The Dark Sides of Environmental Sustainable Development in Intangible Heritage Safeguarding

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Abstract

This paper examines the potentials and pitfalls of the requirement of sustainable development as part of the definition of intangible cultural heritage in the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (ICHC). It argues that the requirement of sustainability can have the effect of excluding communities from the management of their own heritage, which stands in tension with the spirit of the ICHC, meant to be more community-centric with respect to cultural heritage. In this respect, sustainability, as a requirement meant to help safeguard heritage for future generations, may in fact contribute to its disappearance if it is not fully integrated with the views of communities.

Keywords: Intangible cultural heritage, UNESCO 2003 Convention, Community-centric management, Sustainability.

Introduction

The 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (ICHC) is in many respects a landmark in how we think about heritage. This treaty, and the ideas it espouses, force us to think not only about intangible cultural heritage (ICH), but also about cultural heritage more broadly. The ICHC challenges the conservation paradigm by asking us to consider safeguarding instead of protection, for instance, which has the effect of admitting that heritage changes and is transformed over time, and it should change and be transformed. To implicate this idea that heritage is safeguarded, and changes are to recognize the central actors behind the heritage. Heritage is not an end says the ICHC; rather, heritage is at the service of communities, groups, and sometimes individuals who practice and engage with it.

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The centrality of communities is thus also a central tenet of the ICHC. Heritage exists for communities, and as long as communities are actively involved, heritage has its best chance of surviving for "present and future generations." Many things have been written about the need to include communities,[1] how communities can, in fact, be excluded from some of the international processes regarding ICH,[2] and how communities are caught in a difficult situation when it comes to controlling over their heritage.[3] While these are all valid concerns, it is not my aim here to continue those discussions. Rather, the central idea to be kept in mind is that communities are central to how we think about ICH safeguarding, and cultural heritage more generally. Therefore, no heritage can be truly safeguarded without the community.

However, there are other important values to take into account with respect to ICH. Most of these work with community aspirations most of the time, but the possibility of clashes remains. One of the critical values that needs to be taken into account when defining and safeguarding ICH is the idea of sustainable development as discussed by others in this volume, "sustainable development" is an idea with a long history, and an ever-evolving one. It is connected to heritage safeguarding beyond the ICHC, and has helped heritage occupy a key space in the United Nations' Sustainable Development Goals. More importantly, sustainable development is a requirement for ICH to be considered as having the international value. The ICHC states very clearly, that only ICH that complies with the requirements of sustainable development can be considered ICH worthy of international safeguarding.

In limiting the definition of ICH to only those practices that engage with sustainable development, the ICHC advances the conversation about the relationship between cultural heritage and the environment in significant ways. The ICHC then continues to bring forth a major reconceptualization of the field at large, and places nature not only as an integral part of how we think about heritage but in fact, respect for nature is a *conditio sine qua non* for thinking about heritage in a constructive, community-centric way.

Nevertheless, whether sustainable development actually means environmental sustainability in the way that sustainability was defined in the 1990s is another issue altogether. As discussed below, sustainable development has been transformed into a much broader catchall. Part of the reason for the transformation is with raising the stakes: if more than nature is in sustainable development, more people come on board and feel sustainability can and should be part of their mission. Part of it is simply acknowledging a reality

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[1] See, for all, Lucas Lixinski, *Intangible Cultural Heritage in International Law* (Oxford University Press 2013).

[2] Lucas Lixinski, 'Selecting Heritage: The Interplay of Art, Politics and Identity', 22(1) *European Journal of International Law* 81-100 (2011).

[3] Lucas Lixinski, 'Heritage for Whom? Individuals' and Communities' Roles in International Cultural Heritage Law', In: *International Law for Common Goods - Normative Perspectives on Human Rights, Culture and Nature* 193-213 (Federico Lenzerini and Ana Filipa Vrdoljak eds.) (Hart Publishing 2014).

of interconnectedness, which, in the domain of heritage, is fully in line with the ICHC. However, the downside of this broadening of sustainable development is that the environment can get lost in the background, especially when we talk about heritage since other parts of the broadened definition of sustainable development are more natural "fits" with culture in general and heritage in particular. The effect of this divorcing is that strategies that should facilitate the environment's connection with cultural heritage end up backfiring, and the environment is paid lip service to, but does not really get the attention it needs.

This piece explores the blurry, and at times difficult, relationships between environmental sustainability and ICH. I argue that, while the requirement of sustainability is central to the ICHC and heritage more generally, it needs to be implemented more pervasively and carefully if it is to have its full effect. In particular, communities need to be made as centrally a part of environmental sustainability as they are of other parts of sustainable development.

In order to argue this thesis, the text below proceeds as follows: the next section (2) discusses the connection between sustainability and ICH in general, from the text of the ICHC, its early practice, and finally the adoption, in 2016, of a new version of the Operational Directives that engages for the first time with sustainable development. Section 3 engages with two case studies that help highlight the dark sides of sustainable development in the context of ICH. The first case is Marimba Music of Afro-Colombian and Afro-Ecuadorian communities,[4] which is an expansion of the original listing done by Colombia alone;[5] the second is the practice of Yurt construction in Kazakhstan and Kyrgyzstan.[6] Both practices are on the Representative List of the Intangible Heritage of Humanity, a key mechanism under the ICHC. I chose these two case studies because they help highlight different ways the relationship between the environment and ICH plays out: Marimba Music largely ignores the idea of sustainable development in the community where the ICH is practiced; Yurt construction, on the other hand, sees the practice itself as central to sustainable development, but it engages with a broad understanding of sustainability that pushes the environment largely into the background. These two case studies thus bring to life some of the unintended consequences of sustainable development in the context of ICH. The last section engages with these challenges, and proposes some lessons that can be carried forward by ICH practitioners and heritage managers more broadly.

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[4] Marimba music, traditional chants and dances from the Colombia South Pacific region and Esmeraldas Province of Ecuador, UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Decisions*, 10th sess, Decision 10.COM 10.b.13, ITH/15/10.COM/Decisions (30 November-4 December 2015).

[5] UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Decisions*, 5th sess, Decision 5.COM 6.8, ITH/10/5.COM/CONF.202/Decisions (15–19 November 2010) 16 [38].

[6] Traditional knowledge and skills in making Kyrgyz and Kazakh yurts (Turkic nomadic dwellings), UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Decisions*, 9th sess, Decision 9.COM 10.24, ITH/14/9.COM/Decisions (24-28 November 2014).

Intangible Cultural Heritage and Sustainability on Paper

Even though the idea of sustainable development is a relatively new concept, heritage protection and sustainable development seem to walk hand in hand in the international arena.[7] Sustainable development and cultural heritage resource management can be linked in two principal ways: (1) sustainable growth leading to the preservation of the tangible cultural heritage resource; and (2) sustainable growth as a means of conservation of intangible heritage values and meanings.[8] The problem with this idealistic vision is that it takes for granted certain problematic political and philosophical assumptions underlying both heritage management and sustainable development, which have a tendency to freeze and mummify the environment and culture without taking economic viability and livelihood into account.

International heritage treaties have different relationships to nature, ranging from thinking of nature as an artefact, to nature as context, or nature as a type of heritage separate from culture. However, the focus of this chapter is on the ICHC, which thinks of nature as an outer limit on the very concept of heritage. The ICHC protects living cultures, including ways of life. To the extent, sustainable development is also about a way of life, there are commonalities between the mandate of heritage protection in the intangible heritage context, and that of sustainable development.

With respect to sustainable development in the text of the ICHC, the instrument's preamble already acknowledges the relationship between intangible heritage and sustainable development by 'considering the importance of the intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development'.[9] Article 2(1) of the ICHC, on the definition of intangible heritage, is further-reaching, in stating that "For the purposes of this *Convention*, consideration will be given solely to such intangible cultural heritage as is compatible […] with the requirements […] of sustainable development."

By making compatibility with sustainable development a requirement of the very concept of intangible heritage, the ICHC turns sustainable development into one of the cores conceptual pillars of the instrument.[10] However, the *Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage*,[11] in contrast to the *World*

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[7] See J Robinson, 'Squaring the Circle? Some Thoughts on the Idea of Sustainable Development' (2004) 48 *Ecological Economics* 369; S M Lélé, 'Sustainable Development: A Critical Review' (1991) 19(6) *World Development* 607, 610.

[8] S O Keitumetse, 'Sustainable Development and Cultural Heritage Management in Botswana: Towards Sustainable Communities' (2011) 19 *Sustainable Development* 49, 51.

[9] ICH Convention (20 April 2006) 2368 UNTS 3, Preamble.

[10] On the connection between intangible heritage and sustainable development see T Kono, 'UNESCO and Intangible Cultural Heritage from the Viewpoint of Sustainable Development' in A Yusuf (ed), *Standard-Setting in UNESCO Volume 1: Normative Action in Education, Science and Culture* (UNESCO Publishing and Martinus Nijhoff Publishers, 2007) 237.

[11] General Assembly of States Parties to the Convention, *Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage* (2016) ('*ICH Operational Directives*').

Heritage Operational Guidelines, until recently scarcely mentioned sustainable development. Earlier versions of the *Directives* did not elaborate further on the requirement of sustainable development for the nomination to the intangible heritage lists. Sustainable development was instead mentioned as a bar to accepting certain contributions to the Intangible Heritage Fund (in the sense that potential contributors who are not committed to sustainable development will not be allowed to contribute to the fund),[12] or in the connection between the commercial exploitation and awareness-raising of intangible heritage and the effect of these activities on sustainable tourism.[13] Therefore, despite being nominally a core pillar of the ICHC, sustainable development's role in the intangible heritage realm was still somewhat undefined.

The 2016 version of the Operational Directives, by contrast, include an entire chapter titled "Safeguarding intangible cultural heritage and sustainable development at the national level,"[14] covering matters like social development (including food security and gender equality), economic development (considering tourism and labor standards), environmental sustainability stricto sensu, and the connection between ICH and peace. The 2016 version of the Directives reiterates the rules of the fund in previous Directives, and advances them tremendously with the new chapter. The Directives envisage three pillars of sustainable development (social, economic, and environmental) which need coordination at the local level.[15] These new directives stress the importance of community involvement and governance for the sustainability of heritage,[16] but still problematically relegate community involvement to the domestic level.

The practice under the ICHC is largely driven from the outside, particularly the Sustainable Development Goals (SDGs) process that currently captures the imagination of the broader United Nations System.[17] From UNESCO's perspective, however, it seems the SDGs translate more into social, rather than environmental, sustainability.[18] In that respect, there is a broader concept of sustainable development at play here, one that merges three different dimensions: social, economic, and environmental.

The economic dimension of sustainable development seems to be also closely aligned with the SDGs process, and it translates sustainability into themes like energy,[19] tourism promotion,[20] local development,[21] and

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[12] General Assembly of States Parties to the Convention, *Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage* 3.GA (2010), 3rd sess (22–24 June 2010) [73].

[13] Ibid [102], [111], [117].

[14] ICH Operational Directives, Chapter VI (paras. 170-197).

[15] Id., para. 170.

[16] Id., para. 171.

[17] Boer, cit.

[18] UN System Task Team on the Post-2015 UN Development Agenda, *Culture: a driver and an enabler of sustainable development – UNESCO Thematic Think Piece* (2012)

[19] ICH Operational Directives, Chapter VI, para. 183.

[20] Id., para. 187.

[21] Id., para. 185.

employment.[22] Somewhat surprisingly, the *Directives* also highlight the connection between sustainable development and heritage as a means of promoting redistribution, tackling inequality in a way that is not often seen in UNESCO's work on heritage.[23]

The social dimension of sustainable development is closely related to some economic, social and cultural rights, such as water,[24] food,[25] health,[26] and education.[27] It is also related to gender equality,[28] a dimension that is particularly important in the Yurt ICH practice discussed below. Particularly with respect to environmental sustainability, the *Directives* state that:

> *States Parties are encouraged to acknowledge the contribution of the safeguarding of intangible cultural heritage to environmental sustainability and to recognize that environmental sustainability requires sustainably managed natural resources and the conservation and sustainable use of biodiversity, which in turn could gain from improved scientific understanding and knowledge-sharing about climate change, natural hazards, the environmental and natural resource limits and that strengthening resilience among vulnerable populations in the face of climate change and natural disasters is essential.[29]*

Therefore, the *Directives* acknowledge that communities are actors alongside experts, in many respects challenging assumptions in the conservation paradigm. However, its weak language, that only "encourages" states to acknowledge the expertise of communities, indicates ingrained resistance to accepting the contribution of communities, if not by experts, then by states, who may fear the possibilities of ICH as a form of political emancipation.[30] Other languages in the *Directives* reinforce this concern with climate change and disaster mitigation,[31] but also stresses the connection between communities and their Traditional Knowledge (TK) for the conservation of biodiversity.[32] Much like in the Convention on Biological Diversity (CBD), then, TK is a key instrument for the achievement of environmental goals, and ICH holders have a key role in protecting biodiversity and the environment. But, unlike the CBD's focus on Indigenous and local communities, the ICHC *Directives* include all

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[22]   Id., para. 186.
[23]   Id., para. 185.b.ii.
[24]   Id., para. 182.
[25]   Id., para. 178.
[26]   Id., para. 179.
[27]   Id., para. 180.
[28]   Id., para. 181.
[29]   Id., para. 188.
[30]   For a discussion of the potentials and pitfalls of these strategies, see Lucas Lixinski, 'Heritage Listing as a Tool for Advocacy: The Possibilities for Dissent, Contestation and Emancipation in International Law through International Cultural Heritage Law', 5(2) *Asian Journal of International Law* 387-409 (2015).
[31]   ICH Operational Directives, para. 191.
[32]   Id., para.189.

communities who practice ICH, "as essential actors in sustaining the environment".[33]

In considering the impact of ICH practices on the environment,[34] the Directives clearly indicate that environmental impact assessments must be made in ensuring cultural practice's respect sustainable development. Further, ICH practices that are friendly to the environment must be encouraged and negative impacts mitigated. That said, the Directives do not say anything about prohibiting or preventing certain practices if they have negative impacts on the environment, and it is unclear whether a practice that has limited negative impacts would reach the level of being "incompatible with" sustainable development (and therefore, not falling within the definition of intangible heritage in the ICHC). Further, this paragraph does not resolve the issue of competing actors outside of the ICHC purview, which is the key problem in the Afro-Colombian situation examined below. Rather, the ICHC treats its scope as separate from other parts of society, which creates a blind spot discussed in more detail below.

At last, the Directives connect ICH to disasters and climate change.[35] In doing so, they state that ICH holders know their climate best, as well as tools for disaster resilience, are part of traditional cultures. The Directives suggest that this knowledge is to be harnessed by the entire world, serving a priority external to the ICHC, that of disaster prevention and mitigation.

This connection between intangible cultural heritage and sustainable development is also representative of the more general relationship between intangible heritage and development, to the extent that the survival of ICHC depends on the survival of the way of life of a certain community or group and therefore on its economic viability.[36] There is thus a much closer connection between ICHC and development than the normal connection between 'general' cultural heritage and development. While the 'general' cultural heritage connection is based on external elements and the development brought by the exploitation of that heritage is not necessarily directed at the preservation of said heritage, the connection between the ICHC and development is a necessary element for the ICH Convention's survival.[37]

Some of the running themes in this connection between sustainable development and ICH, particularly with respect to the environment, highlight a connection that makes ICH largely a conduit for broader goals that exist outside the domain of cultural heritage. I suggest this view largely means a broad rejection of the idea of ICH (or heritage more broadly) as having intrinsic

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[33]   Id., para. 189.a.
[34]   Id., para. 190.
[35]   Id., para. 191.
[36]   Janet Blake, Commentary on the UNESCO 2003 Convention on the Safeguarding of the Intangible Cultural Heritage (2006),, 119.
[37]   See J Blake, 'UNESCO's 2003 *Convention on Intangible Cultural Heritage*: The Implications of Community Involvement in "Safeguarding"' in L Smith and N Akagawa (eds), *Intangible Heritage* (Routledge, 2009) 45, 489.

value,[38] and sees ICH as being a means for a different goal (in this case, sustainable development). Further, ICH in these *Directives* serves sustainability, as required by the letter of the ICHC, while seeing sustainable development in a way broader than just the environment.

Regarding the role of the community, the 2016 version of the *Directives* is clear in that communities must be the "primary beneficiaries" of thinking about sustainable development in the context of the ICHC.[39] Further, sustainability must not affect the viability of ICH for the community, nor decontextualize it.[40]

Can, however, this need for sustainable development, in fact, guarantee the economic viability and survival of a community, which is so important for the continuity of the heritage one seeks to protect? For the answer, one needs to look at the extent to which the paradigms of sustainable development and heritage protections are up to the task. The next section engages with some dark sides of sustainable development, through two case studies.

Intangible Cultural Heritage and Sustainability in Practice

The section above discussed the ways in which the relationship between sustainable development and ICH is framed. A chief characteristic of these framings is the idea of a broad view of sustainable development and its goals. Further, one must point out that the goals of heritage protection and sustainable development more often than not are implemented through a top-down imposition of reified notions of sustainable development and its requirements, and without full integration of considerations on the ground. Despite language that urges the implementation to happen in a way that ensures the communities are the key beneficiaries, often communities are not involved in the decision-making processes, at least at the international level, which I see as dealing a serious blow to the intentions of the drafters of the Directives and the ICHC more broadly. Therefore, sustainability requirements cannot always be maintained in the long term. Sustainable development and heritage protection are sometimes required from communities in ways that have the effect of hampering their development, ultimately causing communities to be obliterated by segments of society upon whom the same stringent requirements of sustainable development and heritage protection are not imposed. Alternatively, as the two case studies below will show when sustainable development is driven by community perceptions, its environmental dimensions can fall by the wayside.

The two examples I focus on below showcase different tensions with respect to the dark sides of sustainable development in ICH safeguarding. Both focus, in particular, on environmental sustainability The first example, on Afro-descendant communities in the northwest of South America, focuses on the dark

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38   As I have argued elsewhere. See Lixinski, *Intangible Cultural Heritage in International Law*, cit.
39   ICH Operational Directives, Chapter VI, para. 171.b.
40   Id., para 171.c.

sides of safeguarding a traditional culture and making environmental sustainability a requirement for the community's protected status. More specifically, it queries whether the requirement of environmental sustainability, if applied to the traditional community but not with other stakeholders occupying the same territory, does not, in fact, create a threat to the way of life the safeguarding measures were meant to guarantee.

The second example, of Yurt construction in Central Asian countries, highlights the place of environmental sustainability in a much broader spectrum of sustainable development. It shows while multidimensional sustainable development is overall a positive thing, there is a risk that the environmental dimension will be rendered nearly invisible in processes and put culture front and centre. This case study is, thus, a call for thinking about the multiple dimensions of sustainable development in context, and constantly remind ourselves of each of those in the ICH safeguarding process, particularly the environment.

Environmental Sustainability as Limitation: Colombia

I have written elsewhere about the Marimba music as Afro-Colombian ICH, based on a 2010 listing.[41] Since that inscription, in 2015, the inscription of Marimba music has been entirely redone and is now a multinational nomination, including both Colombia and Ecuador, both countries that share a history and present of Afro-descendant struggles.

Populations of African descent (descendants from African slaves in Colombia and Ecuador) have existed for a long time in both countries, and their struggles with respect to land tenure and other human rights have been widely discussed.[42] In this paper, I will engage with the binational nomination of the Marimba Music on Representative List. However, for the purposes of discussing the dark sides of sustainability, I will particularly focus on the Afro-Colombian communities affected, but mindful that many of the problems the Afro-Ecuadorian communities face are the same, particularly with respect to shrimp farming and other resource extraction practices around their territories.

Afro-Colombians, in particular, have been protected by the Colombian legal order at least since 1991, when a new Constitution recognized their rights to the lands, they have traditionally occupied.[43] Subsequent legislation (Ley 70) has sought to operationalize the rights protected by the Constitution, and a titling process has granted the collective title to Afro-Colombian communities.[44] However, as a condition for the protection of these communities as such, and

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[41]   Lixinski, 'Sustainable Development in International Heritage Law: Embracing a Backwards Look for the Sake of Forwardness?' cit.

[42]   For excellent reports on these matters, see The Bernard and Audre Rapoport Center for Human Rights and Justice, *Afro-Descendant Land Rights Project*, at https://law.utexas.edu/humanrights/project-type/afro-descendants/.

[43]   *Constitución de 1991* (Colombia) transitory art 55.

[44]   Ley 70 de 1993 (Ley de Negritudes) (Colombia) ('Ley 70').

the granting of collective rights, they are required to subsist with sustainable techniques only.[45]

What do marimba music and chanting have to do with sustainable development? As I have argued elsewhere, the safeguarding of a part of a group's intangible heritage is a means to try to safeguard the culture as a whole, because there is an assumption that living cultures run holistically, and to protect only part of a culture would be self-defeating.[46] Therefore, listing a part of a group's ICH works as a means to highlight and safeguard not only that part of the culture but also the entirety of identity for the benefit of present and future generations. That holistic approach works to protect not only the cultural manifestation being listed but also the economic activities that enable the community to continue practicing those cultural forms (even if by simply allowing them to continue living together in the same area).[47]

That is the point of *Ley 70*, cited in the 2010 nomination process as an important legislative tool for safeguarding Afro-Colombian identity.[48] *Ley 70* protects Afro-Colombian communities as a whole, including their cultures, livelihoods, and land rights.[49]

The Marimba music and traditional chants of Afro-Colombian communities were initially added to the Representative List of the Intangible Cultural Heritage of Humanity in 2010. According to the Nomination File, '[t]he expression being nominated is recognized as the cultural heritage by Afro-Colombians from the south-western part of the country who share the historical condition of descending from slave contingents that were brutally imported to [what is now Colombia]'.[50] Marimba music, even though nominated as being a Pacific coast manifestation of heritage, is actually spread widely across the country, by virtue of internal migration. Women often leave communities with their children to seek educational opportunities, while the men stay to work the land and provide for their families. This aspect of migration makes the vitality of Marimba music even more important as a means to safeguard identity.[51]

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[45] Ibid art 49. Article 49 reads:
The design, execution and coordination of the plans, programs and projects of economic and social development that the government and the Technical International Cooperation may put forward for the benefit of the Black Communities to which this Law refers should be carried out with the participation of the representatives of said communities, in order to respond to their particular needs, the preservation of the environment, the conservation and qualification of their traditional practices of production, the eradication of poverty and the respect and recognition of their social and cultural life. These plans, programs, and projects should reflect the aspirations of the Black Communities in areas of development.

[46] Lixinski, *Intangible Cultural Heritage in International Law*, cit.

[47] With specific regard to Colombia, see N Rodríguez-Uribe and D Rodríguez-Uribe, 'Emerging Indigenous Voices: Safeguarding Intangible Heritage in Colombia and the Reaffirmation of Cultural Rights' in R Amoêda, S Lira and C Pinheiro (eds), *Heritage 2012: Proceedings of the 3rd International Conference on Heritage and Sustainable Development* (Green Lines Institute, 2012) vol 2, 1469.

[48] UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Nomination File for Inscription on the Representative List of the Intangible Cultural Heritage in 2010*, 5th sess, Document No 00436 (November 2010) 3 ('*Marimba Nomination File (2010)*').

[49] *Ley 70*, cit..

[50] *Marimba Nomination File (2010)*, Document No 00436, 2.

[51] Ibid.

The 2015 Nomination File presents the communities affected as "Afro-descendant communities from the beaches, forests and rivers along the coast of the south of Colombia and the north-west of Ecuador, who shares the same cultural heritage and has been settled in the same land since the 16th century."[52] The areas stated in the 2015 Nomination File cover a large part of the Afro-descendant population in each country: 39% in Colombia; and 25% in Ecuador.[53]

Marimba music gains a new dimension for Afro-Colombians, according to the 2010 Nomination File, because community leaders and political organizations have emphasised 'the recognition of culture as the foundation of identity and a departure point to access autonomy and territorial rights and to build their own world vision (cosmovisión).'[54] In the 2015 Nomination File, "Marimba music and traditional chants and dances are underpinned by Afro-descendants' social claims, including spiritual and religious aspects, which make it possible for them to express their identity following centuries of persecution through slavery and evangelization and being forced to survive in obscurity". "[T]he communities recognize that each of these expressions of the element facilitates family and collective integration through ancestral practices that heighten the sense of belonging to an ethnic group connected to shared territory and history."[55] Importantly, here the assertion of connection to a cosmovisión seems to have been dropped, and the focus is instead on less of a direct comparison with Indigenous peoples, and greater recognition of the autonomous cultural status of Afro-descendant communities in these countries.

The *cosmovisión* of Afro-descendant communities was originally somewhat different from Indigenous *cosmovisión*: while Indigenous *cosmovisión* is normally understood in terms of a harmonious relationship with nature, Afro-Colombians were not originally bound by this notion, because they were not originally from the land.[56] However, 'their championing of traditional practices of production and connection to land has turned out to be problematic for many whose options in terms of development are limited.'[57] To be sure, *Ley 70* requires that Afro-Colombian communities '(re)learn sustainable traditions and practices.'[58]

With respect to sustainable development, the 2015 Nomination File states that "the element is involved in all aspects of family and community life relating, among other things, to respect for nature and the sustainable

[52]   UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Nomination File for Inscription on the Representative List of the Intangible Cultural Heritage in 2015*, 10th sess, Document No 01099 (November 2015) 3 ('*Marimba Nomination File (2015)*'), 2.

[53]   Ibid.

[54] Id., 3.

[55]   Id., 5.

[56] K Engle, *The Elusive Promise Of Indigenous Development: Rights, Culture, Strategy* (Duke University Press, 2010), 234.

[57] Id., 253.

[58] Id., 242.

management of resources needed to make instruments."[59] In other words, the environmental dimension deserves little to no attention, and the nomination does not focus on the broader culture in this respect, focusing instead on the specificities of Marimba. In this way, the Nomination File, the representation of Marimba music and Afro-descendant culture to the world, as a result, tries to do two things simultaneously. It sees itself as interacting with the culture as a whole when depicting the relevance of Marimba music to Afro-descendant culture, but at the same time it focuses only on a narrow reading of Marimba music (instead of the culture) when discussing limitations. There is a tug-and-pull of the definition of ICH at play here, and one in which sustainable development ends up being pushed to the background. Nevertheless, in its decision, the Intergovernmental Committee under the ICHC praised both States for preparing a "high-quality multinational file that testifies to the dialogical, dynamic and evolving nature of intangible cultural heritage."[60]

There is an assumption that Afro-descendant culture (that is, their ICH) is only worth protecting because it conforms to the idea of sustainable development. However, the obligation to meet this need comes with no help from the State and must be complied with against strong competition from industrial shrimp farming businesses operating in the same area as these communities.

The expansion of agricultural projects in areas surrounding these communities, particularly shrimp farming, has put communities' ability to use only sustainable means for the test. More specifically, these shrimp farming businesses are not bound by the same stringent requirements of sustainable development and use state-of-the-art techniques. Because they are located to a short distance from Afro-Colombian communities, they essentially exploit the same resources as Afro-Colombian communities, except that they can extract much larger quantities of shrimp. This leaves little to nothing to be fished by the communities, who are required to abide by sustainable development requirements if their land titles are to be recognized and protected. Additionally, shrimp farming destroys the mangrove forests upon which Afro-Colombians depend, by fertilizers, antibiotics, and chemicals to regulate the pH of the water, all of which have been devastating effects on the ecosystem.[61]

In Tumaco, one place in Colombia stated in the 2010 Marimba Nomination File as particularly important for Marimba music, a state-of-the-art fishing port facility was opened in 1993, the same year as Ley 70, with the capacity for large-scale shrimp farming.[62] It is somewhat paradoxical that in the same year, the Colombian government required Afro-Colombian communities in the region

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[59]   *Marimba Nomination File (2015)*, 6.

[60]   UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Decisions*, 10th sess, Decision 10.COM 10.b.13, ITH/15/10.COM/Decisions (30 November-4 December 2015), para. 5.

[61]   A Escobar, *Territories of Difference: Place, Movements, Life, Redes* (Duke University Press, 2008), 88–9.

[62]   Ibid 94–5.

to only use traditional methods for shrimp farming, a large complex for industrial shrimp farming opened to compete with Afro-Colombian communities.

In Ecuador, shrimp farming also poses challenges to the survival of Afro-descendant communities in the Esmeraldas region. Industrial shrimp farming offers very limited employment for Afro-descendant community members (since these businesses tend to bring their labour force from other parts of Ecuador), and the effluents from the shrimp ponds flow into lakes and mangroves, killing animal species that are vital for the food security and economic activity of Afro-Ecuadorians.[63]

The inscription of Marimba music and chants on the Representative List of the Intangible Cultural Heritage of Humanity thus serves as a means to entrench a certain version of Afro-Colombian identity defined by Ley 70. The same can be said to happen in Ecuador, which also has special legislation on Afro-Ecuadorian rights, in addition to constitutional provisions.[64] Those versions include sustainable development but as it turns out, (non-traditional) groups and businesses surrounding Afro-descendant communities, who do not enjoy the protection of the distinctiveness of their culture, are also free to exploit resources and develop, gradually preventing Afro-descendants from being able to exploit those resources themselves, and from reaping any benefits from that exploitation.

Afro-Colombians have advocated for the protection of their distinctive culture. This protection has come to fruition through the passage of Ley 70 and has further entrenched in the Representative List of the Intangible Cultural Heritage of Humanity, giving their distinctiveness international recognition. Specific legislation in Ecuador is also very protective of Afro-descendant rights, particularly as channelled through culture, and in articulating these rights in connection to the environment.[65] The listing of Marimba music is also seen by Ecuador as an important means of guaranteeing the cultural survival of these communities, as discussed above.[66] However, at the same time, their culture has been recognized and safeguarded; it has been modified. As a (successful) advocacy strategy, Afro-descendants have aligned their identity to certain tenets of indigenous cosmovisión, given the successes of the Indigenous rights movement. But that came at the cost of creating and requiring a certain connection with nature and sustainable development that is not necessarily compatible with their historical practices, and not conducive to their own

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[63] Rapoport Delegation on Afro-Ecuadorian Land Rights, *Forgotten Territories, Unrealized Rights: Rural Afro-Ecuadorians and their Fight for Land, Equality, and Security* (2009), 34-35. Available at https://law.utexas.edu/wp-content/uploads/sites/31/2016/02/ecuador-eng.pdf.

[64] Id., 24-29. See also Defensoría del Pueblo del Ecuador, *Informe Temático: El Pueblo Afrodescendiente en Ecuador* (2012), 19-38.

[65] Rapoport Delegation, cit., 24-29.

[66] *Marimba Nomination File (2015)*.

development, particularly when in competition with other sectors of society that are not subject to the same requirements.

The Afro-descendant example highlights the connection between protecting a way of life (and ICH as an emblem of that way of life) and environmental sustainability for humanity. It shows the potential unfairness of making ICH holders the custodians of the environment, at least if they are the only ones required to be sustainable against non-sustainable economic competitors. This discussion also problematizes the assertion that culture must necessarily lead to sustainability, at least to the extent that sustainability is read as belonging in the past, and the ICHC, as discussed above, in effect, promotes the tenet that heritage is supposed to change, to be in the present, and not in the past.

The next section explores further the effects on thinking of sustainable development as part of a holistic identity, and the effects of entrenching that identity through heritage listing. In particular, it also looks at the holistic uses of sustainable development, when they are taken seriously as an integral part of the nominated culture.

a. Environmental Sustainability as Lost in the Context: Kazakhstan and Kyrgyzstan

The Traditional Knowledge and Skills of Making Kyrgyz and Kasakh Yurts was added to Representative List under the ICHC in 2014, as mentioned above. This manifestation of heritage, in defining itself and its relationships to the community, shows that the community concerned are both men and women as craftspeople, mostly organized as families, or sometimes artisan organizations.[67] Unlike the Marimba Music, this ICH is practiced throughout the entire territories of both Kazakhstan and Kyrgyzstan.[68]

Yurts are essentially traditional portable dwellings, and "are basically characterized as easily transportable, compact, ecological and practical dwellings."[69] Both men and women take part in the yurt practice. For the most part, men are responsible for the frames, as well as wood, leather, bone and metal details and household items. Women, on the other hand, are traditionally responsible for yurt coverings and interior decorations. While there are formal schools to teach yurt making, most of the knowledge is transmitted orally by men and women elders in their communities.[70]

The gendered roles engaged in yurts are important, and fit nicely with the idea of gender equality as part of the social dimension of sustainable development in the ICHC *Directives*, as discussed above. More specifically, the

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[67]   UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Nomination File for Inscription on the Representative List of the Intangible Cultural Heritage in 2014*, 9th sess, Document No 00998 (November 2015), 2.

[68]   Ibid.

[69]   Id., 3.

[70]   Id., 4.

Nomination File asserts that the yurt-making process is gendered, and yurts themselves, in having designated areas, plays a role in "regulating gender roles ensuring gender balance in the family and enhancing sustainable development of the communities."[71]

Economic aspects of sustainable development are also engaged in the presentation and description of yurts. One way in which these aspects are translated is in thinking about yurts as an export commodity. The nomination file clearly discusses what they perceive as a worldwide growing interest in "traditional eco-friendly technologies and using natural materials for building houses and their interior decorations."[72] The inscription would work as a means to raise awareness about this specific instance of sustainable living, and "will inspire constructors, builders, and architects to create conceptual houses complying with the basic ideas of nomadic civilization – human living in harmony with the natural environment."[73] Here, the environmental and economic dimensions of yurt-making are blended.

Regarding environmental sustainability, the Nomination File indicates yurts are made from "natural and replenishable" natural resources and that the wooden frames are used through generations, meaning, "Therefore, yurt production does not damage the environment and nature."[74] Yurt production also helps preserve a nomadic way of life that entails "rational management of natural resources",[75] and; in this way, yurts also come before the ICHC organs as emblematic of a much broader way of life, like with the Marimba music of Afro-descendants. In this respect, the nomination file clearly says that "[i]nscription of the element will enhance the creation of [a] national and international platform encouraging dialogue and cultural interaction between different communities and ethnic groups living in multi-ethnic Kyrgyzstan and Kazakhstan." [76]

Further, one of the safeguarding measures is regular meetings of craftspeople to not only share knowledge and skills but also to plant local types of trees used in yurt production (particularly poplars, willows, and birches).[77] According to the nomination file, these measures will happen annually as part of the safeguarding plan, and "actions on planting trees will ensure the viability of the element and offer the needed materials without damaging the environment."[78]

There is, of course, a risk that measures meant to promote the environmental sustainability of yurts (such as its highlighting as a means of living in

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71   Id., 5.
72   Id., 6.
73   Id., 6.
74   Id., 5.
75   Id., 6.
76   Id., 6.
77   Id., 7.
78   Id., 9.

connection with nature), might make it too successful, particularly as an export product. Even though the exports would aid some sustainable development considerations (the economic dimension), it would directly influence upon another (environmental dimension). The organization of collective "ecological actions" by communities in both countries is seen as a response to that threat, and particularly the nominating states are mindful that "despite the element [being] the main source of income for the communities, bearers, and practitioners themselves think excessive commercialization does not threaten the element" (emphasis added), because they continue to use traditional skills.[79] In this view, the Nomination File does not grapple with the simple reality that trees take time to grow, and if demand were to surge quickly, no amount of planting now would account for the spike in use of natural resources. In this respect, one could argue that the environment is almost too hidden, and that it is other dimensions of sustainable development that take precedence into how yurts are presented and safeguarded under the ICHC.

The Decision inscribing yurts seems oblivious to this tension, too, instead focusing on how yurt making "highlights a harmonious relationship between nature and human creativity",[80] and how yurt making promotes "traditional management of natural resources by nomadic peoples and awareness of the relation between human beings and their environment".[81] Thus, in favor of a somewhat essentialized view of how nomadic people live in harmony with nature (which is not that different from the way Afro-descendant culture and Indigenous cultures are essentialized), the ICHC organs skirt a deeper consideration of the impacts of this ICH practice on the environment. Most importantly, the discussion of sustainable development, while pervasive, focuses mostly on aspects other than environmental sustainability, and puts the environment in the backseat of cultural heritage safeguarding.

The Dark Sides of Sustainability: Lessons to Consider

Considering the examples of Marimba Music and Yurt-Making, there are a few lessons which, in my view, heritage managers and practitioners should take into account in considering the relationship between cultural practices and environmental sustainability. These lessons help demystify the role of the environment and bring it closer to culture and everyday life, particularly the lives of communities, which is a core part of the ICHC and its success.

First, the broadening of the notion of sustainable development to encompass other dimensions (such as social and economic dimensions) is a very positive step, as it brings communities closer to sustainability. However, one must not

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[79]   Id., 11.

[80]   Traditional knowledge and skills in making Kyrgyz and Kazakh yurts (Turkic nomadic dwellings), UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, *Decisions*, 9th sess, Decision 9.COM 10.24, ITH/14/9.COM/Decisions (24-28 November 2014), para. 2-R.1.

[81]   Id., para. 2-R.2.

forget the environmental dimensions. Even if they are not at once clear, they are a key part of how humans relate to the world, and cultures necessarily show that, even if not overtly. To forget this connection can create unnecessary stress on safeguarding practices and ultimately endanger the viability of the culture that the safeguarding process was meant to guarantee.

Secondly, we must not forget that the environment is in a fragile position vis-à-vis culture, to begin with. Awareness of this relative fragility of environmental concerns means that efforts in this area need to be far more proactive than they have been to date. The text of the 2016 ICHC Directives is an outstanding development, but we must be vigilant in their implementation.

Thirdly, the example of yurt-making showcases a promising model of community inclusion and for dealing with the environment in the ICHC, but one must be wary of how sustainability is presented, and what its blind spots are. In other words, I have faith in the communities and their annual gatherings to plant trees and exchange knowledge, but we need to be mindful that environmental aspects of sustainability come front and centre, especially if yurts become as popular through awareness-raising as the communities hope it will.

And finally, and the key lesson for heritage practitioners: make the environment more central to your nominations and the way you present and engage with ICH. Push environmental integration into sustainable development narratives further up to the agenda. After all, it is in your interest that heritage is, in fact, safeguarded for present and future generations and no outside pressures exist that prevent you from enjoying the environment where heritage can thrive alongside communities.