

INFORMATION SHEET: ENVIRONMENTAL SUSTAINABILITY POLICY

POLICY AREA / POLICY ISSUE

Others Sectors / Environmental sustainability

ISSUES TO CONSIDER

The practice and transmission of ICH may affect, and/or be affected by, the environment in which the ICH is practised. In order to practice or transmit their ICH elements, communities may need access to certain places and resources. This can impact negatively on environmental resources (for example by depleting stocks of wild plants for traditional medicines), but in many cases this is due to traditional resource management systems being disrupted or to over-commercialization of the resource. Enabling community access to and benefit from natural resources can help to manage those resources sustainably. Community resilience to natural disasters and climate change can be enhanced by the safeguarding of their ICH, for example growing drought-resistant strains of crops or maintaining beneficial cropping practices.

Recent developments in the international arena on climate change and biodiversity reflect a growing concern among States and civil society organizations about the need to address environmental issues. The need to protect and learn from intangible heritage practice (especially traditional knowledge associated with environmental resource management and use), while ensuring that communities benefit, has been taken into account in many of the international instruments promoting environmental sustainability. Policymaking at the national level on ICH may therefore need to consider what international agreements have been ratified in this regard, and how national policies have responded to environmental challenges faced both within the State and globally.

Environmental policies can privilege western scientific knowledge over indigenous views of sustainability, and can in some cases prevent community access to culturally important natural sites and resources. In a number of Southern African States, for example, communities living close to protected wildlife conservancies and nature parks have been prevented from hunting animals and birds whose skins, horns and feathers are used in the enactment of their ICH, in costumes and regalia for their rituals and ceremonies. The lack of attention paid in environmental policies to the importance of hunting to local communities, leads them to be regarded as poachers. At the same time, commercial hunters are licensed to shoot lions, leopards and other protected animals, taking skins and other body parts abroad as trophies.¹

One way in which State policies on sustainable development can affect ICH safeguarding is through regulations on social and environmental impact assessments. In the United States, most Social Impact Assessments (SIAs) are done under the National Environmental Policy Act, 'considering, for instance, the impact of fisheries' policies upon the traditional way of life of indigenous peoples. Another important environmental instrument is the Endangered Species Act, which has roughly the same type of effect upon intangible heritage: environmental concerns examined through the prism of traditional ways of life. SIAs are governed by guidelines which require the involvement of all affected publics and populations. The guidelines also require that alternatives be sought for every step of the developmental project under scrutiny, and that all probable social impacts be addressed. Mitigation plans

1. Chifunyise, 'Policies for Safeguarding Intangible Cultural Heritage - Conceptual Issues'.

must also be developed, alongside an estimate of indirect and cumulative impacts.² As research elsewhere has demonstrated,³ such regulations offer opportunities to ensure the consideration of ICH safeguarding in development plans, but ICH-related aspects are often ignored in favour of solutions tailored to commercial developers' needs.

In developing regulations for conducting impact assessments, the Akwé: Kon Guidelines of 2004, developed in respect of Article 8(j) of the Convention on Biological Diversity may be helpful.

[The Akwé: Kon Guidelines] provide a framework that ensures the full involvement of indigenous and local communities in assessing the cultural, environmental, and social impact of proposed developments on the interests and concerns of traditional communities. They take into account traditional practices and knowledge as part of the impact assessment process. The guidelines propose a collaborative framework involving governments, indigenous and local communities, decision-makers, and managers of development projects. In this framework, these actors can support full and effective participation of communities, taking into account their cultural, environmental, and social concerns and interests. They ... should be implemented taking into account other international instruments and obligations (which presumably includes taking ICH-protecting instruments into account).⁴

Further guidelines will be considered for adoption by the Conference of the Parties (COP) of the CBD in December 2016. These include guidelines on the development of mechanisms, legislation or other appropriate initiatives to ensure the free, prior informed consent ("FPIC") or approval and involvement of communities for accessing their knowledge, innovations and practices, the fair and equitable sharing of benefits arising from the use and application of such knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity and for reporting and preventing unlawful appropriation of traditional knowledge (TK), as well as best practice guidelines for the repatriation of indigenous and TK.⁵

The CBD's Nagoya Protocol (2014),⁶ now ratified by nearly 80 states, already requires that when genetic resources and associated TK are accessed and used by third parties, fair and equitable access and benefit sharing (ABS) agreements have to be entered into with relevant communities (or states parties) on mutually agreed terms.⁷ While the Nagoya Protocol (and the CBD) only cover access to and use of TK associated with GRs (the Protocol does not refer to 'traditional cultural expressions', which would also be considered part of ICH), the Protocol provides ways of establishing enforceable contracts between providers and users of these resources, even across national borders.

WHAT THE CONVENTION AND ITS TEXTS SAY

The Convention

The Convention's Preamble recognizes 'the importance of the intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development'.

2. Lixinski, *Intangible Cultural Heritage in International Law*, p.139.
3. 'Cultural heritage impact assessment in Africa: an overview', <http://www.heritageinafrica.org/news/119.html>
4. Lixinski, *Intangible Cultural Heritage in International Law*, pp.217-8.
5. WIPO, Initial Draft Report, 'Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions, Thirtieth Session, Geneva, May 30 to June 3, 2016', WIPO/GRTKF/IC/30/10, para 29.
6. Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (adopted 29.10.2010, entered into force 12.10.2014), UNEP/CBD/COP/DEC/X/1 of 29 October 2010.
7. Nagoya Protocol, article 5.

Article 2.1 of the Convention says that ‘consideration will be given solely to such intangible cultural heritage as is compatible with ... the requirements ... of sustainable development.’

Operational Directives

The concept is also referred to in OD 111 (on raising awareness about the link between ICH and sustainable development). OD 102(e) and OD 117 refer to the dangers of commercialization and misappropriation, including over-exploitation.

Chapter VI.3 of the ODs on ‘Safeguarding ICH and Sustainable Development at the National Level’ covers environmental sustainability and includes references to environmental impacts of the safeguarding of ICH, and community-based resilience to natural disasters and climate change using traditional knowledge and practices.

OD 170: ‘States Parties shall acknowledge the dynamic nature of intangible cultural heritage in both urban and rural contexts and shall direct their safeguarding efforts solely on such intangible cultural heritage that is compatible with ... sustainable development’.

Ethical Principles

Ethical Principle 7: ‘The communities, groups and individuals who create intangible cultural heritage should benefit from the protection of the moral and material interests resulting from such heritage, and particularly from its use, research, documentation, promotion or adaptation by members of the communities or others’.

OTHER RELEVANT INTERNATIONAL LEGAL INSTRUMENTS

Paris Agreement (2016) within the framework of the United Nations Framework Convention on Climate Change (UNFCCC).⁸

Sustainable Development Goals (2015).⁹

Convention on Biological Diversity (1993).¹⁰

EXAMPLES

In **Viet Nam**, ICH safeguarding is incorporated into development programming and the impacts of the construction of hydro-power plants on ICH have also been assessed, by applying a cultural sustainability test.

The National Programme in **Kyrgyzstan** presupposes the preservation of the traditional rural landscape, including traditional architecture, sacred sites and the environment, and an emphasis is placed on traditional ecological knowledge held by pastoralists and nomads.

Traditional authorities in **Namibia** play an important role in the conservation of natural spaces related to ICH. They govern local communities through customary laws and draw on the experience of the elderly and their indigenous knowledge about the landscape to make laws to protect them. For example, the laws of the Ombandja Traditional Authority state that anyone who damages berry bushes or water lilies or makes palm wine without permission will be fined.¹¹

In **Honduras**, safeguarding of ICH has been integrated into a ‘cultural guards’ training programme for park rangers.¹²

8. <http://unfccc.int/2860.php>

9. <https://sustainabledevelopment.un.org/sdgs>

10. <https://www.cbd.int/>

11. Examination of the reports of States Parties 2014, ITH/14/9.COM/5.a, para 37.

12. Examination of the reports of States Parties 2014, ITH/14/9.COM/5.a, para 17.

RELEVANT CASE STUDIES IN THE CAPACITY-BUILDING MATERIALS

Case study 35. Intangible cultural heritage and environmental sustainability: cultural mapping of the sacred sites of the northwest Amazon – a binational initiative
CS35-v1.0: [English](#)|[French](#)|[Spanish](#)

FURTHER INFORMATION

Report, United Nations Conference on Sustainable Development, Rio+20 (2012).¹³

Johannesburg Declaration, World Summit on Sustainable Development (2002).¹⁴

QUESTIONS TO CONSIDER

- To what extent, and for what reasons, is ICH, and culture more generally, considered to be a driver of environmental sustainability in the State? What are the roles of different groups (e.g. youth, women, indigenous groups) in this process?
- How does this affect the kinds of priorities for ICH safeguarding in the State, from the perspective of policy makers?
- What kinds of environmental sustainability needs do communities in the State express? How can these be addressed through safeguarding of their ICH, if at all?
- What major barriers are there to ensuring that promoting environmental sustainability enhances ICH safeguarding, and vice versa? How can these barriers be addressed?

13. Future We Want - Outcome document <https://sustainabledevelopment.un.org/index.php?menu=1298>

14. http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POI_PD.htm