

# INFORMATION SHEET: POLICY ENCOURAGING COMMUNITY ENGAGEMENT

## POLICY AREA / POLICY ISSUE

ICH Policy Development Process / Community Engagement

## ISSUES TO CONSIDER

States may decide to include ICH provisions in related policy or legislation in the culture sector or beyond as well as have a stand-alone ICH policy. Some States wish to avoid having specific legislation to guide ICH safeguarding, and prefer to draft flexible, general policies to encourage ICH safeguarding instead.<sup>1</sup> Many of the ICH policies developed in States Parties to the Convention to date broadly follow the principles of the Convention, although some emphasize State involvement in safeguarding, and even State ownership of ICH. Many include provisions for defining ICH, creating an infrastructural framework for identifying and inventorying the ICH in the State, linking ICH safeguarding to development through tourism or IP protection, and possibly also assisting ICH practitioners or promoting specific elements.

In terms of developing policy specifically to encourage community engagement, it is important to note that communities can identify a wide variety of practices as their ICH, and define themselves in different ways. The process of identifying cultural practices as heritage, and associated stewards of these practices, involves many open choices that are linked to broader strategic decisions about for example, the broader goals of specific communities within a State, the relationship between governments and their citizens, and the role of culture in promoting various goals of the State or communities themselves (such as development). It is therefore important that ICH-related policies are based on a careful consideration of the ways in which ICH and communities concerned are defined in those policies, ensuring that those definitions do not exclude certain kinds of ICH, and certain communities (unless of course these communities themselves choose to have their ICH excluded).

Of course, communities will undertake most safeguarding activities without assistance from outside agencies, and cannot, and should not, be compelled to be involved when they do not wish to be. The infrastructure and policies set up by the State should therefore encourage consultation and cooperation between communities and other stakeholders without forcing community involvement and consent, or displacing the power of communities to make their own decisions. At the same time, policies should recognize that different members of communities often have diverse views about their ICH and how to safeguard it, and ensure that those who are deemed to represent communities have appropriate mandates.<sup>2</sup>

Policies encouraging community engagement with safeguarding activities, and ensuring consultation and consent when third parties are involved, or when inventorying and documentation is taking place, can include structural provisions (for example, the establishment of consultative bodies), as well as regulations to encourage adherence to ethical standards.

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1. Lixinski, *Intangible Cultural Heritage in International Law*, p.126.

2. Kuutma, 'Reflections on key issues of policy development for safeguarding intangible cultural heritage'.

## WHAT THE CONVENTION AND ITS TEXTS SAY

### The Convention

According to Articles 11, 12 and 15, a State is strongly encouraged to ensure the widest possible participation of communities, and other stakeholders such as NGOs, in all activities concerning their ICH. The Convention also make various suggestions for ways of encouraging this through cooperation and networking, consultation and coordination, and capacity building (where required) for safeguarding (see also Articles 13, 14).

Article 11: Each State Party shall: (a) take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory; (b) among the safeguarding measures referred to in Article 2, paragraph 3, identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant non-governmental organizations.

Article 15: Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.

### Operational Directives

The ODs similarly make such suggestions in the ODs 79-89:

OD 79: Recalling Article 11 (b) of the Convention and in the spirit of Article 15 of the Convention, the Committee encourages States Parties to establish functional and complementary cooperation among communities, groups and, where applicable, individuals who create, maintain and transmit intangible cultural heritage, as well as experts, centres of expertise and research institutes.

Protection of the rights and well-being of the communities concerned while safeguarding the ICH, promoting sustainable development, helping communities (where requested) to ensure their ICH is not de-contextualized or over-commercialized, and that they are not misrepresented or abused (OD 102, 104):

OD 102 (c and d): (c) contribute to justifying any form of political, social, ethnic, religious, linguistic or gender-based discrimination; (d) facilitate the misappropriation or abuse of the knowledge and skills of the communities, groups or individuals concerned;

OD 104: States Parties shall endeavour to ensure, in particular through the application of intellectual property rights, privacy rights and any other appropriate form of legal protection, that the rights of the communities, groups and individuals that create, bear and transmit their intangible cultural heritage are duly protected when raising awareness about their heritage or engaging in commercial activities.

### Ethical Principles

Ethical Principle 1: Communities, groups and, where applicable, individuals should have the **primary role** in safeguarding their own intangible cultural heritage.

Ethical Principle 2: The **right of communities, groups and, where applicable, individuals** to continue the practices, representations, expressions, knowledge and skills necessary to ensure the viability of the intangible cultural heritage should be recognized and respected.

Ethical Principle 4: All interactions with the communities, groups and, where applicable, individuals who create, safeguard, maintain and transmit intangible cultural heritage should be characterized by **transparent collaboration**, dialogue, negotiation and consultation, and contingent upon their **free, prior, sustained and informed consent**.

Ethical Principle 6: Each community, group or individual should assess the value of its own intangible cultural heritage and this intangible cultural heritage should **not be subject to external judgements of value or worth.**

## OTHER RELEVANT LEGAL INSTRUMENTS

UNESCO Universal Declaration on Cultural Diversity (2001).<sup>3</sup>

Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)

International instruments for the protection of community rights over their ICH:

The Convention for Biological Diversity (CBD) article 8(j) recognizes community rights over their traditional knowledge and the need for them to enjoy benefits from its commercial exploitation,<sup>4</sup>

Nagoya Protocol sets out guidelines for the fair and equitable sharing of benefits arising out of the utilization of genetic resources.<sup>5</sup>

## EXAMPLES

In **Mali**, local clans and communities are the main custodians of much ICH and they implement traditional management approaches; local authorities consult and work with these traditional structures directly in their safeguarding activities.

Practitioners' associations in **Croatia** (e.g. Bell ringers) work with Benedictine convents, local dioceses, educational institutions, private businesses, artisans' cooperatives (e.g. Lepoglava Lace Co-operative) and tourist promotion organizations in safeguarding and promoting ICH.<sup>6</sup>

In **Estonia**, community-based safeguarding activities are supported financially by the State.

**Cyprus** provides State subsidies to communities and civil society organizations for ICH-related activities.

In **Slovakia**, State subsidies are provided for community-based initiatives as part of a wider policy approach that aims to promote the function of ICH in society.

In **Venezuela**, 287 community councils have been established to safeguard cultural heritage and diversity, comprising 687 groups representing various ICH elements.

In **Brazil**, 'culture points' and 'reference centres' assist communities where required in safeguarding of their ICH.<sup>7</sup>

**Hungary** employs county-level intangible heritage coordinators who act as a bridge between local communities and Government.

In **Flanders** (Belgium), various NGOs (in particular, FARO - Flemish Interface for Cultural Heritage and Tapis plein) interface with heritage cells, and the wider heritage community to promote ICH inventorying and safeguarding.<sup>8</sup>

## RELEVANT CASE STUDIES IN THE CAPACITY-BUILDING MATERIALS

Case Study 10. Community involvement in promoting the nomination of the Cantu in paghjella in Corsica, France; CS10-v1.0: [English](#) | [French](#) | [Spanish](#) | [Russian](#) | [Arabic](#)

3. [http://portal.unesco.org/en/ev.php-URL\\_ID=13179&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13179&URL_DO=DO_TOPIC&URL_SECTION=201.html)

4. The Convention for Biological Diversity (CBD), article 8(j), <http://www.cbd.int/traditional/>

5. The Nagoya Protocol, <http://www.cbd.int/abs/text/default.shtml>

6. Examination of the reports of States Parties 2012, ITH/12/7.COM/6, para 91.

7. Examination of the reports of States Parties 2014, ITH/14/9.COM/5.a, para 14-15.

8. Examination of the reports of States Parties 2013, ITH/13/8.COM/6.a, para 14-15.

- Case Study 11. Community involvement in a nomination: the traditions and practices of the Mijikenda Kayas in Kenya CS11v1.0: [English](#)|[French](#)|[Spanish](#)|[Russian](#)|[Arabic](#)
- Case Study 12. Community involvement in the preparation of a nomination file in Mexico CS12-v1.0: [English](#)|[French](#)|[Spanish](#)|[Russian](#)|[Arabic](#)
- Case Study 25. Community members revitalizing a New Year Ritual in Japan CS25-v1.0: [English](#)|[French](#)|[Spanish](#)|[Russian](#)|[Arabic](#)
- Case Study 31. State agencies protecting the rights of indigenous groups in Brazil CS31-v1.0: [English](#)|[French](#)|[Spanish](#)|[Russian](#)|[Arabic](#)

## FURTHER INFORMATION

IRCI, 'The First Intensive Researchers Meeting on Communities and the 2003 Convention: Documentation of ICH as a Tool for Community's Safeguarding Activities', Tokyo, 3-4 March 2012. [http://www.irci.jp/Research\\_Projects/research/meeting\\_03032012.html](http://www.irci.jp/Research_Projects/research/meeting_03032012.html)

Guidelines for Ethical Research in Australian Indigenous Studies (GERAIS) <http://www.aiatsis.gov.au/research/ethics/gerais.html>.

The Intellectual Property and Research Ethics Working Group of the Intellectual Property Issues in Cultural Heritage (IPinCH) research project at Simon Fraser University in Canada is creating an archive of research ethics guidelines and protocols, IRB procedures, and model memoranda of agreement relating to archaeological work with communities. <http://www.sfu.ca/ipinch/project-components/working-groups/ip-and-research-ethics-working-group>

The World Intellectual Property Organization (WIPO)'s work on the Protection of Traditional Knowledge and those for the Protection of Traditional Cultural Expressions;<sup>9</sup>

## QUESTIONS TO CONSIDER

- How can ICH policies encourage the safeguarding of ICH in the spirit of the Convention, with specific reference to:
- The promotion of community consultation, benefit, involvement and consent in all aspects of safeguarding;
- The involvement of young people in the practice and transmission of their ICH.
- How could ICH policies define ICH, and communities concerned? Are there any aspects of ICH (or any communities) that would thereby be prioritized or excluded? What could be the reasons for this?
- What kinds of functions could institutions and bodies perform to support communities in ICH safeguarding that are not already provided for in existing institutions and their mandates?

## UNESCO Thesaurus keywords

[communities](#); [community participation](#); [capacity building](#); [empowerment](#); [policy making](#)

9. WIPO, Draft Articles for the Protection of Traditional Knowledge, and Traditional Cultural Expressions, [http://www.wipo.int/tk/en/igc/draft\\_provisions.html](http://www.wipo.int/tk/en/igc/draft_provisions.html)