic analyses that take into account the political implications of any ICH-related project and the need to maintain a critical standpoint that considers tools of reflective analysis.

Other inventories, like the aforementioned Asia-Pacific Database on Intangible Cultural Heritage, raise the possibility of creating an inventory based on demonstrations of ICH elements without aspiring to any criteria of representativeness and exhaustiveness. However, it is impossible to ignore the political dimension of any inventory-related action.

Many of the projects analysed focus on the political importance of ICH as a tool for studying and managing territorial cultural diversity. Thus, the projects normally include newly created manifestations as well as elements from immigrant communities, in order to integrate the different cultural expressions and give them visibility, as a first step towards social integration (this is the case of Scotland, Mexico and Buenos Aires). In this regard, ICH is recognised as a tool for political and social action and attempts are made to guide its use towards a specific purpose.

Another interesting example is the Intangible Heritage Inventory of Cambodia. Regarding the criteria used to select the elements forming part of the inventory, it emphasises that no inventory can be exhaustive, but inventories may be representative. In relation to this concept, it asserts the importance of taking into account the political elements that may hinder the determination of criteria of representativeness, thereby highlighting the need to avoid exclusion and invisibility when creating inventories. The way to avoid this is to reflect the polyphony of voices in a nation state when creating the inventories.

Methodologically speaking, and to avoid the danger of reifying elements and the limitations implicit in creating inventories, may projects seek to guarantee the development of ethnographic research aimed at capturing the process-related elements of the practices, uses, representations, expressions, knowledge and techniques selected. Thus, both the conceptual complexities and the processes of production that gave rise to the elements considered ICH are reflected. This would involve recording the manifestations as under development, and not as finished products. In this way, many projects tend to have a diachronic view of heritage that includes a historical and process-related analysis and an emphasis on the presentation of the social and cultural contexts that inspired the elements selected. This is the case of Mexico's inventory, which aims to bring together all the representative expressions and manifestations of the cultural groups of the country based on the premise that heritage forms part of conceptual systems, meaning that it is not possible to restrict it to activities of classification and taxonomy and thereby implicitly rejecting the very definition of an inventory. Viewed from this perspective, some inventories enjoy the support of specialised researchers and ethnographers, who refuse to classify cultural expressions into preconceived patterns (López Morales, 2008: 6).

Thus, the use of ethnographic methodologies to create inventories enables information to be collected in emic terms, which guarantees the representativeness of the elements chosen in the sphere of communities. Other projects along the same lines include the series of experiences that began to

CREATING AN INVENTORY IS EASIER, LESS CONFLICTIVE AND HAS LESS CONSEQUENCES THAN ESTABLISHING MEASURES THAT ENABLE SOCIAL ACTORS TO PURSUE THEIR LIFESTYLES AND SOCIAL ORGANISATION FREELY AND INDEPENDENTLY

be organised in 2010 in some African countries (Botswana, Lesotho, Malawi, Uganda, Swaziland and Zambia) in order to develop methodologies to inventory intangible heritage upon a community's initiative. However, these activities may encounter problems widely discussed in disciplines like anthropology by raising questions such as: who legitimately represents the

communities?; and who forms part of them and who doesn't? The concept of intangible heritage is the legacy of a long Western tradition (Smith, 2006) and, as such, this concept will not always translate easily into all cultural contexts, which often makes it harder to interpret.

The inventories take different formats regarding results. While various inventories are kept as websites, like in Scotland, there are also many examples of books and catalogues that may or may not be viewed online. There is also great variety regarding the volume of the information collected. While some inventories consist of extremely complex datasheets with historical and eth-

> **THE POLYSEMIC NATURE OF ALL HERITAGE, AND ESPECIALLY OF ICH ELEMENTS, IS LIMITED WHEN FORCED TO ADAPT TO AN INVENTORY FORMAT**

nographic information and elaborate descriptions, there are also examples where the datasheets are limited to a few lines of information and a little rudimentary data.

In conclusion, we can say that one of the features of creating inventories is the task of translating and summarising a complex social reality into normalised models of classification. The use of classification methods developed first in international spheres (UNESCO) and applied by states domestically implies reducing different social worlds and bringing uniformity to them in an institutionalised format that enables action later. This is why most actions in this regard attempt to find formulas and solutions to escape these limitations inherent in the Convention: how can we inventory what is intangible? It

would be like trying to count the grains of sand in the ocean…

Conclusions: the Problems and Limits of ICH Inventories

A study of regulations on safeguarding ICH before and after the UNESCO Convention of 2003 has revealed texts very different in type and scope, related to the institutions that promoted them and the heritage uses for which they were designed. The focus of many of the regulations and safeguarding measures proposed has hardly changed with regard to legislation related to tangible heritage, despite the requirement of the particular characteristics of the ICH to change the objectives of laws from protection to safeguarding, as well as the measures to achieve that. Most measures focus on tangible heritage.

The emphasis on creating inventories in legislation is related to the requirement and priority given to safeguarding in the Convention. It is also related to the difficulties in defining and implementing specific legal measures due to the characteristics of the ICH, which favour choosing the measure that is clearest and easiest to achieve. Creating an inventory is easier, less conflictive and has less consequences establishing measures that enable social actors to pursue their lifestyles and social organisation freely and independently.

In debates between the specialists that drafted the UNESCO Convention, there were two positions on the possibilities for creating an Inventory of Intangible Heritage (Kurin, 2004a). One stance defended the need to create complete ICH inventories, as is done for monuments and archaeological dig sites. The other position took a critical approach to this work as vast and endless, based on discredited methodologies that viewed culture as if it were formed of atomistic elements. It was thought that inventories would not only fail to stimulate cultural vitality,

but could even do it harm by fossilising cultural elements.

To our understanding, the creation of intangible heritage inventories raises fundamental methodological problems. First, the very concept of an inventory tends to assume that intangible heritage is quantifiable, which is contradicted by its intangible nature. By definition, an inventory is a classification of all the elements in a certain category, normally a count or listing. The concept is usually applied to finite and quantifiable elements that may be categorised; it is harder for us to imag-

> **AN INVENTORY CANNOT BE A MERE LIST OF ELEMENTS WITH A BRIEF DESCRIPTION, BUT MUST INCLUDE KEY ASPECTS LIKE THE SOCIOECONOMIC, CULTURAL AND TEMPORAL CONTEXT WHERE THE HERITAGE IS LIVED AND HAS MEANING**

ine using it for intangible elements. Goody (1977) stresses the theoretical and methodological implications of lists and tables by projecting onto reality a series of limitations associated to the need to define precise categories that may take the form of an inventory. The schematic kind of thinking proper to inventories encourages ordering elements and gives rise to hierarchies, while also favouring precise limits between categories (Goody, 1977: 81). The polysemic nature of all heritage, and especially of ICH elements, is therefore limited when forced to adapt to an inventory format. How can it be clearly stipulated whether Wayang puppet theatre falls within the category of performing arts or of social

rituals and festive events? How can it be determined if popular refrains about climatology should be categorised as oral traditions and expressions, or as knowledge and usage related to nature and the universe?

In this regard, once again we encounter the frequent problem of assimilating intangible heritage inventories with tangible heritage inventories (especially archaeological, artistic and architectural ones), viewing them as a collection of items of cultural property. Until what point may cultural elements be isolated and inventoried which, unlike tangible elements, undergo constant transformation? Where is the limit to the inventory? What are its criteria? As Kurin states (2004b), the main difference between dealing tangible and intangible elements lies in the fact that the *objects* of the latter are social practice, and not a record, an element

that can be inventoried, a written transcription or a photograph. This is why inventorying these elements is no easy matter and presents many methodological challenges.

These challenges are not only methodological, but also political. The practices that must be inventoried belong to the same community, and not to a museum or scientific institution. This is why *intangible* cultural practices only have meaning if the same community practices them. Neither museums nor political or cultural institutions can resort to an idealised or romanticised idealisation of culture (Kurin, 2004b). They may investigate it, but they cannot *conserve it*. Considering living cultural practices as heritage may have strategic and even political interest, but it implies a contradiction unless the very concept of heritage is viewed from a totally different standpoint.

It is also important to highlight the problems arising from the social use of ICH inventories. How are inventories useful and how can they give back to the community? This masks a central question: are inventories the most appropriate method for safeguarding intangible cultural heritage? From our point of view, an inventory cannot be a mere list of elements with a brief description, but must include key aspects for learning about and understanding the elements of a culture: the socioeconomic, cultural and temporal context where the heritage is lived and has meaning, and the people that produce, use, transform and pass on elements of ICH and recognise it as their heritage. None of this can be learned from simple datasheets, but must be gathered from ethnographic fieldwork. ∎

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NOTES

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2 See Articles 11, 12, 13 and 14 of the Convention.

3 Except for the creation of inventories, the measures proposed in the Convention to safeguard it are generic: "identification, documentation, research, preservation, protection, promotion, enhancement, transmission … and the revitalization of this heritage" (Art. 2.3). Further on, it indicates that states will do "everything possible" to adopt policies to enhance the role of ICH in society, create bodies charged with safeguarding it, encourage the study of it and research methodologies related to it and adopt legal, technical, administrative and financial measures to facilitate its management and transmission, guarantee access to it, respect customary uses of it and create documentation institutions for it (Art. 13). It also includes the creation of two lists (Art. 16 and 17) and a fund (Articles 25 to 28) aimed at raising awareness about heritage and funding safeguarding initiatives.

4 Regulations of this kind promoted by international bodies include the United Nations Universal Declaration of Human Rights (1948); the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (1989); the United Nations International Covenant on Economic, Social and Cultural Rights (1996); and the United Nations Declaration on the Rights of Indigenous Peoples (2007).

5 Article 1 of the UNESCO Universal Declaration on Cultural Diversity of 2001 defines cultural diversity as heritage common to humanity and "as necessary for humankind as biodiversity is for nature". Similar ideas appear in the introduction of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO, 2005a).

6 Among these regulations, we find some specific ones on the subject, such as the Universal Convention on Copyright (1952-1971) and the Bern Convention (1967), as well as others that address other issues but include provisions on the ownership of traditional knowledge and folklore from the standpoint of intellectual property: the United Nations Convention on Biological Diversity (1992) and UNESCO's Recommendation on Safeguarding Traditional and Popular Culture (1989). For example, countries like Costa Rica, Ecuador and Peru recognise the indigenous populations' ownership of knowledge in their laws on biodiversity (Ruiz, 2006).

7 Other ICH-related UNESCO instruments include the Mexico City Declaration on Cultural Policies (1982), the Living Human Treasures programme (1993, the Red Book of Endangered Languages (1993), the Masterpieces of the Oral and Intangible Heritage of Humanity programme (1997), the Declaration on Cultural Diversity (2001) and the Istanbul Declaration on Intangible Heritage (2002). Other documents are also worthy of attention, such as the Shanghai Charter (2002) and the Seoul Declaration (2004) of the ICOM.

8 Both before and after the Convention, many cultural heritage laws in the autonomous communities of Spain have spoken of ethnographic property or intangible ethnographic property to refer to aspects of intangible heritage. These same terms are also frequently used in the National Plan to Safeguard ICH (IPCE, 2011).

9 Since the Convention, the generic term used has been intangible cultural heritage. Elements has been the neutral specific term, although ICH manifestations, expressions, aspects and practices are also used (Smeets, 2012: 15-16).

10 For example, Article 2 of the Decree of 2009 that regulates the aspects of the General Culture Law of Colombia (2008) states that: "the different types of intangible cultural heritage mentioned above are understood under the term 'manifestations' for the purposes of this decree" (Ministry of Culture of Colombia, 2010: 171).

11 As occurs with the update of the Italian Cultural Heritage and Landscape Code (2008), which declares that the elements included in the ICH Convention may only be subject to the provisions of the code when they lead to material evidence (Bortolotto, 2013: 28-29).