

The Interaction between ICH and the World Heritage Convention, with a Focus on Sustainable Development Goal 11

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Abstract

The question of safeguarding the intangible cultural heritage is an important topic in every country because every culture and every sub-culture has a wide range of intangible heritage, whether the culture is new or whether the culture is old. Intangible heritage is important to communities around the world. It must be identified, it must be understood, it must be analyzed and, as far as possible, protected.

As we know protection can take many forms: If the culture is strong and the relevant community cares about its heritage, then it is able to conserve that heritage without any real assistance from Government or from other organizations. This is obviously a desirable thing. However, in many countries, the tangible cultural heritage and the intangible cultural heritage are under some threat, and this is for a wide range of reasons and it is, to some degree, because of conflict or pressure from development activities or from natural causes in terms of storms floods and so on. That is how the intangible cultural heritage has come to play a very important part in stimulating communities and organizations, as well as Governments, to establish both institutional and policy mechanisms to conserve those things that seem to be of value now and which most people would agree should be transmitted to future generations.

The relevant international treaties that, one way or the other, had been responsible for framing various kinds of heritage at a national and regional level around the world include those stemming originally from the Convention for the Protection of Cultural Heritage in Time of Armed Conflict (1954). Later, we have seen Conventions from 1970 and 1995 which focused on the illicit import export and then transfer of the ownership of cultural property or cultural items. We have also seen, of course, the Convention concerning the Protection of the World Cultural Heritage which was which was adopted by

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UNESCO in 1972. This combination of cultural heritage treaties is a very significant one, although there are several problems in terms of the integration of these Conventions in terms of the way in which they work and in the way in which they are implemented at the national level. One of the things that this paper aims to achieve is to marry some of these issues, in relation to the intangible heritage, with the questions of tangible heritage and, specifically, in the context of World Heritage sites. In addition, it has as a broader context the links between conservation of heritage and the matter of sustainable development, as illustrated through the Sustainable Development Goals.

Keywords: Tangible and intangible heritage, Protection and conservation, Sustainable Development Goals, Integration.

Introduction

Ladies and gentlemen it is a great honour to be invited once again to address a conference in Tehran: I am sorry that I cannot be there in person because I would have loved to have been there to replicate some of the experiences that I had when I was there in 2010. In any case, I would like to extend my greetings to Professor Janet Blake and all of her colleagues - teachers and researchers, students, lawyers, the representatives from religious and cultural organizations in Iran. Behind me you will see a copy of the Cyrus cylinder that contains an inscription which was written by King Cyrus many thousands of years ago. This particular statement really represents the first statement of Human Rights of the world, and it comes from your region and this is an important point to start from in my paper.

The question of safeguarding the intangible cultural heritage is important topic in every country because every culture and every sub-culture has a wide range of intangible heritage, whether the culture is new or whether the culture is old. Intangible heritage is important to communities around the world. It must be identified, it must be understood, it must be analyzed and, as far as possible, protected.

As we know protection can take many forms: If the culture is strong and the relevant community cares about its heritage, then it is able to conserve that heritage without any real assistance from Government or from other organizations. This is obviously a desirable thing. However, in many countries, the tangible cultural heritage and the intangible cultural heritage are under some threat, and this is for a wide range of reasons and it is, to some degree, because of conflict or pressure from development activities or from natural causes in terms of storms floods and so on. That is how the intangible cultural heritage has come to play a very important part in stimulating communities and organizations, as well as Governments, to establish both institutional and policy

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Intangible heritage, tangible heritage and sustainability

This combination of cultural heritage treaties is a very significant one, although there are several problems in terms of the integration of these Conventions in terms of the way in which they work and in the way in which they are implemented at the national level. One of the things that I aim to do in my paper is to try to marry some of these issues in relation to the intangible heritage with the questions of tangible heritage and, specifically, in the context of World Heritage sites. Firstly I want to canvas a specific issue in relation to the links between conservation of heritage and the matter of sustainable development, and I will do so in terms of thinking through the sustainable Development Goals. You may be aware that, in 2014 to 2015, the United Nations hosted a series of meetings in order to set out a new grand vision of sustainable development; these resulted in what became known as the sustainable Development Goals (or SDGs for short) and they were contained in a report entitled *Transforming our World: a New Agenda for Global action and the 2015 sustainable Development Goals*.

One of the issues that arose in those deliberations was the need to incorporate concepts of culture and heritage within the sustainable Development Goals. A number of organizations worked very hard and quite assiduously in order to try to ensure that culture was incorporated as a specific goal, including the former United Nations Special Rapporteur on Cultural Rights, *Farida Shaheed*. They represented a very broad constituency which wished to ensure that such a goal was reflected in the Sustainable Development Goals document. Just to go back for a moment, the links between culture and sustainable development had been developing certainly from early 2007 when they were the subject of a series of Resolutions at the United Nations level which recognized that the natural and cultural diversity of the world and all cultures and civilizations can contribute towards sustainable development.

It was then articulated in subsequent documents which are generated at various conferences of the last few years, the most important of which is the Hangzhou Declaration which was drafted during a UNESCO-sponsored

meeting held in China in 2013 which affirmed in its Preamble that culture should be considered to be a fundamental enabler of sustainable development and of sustainability.

This tendency to link culture and sustainable development does appear to have a narrow instrumental element, in other words, that culture should only exist and be promoted for the purposes of ensuring that development remains sustainable rather than, perhaps, the other way round. However, as becomes clear when looking at the documents more closely, we will see that at a broader approach can be discerned. UNESCO, for example, stated during this particular period that: culture is who we are and what shapes our identity; culture contributes to poverty reduction and paves the way for a human-centred, inclusive and equitable form of development; and that no development can be sustainable without it. It is in that sense that this drive to put culture and the idea of cultural heritage within the SDGs should be understood.

In the end, though, the link between culture and sustainable development is only weakly reflected in the sustainable Development Goals. We see that this is the case with Goal 11 which is aimed at making cities and human settlements inclusive, safe, resilient and sustainable. The target of Goal 11 concerns the strengthening of efforts to protect and safeguard the world cultural and natural heritage. However, this can be seen as in an ambiguous statement since, although it refers to the world cultural and natural heritage, given the particular use of wording we might assume that this reference is not confined to a World Heritage as such but also covers other global heritage categories such as intangible cultural heritage and the underwater cultural heritage. I think many would agree that it would have been far more desirable to have a separate SDG Goal for culture and sustainable development but, unfortunately, the promoters if this idea failed to gain traction during the lengthy deliberations within the United Nations meetings concerning the sustainable Development Goals and the Agenda for transforming our world which was finally published in 2015.

Linking ICH and the World Heritage Convention in the Context of the SDGs

Let me now move on to the second part of my paper which concerns drawing some links between the intangible cultural heritage and certain aspects of the World Heritage Convention, and trying to do so in this in the context of this idea of sustainability of the SDGs.

If you look at the case of Australia, there is a very complex legal and political framework behind where we are at the present time in terms of cultural heritage and natural heritage and, for that matter, intangible heritage. Australia is one of the countries that has not signed and then ratified the Convention on Safeguarding the Intangible Cultural Heritage (2003) despite the urging of a wide range of bodies. It has been argued that the World Heritage Convention cannot be adequately implemented without also ratifying and implementing the

Intangible Heritage Convention and this idea was backed up by the Australian Human Rights Commission a couple of years ago. Indeed, the Convention for the Safeguarding of the Intangible Cultural Heritage is often considered as the complementary instrument to the 1972 World Heritage Convention which may be focused primarily, as we know, on immovable natural and cultural heritage.

At the least, in Australia, we see a range of mixed values of natural and cultural being Incorporated within World Heritage sites and we see that the direct links between the intangible and the tangible and, of course, the natural and the cultural as well have recently been acknowledged. This concerns, particularly, issues relating to Aboriginal and, in particular, Torres Strait Islander peoples whom we would not generally call “indigenous people”.

I just want to use a couple of brief examples in relation to Australia which might illustrate some of the points that I'm making here: When we look at the question of indigenous rock painting - and this is an issue that arises not just in Australia but in other parts of Asia as well as in Europe - we see that the right to interact with one's own heritage can be manifested nowadays, in Australia, in the right to maintain the rock paintings over a period of time. Many of you may know that the whole of the landscape is, or can be regarded as, a cultural heritage landscape partly because of that continuous interaction for upwards of around 75,000 years in some places by the indigenous people of Australia. With regard to painting you will see that there are many thousands of rock paintings throughout the Australian landscape, which may be in caves and other areas which have been sheltered from the weather.

In order to meet their obligations to maintain the painting and to pass them on to future generations we have seen, in recent memory, that some fading rock paintings have been occasionally repainted by the by the Aboriginal elders or under supervision of the people who know the stories relating to the paintings. The repainting in recent years has only happened quite rarely and, of course, only a few members of the Aboriginal communities, particularly in remote parts of Australia, still possess the skills that are necessary to attempt to undertake the rock painting and to overlay the fading bits with new covering of the traditionally used paint. This practice, though, has attracted some fairly strong opposition on the part of some part of the public, as well as some conservationists, who regard this kind of practice as spoiling or destroying the archaeological material and the heritage; we see this particularly in the repainting of some sites in a 3000 year-old site in the Kimberley region in Western Australia and in similar sites that are located for example in the *Kakadu* World Heritage site. This poses serious questions regarding indigenous and cultural rights and, in particular, the right of members of a continuing culture to interact with their heritage according to their own their own cultural traditions. It also then has to take into account, or we must take into account, whether or not the broader community has an interest to conserve the heritage in its original state. Furthermore, we need to ask what is the original state when,

over period of hundreds if not thousands of years, some of these paintings have been repainted and this is quite obvious when you look at them today.

It can be readily seen, then, that this relatively simple example in terms of the right to repaint the very beautiful images that you see in many of these caves and the right to repair them involves not just a consideration of the tangible cultural heritage but also any particular the *intangible* cultural heritage. So, when we're talking about the sustainability of aboriginal society, the access to rock paintings that they should have as well as the obligation that they fulfilled to maintain those paintings is part of a continuous intangible heritage. This is controversial, but some people would maintain that this is what the indigenous people have a right to do. The point that I'm trying to make here is that it is the relationship between the physical interaction with the rock painting and the intangible heritage that the *ethical values* that the rock paintings represent is what must be a focus on here. Another example comes from the *Kakadu* National Park and its surrounding area that used to be called 'Ayres Rock'. These very large examples of rock art in the middle of Australia are seen to constitute a sacred site for the Aboriginal people and it is also inscribed on the World Heritage list.

So, we see then that some areas in Australia have been returned to the Aboriginal people who are the traditional owners and the *Kakadu* National Park is one of those that is the subject of an agreement which allows for the traditional owners to take back the right over the land and to manage the site in conjunction with the collaboration with the National Park managers of Parks Australia. Now, the issue in this particular case was one of whether or not tourists should be allowed to climb the this particular rock - a very large rock 700 m high - a climb that is regarded by the traditional owners as the traditional route taken by their ancestors at the ancestral gathering. It is seen as of great spiritual significance for this route to go out the rock and one of the problems is if a visitor comes to this country who is not Aboriginal then the traditional owners certainly have a responsibility to look after the visitors. It is quite often the case, at least it has been in the past, that people have fallen off the rock and have been injured or have died as a result of that. Because the traditional owners see that place as a sacred site and the climb as a sacred thing to do, they go into a grieving process in order to ensure that the injured are well looked after from a spiritual point of view. As a result, it was made clear by the Aboriginal owners that people from outside the area should not be allowed to climb the rock; nevertheless, these practices have not been outlawed and this continues to be a bitterly contested issue between the traditional owners and the non-aboriginal Park managers.

So, again, with this simple example we can see a direct relationship between the tangible heritage - in this case World Heritage - which can be seen to be a value both for the non-aboriginal people as well as the other people. Moreover, we could place this relationship between the tangible Heritage and the

intangible heritage within the framework of the broader obligations of the World Heritage Convention as well as what one might say are the obligations under the Intangible Heritage Convention when Australia ratifies that particular instrument. From the point of view of the Aboriginal people it is the sacred values of the site that are important, rather than just the physical heritage, so the protection of both tangible and the intangible heritage of this area is central to the question of sustainability.

In particular, this is seen through the prism of thinking about the sustainability of tourism activities but, in reality, it is all so much broader: It is to do with the sustainability of the culture itself. So, if activities continue without considering the intangible cultural heritage, then the very resource which they are trying to sustain in terms of the sustainability of their society, I should say, is undermined.

Conclusion

With these brief examples we can see that there is a direct relationship between the intangible Heritage and the question of sustainability of particular societies, and my argument it is that legal frameworks need to be developed under the Intangible Heritage Convention in order to ensure that, in addition to the tangible cultural heritage, intangible cultural heritage should also be looked after. This should be done with specific definitions, with broadly stated objectives and aims, with guarantees of community participation in the identification and the protection of the intangible heritage, as well as the enforcement in court if particular guarantees are lost or breached. There is another aspect here, of course, which is in there and that is the promotion of institutions which will continue to sustain the manifestations of the intangible heritage and my message is that this should happen in every country, in every region, and at every level in order to ensure that human societies continue to be sustained not just within the present generation but for all future generations.

Finally, I wish you all the best in your deliberations at your conference and again I apologise for not being there but I hope that sometime in the future I will be able to travel back to the wonderful land of yours. Thank you very much.