

# INFORMATION SHEET: POLICY PROVISIONS FOR ICH PRACTITIONERS/ ICH ELEMENTS

## POLICY AREA / POLICY ISSUE

ICH Policy Development Process / ICH Practitioners and ICH Elements

## 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 provisions for ICH practitioners and ICH elements, the Operational Directives encourage States Parties to, inter alia, 'promote policies for the public recognition of bearers and practitioners of ICH and to develop policies to recognize the contribution of the manifestations of the ICH present in their territories to the cultural diversity and wealth of the States'.<sup>2</sup> In some States, ICH practitioners and even specific ICH elements receive policy attention. For example, the Resolution of the Cabinet n.º 96 of 26th July (2000), presents the Portuguese gastronomy as an intangible asset which is an integral part of the Portuguese cultural heritage.<sup>3</sup> A focus on specific practitioners and elements can in some cases contribute to safeguarding. However, it can also have unintended effects, such as creating tensions between different interests in the society (practitioners versus community elders, for example), and thus hamper safeguarding.<sup>4</sup>

The Republic of Korea's Cultural Heritage Protection Act introduced a Living Human Treasures (LHT) programme in 1962 that aimed at both the recognition and the transmission of ICH.<sup>5</sup> Inspired by this and other experiences in East Asia, UNESCO introduced their LHT programme in 1993. Some of the systems have yielded good results, but today UNESCO itself does not promote the system in the same way, nor is specific funding set aside for it.<sup>6</sup> In the spirit of the Convention, the focus of projects to safeguard ICH should be on transmission in a broader sense, not just on transmission between 'excellent' masters and their apprentices. Projects should also focus more on the knowledge and skills involved rather than on individuals who happen to have these skills at any one time. It should be noted that persons

1. Lixinski, *Intangible Cultural Heritage in International Law*, p.126.
2. IOS report, para 285.
3. UNESCO database of cultural heritage laws.
4. Lixinski, *Intangible Cultural Heritage in International Law*, p.126.
5. Lowthorp, L. 2010. 'National Intangible Cultural Heritage (ICH) Legislation and Initiatives', UNESCO- New Delhi Field Office.
6. UNESCO's guidelines on LHT systems, drafted around the time the Convention was adopted, indicated how such systems can be compatible with the Convention: <http://www.unesco.org/culture/ich/doc/src/00031-EN.pdf>

cannot be inscribed on the Lists of the Convention, but their skills or knowledge could be inscribed as an element.<sup>7</sup>

Many States have adopted LHT or related systems, and continue to do so. The systems differ widely from country to country, but most recognize key practitioners of ICH and reward them in some way in order to encourage the transmission of their skills and knowledge to others. Practitioners can benefit from funding to provide training for others, subsidized access to workshop facilities, State pension schemes or tax exemption programmes, for example. States (through authorized bodies) usually select such people on the basis of their outstanding accomplishments and their willingness to convey their knowledge and skills to others.<sup>8</sup> Many of these programmes involve the creation of a legal and administrative infrastructure. LHT programmes do not necessarily need to have specific laws, inventories or permanent bodies to administer them, however, and nor do they need to cover all forms of ICH or all regions of a State. Where restrictions are placed on the kinds of ICH whose practitioners can be recognized and rewarded under LHT systems, careful consideration should be given to possible negative effects on transmission.

## WHAT THE CONVENTION AND ITS TEXTS SAY

### The Convention

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.

### Operational Directives

OD 105 (d)(e)(f)(g): States Parties shall endeavour, by all appropriate means, to keep the public informed about the importance of intangible cultural heritage and the dangers threatening it, as well as about the activities carried out in pursuance of the Convention. To this end, States Parties are encouraged to: (d) promote policies for the public recognition of bearers and practitioners of intangible cultural heritage; (e) promote and support the establishment of community associations, and foster the exchange of information among them; (f) develop policies to recognize the contribution of the manifestations of the intangible cultural heritage present in their territories to the cultural diversity and wealth of the States; (g) support the development and implementation of local policies aiming at promoting awareness of intangible cultural heritage.

OD 153(b)(i): The State Party reports on the legislative, regulatory and other measures taken for implementation of the Convention at the national level, including: (b) other safeguarding measures as referred to in Articles 11 and 13 of the Convention, including: i. adopting a general policy aimed at promoting the function of intangible cultural heritage in society and integrating its safeguarding into planning programmes

### 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

7. UNESCO ICH Section, Participants' Materials for Workshop on Implementing the Convention.

8. UNESCO ICH Section, Participants' Materials for Workshop on Implementing the Convention.

necessary to ensure the viability of the intangible cultural heritage should be recognized and respected.

**Ethical Principle 3: Mutual respect** as well as a respect for and mutual appreciation of intangible cultural heritage, should prevail in interactions between States and between communities, groups and, where applicable, individuals.

Ethical Principle 8: The **dynamic and living nature of intangible cultural heritage** should be continuously respected. Authenticity and exclusivity should not constitute concerns and obstacles in the safeguarding of intangible cultural heritage.

Ethical Principle 9: Communities, groups, local, national and transnational organizations and individuals should carefully assess the direct and indirect, short-term and long-term, potential and definitive **impact** of any action that may affect the viability of intangible cultural heritage or the communities who practise it.

## OTHER RELEVANT LEGAL INSTRUMENTS

UNESCO Declaration on Cultural Diversity of 2001

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

United Nations Declaration on the Rights of Indigenous Peoples (2007)

Pacific Model Law for the Protection of Traditional Knowledge and Expressions of Culture (2002)

ASEAN Declaration on Cultural Heritage (2000)

Cultural Charter for Africa (1976)

## EXAMPLES

LHT programmes may have many different titles: **Vietnam** (People's Artists, Excellent Artists); **Mongolia** (List of Talented Persons with the Highest Skills in Intangible Cultural Heritage); Republic of Korea (Masters); Mali (Living Human Treasures); **Nigeria** (Living Human Treasures); **Pakistan** (Pride of Performance Awards, National Awards and National Recognition Certificates); and **Peru** (Distinguished Recognition of Praiseworthy Personality of the Peruvian Culture).<sup>9</sup> **France** has set up a system of Maîtres d'art, who are recognized for their knowledge and skills and assisted in the transmission of their crafts; the city of Paris created a system of Artisans d'art de Paris in a similar vein.

Legal frameworks are sometimes put in place for LHT systems: **Cambodia** and **Senegal** have recently introduced new laws that recognize LHTs.<sup>10</sup>

In **Cambodia**, a single inventory on artists and private troupes was established under the 2010 Royal Decree on Living Human Treasures.

**Turkey** also has a 'National Living Human Treasures Inventory' for over 2000 bearers and practitioners.<sup>11</sup>

In **Côte d'Ivoire**, a new body has been set up to administer their living human treasures programme under which designated persons can receive State support for their transmission activities.<sup>12</sup>

9. Examination of the reports of States Parties 2012, ITH/12/7.COM/6, para 48.

10. Examination of the reports of States Parties 2013, ITH/13/8.COM/6.a, para 10.

11. Examination of the reports of States Parties 2013, ITH/13/8.COM/6.a, para 26, 38.

12. Examination of the reports of States Parties 2013, ITH/13/8.COM/6.a, para 13, 38.

The 'Living Heritage Treasures Awards' of the Penang Heritage Trust were established to recognize the work of traditional artisans in Penang, **Malaysia**. Awardees, selected from public nominations, received publicity, public acclaim and honour, and financial assistance for the rest of their lives. Their skills, processes and artisan works are fully documented for posterity.<sup>13</sup>

**Pakistan** recognizes folk artisans at ceremonies held during work festivals, namely the Dastar bandi (putting on the turban) of male folk artisans and Chadar Poshi (putting on a chador) of female folk artisans.<sup>14</sup>

LHT policies do not always cover every kind of practitioner: Gagok performers can be designated as Masters (LHTs) in the **Republic of Korea**, for example, but not the musicians who accompany them.<sup>15</sup>

## RELEVANT CASE STUDIES IN THE CAPACITY-BUILDING MATERIALS.

Case Study 29. Legal and administrative systems at the national level in South Africa

CS29-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](#)

Case Study 32. Codes of ethics: the Hopi Protocol for research, publications and recordings in the USA

CS32-v1.0: [English](#)|[French](#)|[Spanish](#)|[Russian](#)|[Arabic](#)

Case study 38: Tatau

CS38-v1.0: [English](#)|[French](#)|[Spanish](#)

Case study 39: Indonesian batik

CS39-v1.0: [English](#)|[French](#)|[Spanish](#)

Case study 54: Flanders: a facilitation policy

CS54-v1.0: [English](#)|[French](#)|[Spanish](#)

Case study 55: Silk making in Tchaa

CS55-v1.0: [English](#)|[French](#)|[Spanish](#)

## FURTHER INFORMATION

[UNESCO Guidelines for the Establishment of National "Living Human Treasures" Systems](#)

## QUESTIONS TO CONSIDER

- 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?
- Are there any reasons why specific provision should be made at a policy level to safeguard ICH elements?
- How will these specific provisions avoid creating hierarchies between ICH elements?

13. Lin Lee Loh-Lim, 2007, 'Handicrafts in the Context of Sustainable Cultural Tourism', UNESCO EIIHCAP Regional Meeting, Safeguarding Intangible Heritage and Sustainable Cultural Tourism: Opportunities and Challenges, Hué, Viet Nam, 11–13 December 2007.

14. Examination of the reports of States Parties 2012, ITH/12/7.COM/6, para 48.

15. Examination of the reports of States Parties 2012, ITH/12/7.COM/6, para 48.

- Are there any reasons why specific provision should be made at a policy level to support ICH practitioners?
- Who might benefit from such provisions, and how will they be selected?
- Could such provisions assist in the promotion of gender equality?
- How will such provisions avoid creating hierarchies between ICH elements?

## UNESCO THESARUS KEYWORDS

[policy making](#); [government policy](#); [intangible cultural heritage](#)