

**Challenges and Opportunities  
of Protecting Iran's Cultural Heritage:  
Uncoordinated Movement towards  
Environmental Sustainability**

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**Abstract**

From the earliest days of their existence, humans have had close interaction with the natural environment surrounding them, in order to satisfy their survival and reproductive needs as well as their mental and cultural development. While humans have always exploited the Earth's natural resources to survive, develop and progress, they have also safeguarded the environment and natural resources and human ingenuity and efforts in meeting their needs, while protecting the nature so as to preserve it for future generations. Through this they have, over the passage of thousands of years, gradually led to the development of traditional knowledge and skills for the exploitation of natural resources. Nowadays, these skills, practices, knowledge and know-how (along with their associated material culture) which have been transmitted from one generation to another, are collectively known as "intangible cultural heritage". This has been shaped through the direct interaction between local communities living in different climates and varied ecosystems and will continue for as long as traditional ways of livelihood and interaction with the environment are allowed and supported to continue as before. As a consequence, the environment and intangible cultural heritage have a direct and reciprocal relationship and their survival is mutually dependent. This interdependence and the need for an integrated policy and legal regime to preserve and safeguard nature-based intangible heritage while preserving the environment, and vice versa, is nowadays accepted by the international law system.

Iran is a country of high biological diversity located in its many, diverse environmental zones and habitats and, at the same time, enjoys an extremely rich cultural heritage – both tangible and intangible – that has been developed by the various peoples inhabiting

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the Iranian plateau over millennia as a response to their physical environment. Hence, in addition to the obvious intrinsic value of this heritage as the inheritance of the Iranian people and as a marker of identity for diverse cultural groups in the country, including tribal peoples and pastoralists, also diverse peoples living in various areas and provinces of the country, it is also the basis for living in the often challenging environmental conditions of Iran and continues to provide a foundation of knowledge and know-how for the present and future generations in Iran to live in and enjoy the natural resources of Iran's environment in a sustainable manner.

In this country, as in many if not the majority of countries, the policy- and law-making frameworks for protecting cultural heritage, on the one hand, and the environment, on the other, have been established separately and little has been done to develop integrated policies and laws to safeguard intangible cultural heritage and protect the environment in the areas they overlap. It is therefore necessary both in theory and practice to revise and correct the relevant policies, laws and regulations. This paper has as one of its main goals to address some challenges and shortcomings in Iran's policy and legal frameworks for protecting cultural heritage and the environment, including a lack of coordination between these two scopes. At the same time, it aims to address some limited opportunities that exist in certain policies, laws and regulations, as well as in administrative plans and measures, along with some proposals from the writer that may help to develop an integrated protection framework for cultural heritage, the environment and sustainable development.

**Keywords:** Cultural Heritage (tangible and intangible), Environmental protection, Sustainable development, Iran, Law and policy frameworks.



## Introduction

Humans have had always close interaction with their natural environment. While humans have always exploited the Earth's natural resources to survive, develop and progress, they have also safeguarded the environment and natural resources. Human ingenuity and efforts in meeting their needs, while protecting

the nature so as to preserve it for future generations have, over the passage of thousands of years, gradually led to the development of traditional knowledge and skills for the exploitation of natural resources. Nowadays, these skills, practices, knowledge and know-how (along with their associated material culture) which have been transmitted from one generation to another, are collectively known as Intangible Cultural Heritage. This has been shaped through the direct interaction between local communities living in different climates and varied ecosystems and will continue for as long as traditional ways of livelihood and interaction with the environment are allowed and supported to continue as before.

As a consequence, the environment and intangible cultural heritage enjoy a reciprocal interaction and their survival is based on a mutually dependent framework. This interdependence between intangible cultural heritage and environment is now recognized by international law. Indeed, the need for an integrated policy and legal regime to preserve and safeguard nature based intangible cultural heritage while preserving the environment, and vice versa, is nowadays accepted by the international legal system which has adopted provisions to this end, in particular in those instruments aimed at achieving the goal of environmentally, socially and economically responsible growth, known as sustainable development, while preserving the capacities of the environment. Further, International law instruments have recognized requirement of such integrated regime to help achievement of the countries to sustainable development.

In Iran, as in many if not the majority of countries, the policy- and law-making frameworks for protecting cultural heritage, on the one hand, and the environment, on the other, have been established separately and little has been done to develop integrated policies and laws to safeguard intangible cultural heritage and protect the environment in the areas they overlap. It is therefore necessary both in theory and practice to revise and correct the relevant policies, laws and regulations.

This article addresses some challenges and shortcomings in Iran's policy and legal frameworks of protecting cultural heritage and environment, including a lack of coordination between these two scopes, yet to address some limited opportunities existing in certain policies, laws and regulations , also in administrative plans and measures with some proposals from the writer that may help to develop an integrated protection framework for cultural heritage , environment and sustainable development.



### **The Rich Bio-diversity and Cultural Diversity in Iran**

Iran is a country of high biological diversity located in its many, diverse environmental zones and habitats Iran enjoys an extremely rich cultural heritage – both tangible and intangible – that has been developed by the various peoples inhabiting the Iranian plateau over millennia as a response to their physical environment.

In addition to the obvious intrinsic value of this heritage as the inheritance of the Iranian people and as a marker of identity for diverse cultural groups in the country, including tribal peoples and pastoralists, also diverse peoples living in various areas and provinces of the country, it is also the basis for living in the often challenging environmental conditions of Iran and continues to provide a foundation of knowledge and know-how for the present and future generations in Iran to live in and enjoy the natural resources of Iran's environment in a sustainable manner.



### **The Iranian Legal System: An uncoordinated framework for protecting cultural heritage and the environment**

At the moment, laws and regulations in two fields of cultural heritage, tangible or intangible, have been set separately and administrative operational measures are implemented independently. No policy and legal framework specific to protection of cultural heritage with emphasize on its environmental aspects or vice versa protection of environment with the goal of conservation or help of the cultural heritage aspects in this regard has been set.

Iran, in line with global movement in protection of cultural heritage and environment, is a State Party to most international treaties related to environmental protection, including the UN Convention on Biological Diversity (1992), as well as to the Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO, 1972) and Convention for the Safeguarding of the Intangible Cultural Heritage (UNESCO, 2003).

According to article 9 of Civil Code of Iran, the provisions of treaties between Iran and other States are considered as law. This article is an appropriate opportunity to compliance with the conventions to which Iran is a Party. Iran's commitment to these treaties therefore assumes that the country has the will for and acceptance of the requirement of integrating protection of cultural heritage and environment within its jurisdiction, so the necessary conditions for a concerted and targeted action to set and integration of policies, laws and regulations exist.

Under the Constitution of the Islamic Republic of Iran<sup>1</sup>, cultural and ethnic rights are well protected in law. For example, under Article 3(8) of the Constitution, “In order to attain the objectives specified in Article 2, the government of the Islamic Republic of Iran has the duty of directing all its resources to the following goals ... 8) the participation of the entire people in determining their political, economic, social, and cultural destiny”. Also, according to Article 15, the official language and script of Iran is Persian and official correspondence and documents, as well as text books, must be in this language and script. However, the use of traditional and ethnic languages in the press and mass media as well as for teaching of their literature in schools is allowed in addition to Persian. In addition, under the terms of Article 19, “All people of Iran whatever the ethnic group or tribe to which they belong, enjoy equal rights; colour, race, language, and the like, do not bestow any privilege” and Article 20 gives all citizens of the country, both men and women, equal rights “to enjoy the protection of the law and enjoy all human, political, economic, social and cultural rights in conformity with Islamic criteria, rights”.

With regard to government buildings and properties forming part of the national heritage Article 83 of the Constitution states that “cannot be transferred except with the approval of the Islamic Consultative Assembly; that too is not applicable in the case of irreplaceable treasures”. Despite its incompleteness or ambiguity, this article shows the important place of cultural heritage in legal framework of Iran. Moreover, under the Article 45 of Constitution, public wealth and property “such as uncultivated or abandoned land, mineral deposits, seas, lakes, rivers and other public waterways, mountains, valleys, forests, marshlands, natural forests, unenclosed pastures legacies without heirs property of undetermined ownership and public property recovered from usurpers” shall be at the disposal of the Government for it to utilize in accordance with the *public interest*. Detailed procedures for the utilization of each of these items should be detailed in further legislation. According to this article, natural resources are not subject to private ownership, but considered as *common goods* that should be protected to the benefit of all the people of Iran. It is notable that this article is addressed only to the natural environment and does not pay attention to cultural heritage (as mentioned in Article 83) as a significant part of man-made environment.

The main article of the Constitution relating to environmental protection is Article 50 which states that: “The preservation of the environment, in which the present as well as the future generations have a right to flourishing social existence is regarded as a public duty in the Islamic Republic. Economic and other activities that inevitably involve pollution of the environment or cause irreparable damage to it are therefore forbidden.” This article, considering the time of its adoption in 1979, is very similar to the definition of sustainable

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<sup>1</sup> <http://rc.majlis.ir/fa/law/show/133730>.

development found in the Brundtland Report (1987) that served as the basis for the notion of sustainable development later adopted in the Rio Declaration in 1992. However, as with Article 45, it failed to address the important role of cultural heritage in achieving sustainable development and, in particular, environmental sustainability. As a consequence, this aspect of sustainability is also poorly expressed in the Five-year Development Plans of Iran (the sixth which was adopted by the Parliament in 2017).

A newer instrument of importance here is the Charter on Citizen Rights<sup>2</sup> which is a standard-setting policy instrument declared by the President of the Islamic Republic of Iran to the people of the country in December 2016. It addresses, inter alia, the “Right of access to and Participation in Cultural Life (Articles 95-103), and the “Right to a Healthy Environment and Sustainable Development”, (Articles 112-115). The first of these is enshrined in Article 27 (1) of Universal Declaration of Human Rights-1948 also in Article 15 (a) of the International Covenant of Economic, Social and Cultural Rights (1966) and forms the basis for human rights relating to the protection of cultural heritage, while the second two have never been formally adopted in international law but would fall within the category of what we understand as ‘solidarity’ rights. According to chapter VIII of the Charter on the Right of Access to Cyberspace, citizens of Iran have the right to freely and without discrimination enjoy access to and communicate and obtain information and knowledge from cyberspace (Article 33). This right encompasses respect for cultural diversity, languages, traditions and religious beliefs and the observance of ethical principles in cyberspace. As a consequence, the imposition of any type of restriction (such as filtering, interference, speed reduction and network interruption) without explicit legal authority is prohibited.

Among Iranian laws and regulations relating to the cultural heritage, the Law for the Protection of the Rights of Authors, Composers and Artists (1970) is relevant. In this law the term of ‘cultural heritage’ was used for the first time and, in addition, the intellectual rights of the producers of traditional arts on basis of folklore, as an important category of intangible cultural heritage, were recognized. Other relevant legislation includes the Law on the Statute of Cultural Heritage Organization (1988), the Law for the Establishment of the Cultural Heritage and Tourism Organization (2004), the Law for Accession of Iran to the Convention for Safeguarding Intangible Cultural Heritage (UNESCO, 2003) 2005, and the Regulations for the Implementation of this Law (2009) are all of relevance. Despite this, there is the lack of any comprehensive law for the safeguarding intangible cultural heritage beyond the law incorporating the 2003 Convention into national legislation which solely allowed for Iran’s accession to the treaty without any provisions regarding the means of implementation of the 2003 Convention, including its environmental

and human rights aspects, penal provisions, the intellectual rights of traditional communities and producers of works based on intangible cultural heritage

Under the Law for the Fifth Five-year Development Plan of the Islamic Republic of Iran (2011-2015), the Cultural Heritage, Handicrafts and Tourism Organization (ICHTTO) is permitted to identify and protect tangible and intangible cultural heritage belonging to the neighbouring countries and the region also other countries of the world (Article 11). Also the duty of protection of cultural heritage (tangible and intangible) and natural heritage for the abovementioned organization, is specified in Article 98 of the Law for the Sixth Five-year Development Plan of the country (2017-2021) However this provision is very limited and fails to mention any connection between ICH and environmental protection or sustainability, and for using these to achieve sustainable forms of development.

Another relevant legislative provision is Article 688 of Islamic Penal Code which criminalizes any act leading to the pollution of drinking waters, pouring toxic substances in rivers, leaving garbage in the streets, etc. In the accompanying note to this article, polluting the Environment has been defined as “pouring into or mixing with external materials to water or air, soil or earth so that this action changes their physical, chemical or biological quality that is harmful for the health of human, or other living creatures or plants, or buildings”. Hence, unlike Article 50 of the Constitution, this note does take account of the man-made environment and, so, of the constant and mutual interaction between human societies and the environment.

Furthermore, Chapter 9 of the Islamic Penal Code is dedicated to crimes relating to cultural heritage. Sadly, though, it has no articles dedicated to crimes against natural heritage also intangible cultural heritage or to the infringement of the traditional rights of rural and tribal peoples and pastoralists, or of other traditional ethnic communities.

With regard to the protection of folklore and traditional knowledge, and in order to complete Chapter 9 of the Penal law, a Bill have been drafted by the Ministry of Justice in coordination with the World Intellectual Property Organization (WIPO) for the protection of folklore and the intellectual property rights of traditional communities in Iran which provides for some criminal penalties. This Bill is under discussion in the Parliament at the present time. A further Bill has been prepared by the aforementioned Ministry concerning the protection of intellectual property rights related to stakeholders of traditional knowledge.





### **Proposals for a more coordinated approach**

First, on the institutional level, it would be important to establish a Supreme Council for the environment and cultural heritage. At present, each of the Organizations for the protection of Iran's cultural heritage and the environment<sup>3</sup> have separate Supreme Councils that manage the setting of policy related to their separate fields of work. By establishing a common Supreme Council for Cultural Heritage and the Environment, it would be possible to bring their policy setting goals and approaches closer together.

A further necessary step is to dedicate a special chapter to Cultural Heritage and the Environment in the next Law of the Five-year National Development Plan since, up until now, no approach for the integrated protection of cultural heritage and the environment have been considered. Given the considerable role played by the Five-year Development Plan laws in setting government planning for each 5-year period, it is very important to consider some specific articles that contain integrated management provisions for the two administrations. Moreover, in view of many common areas covered by their mandates in the fields of natural heritage, ecotourism, protected national areas, protection of marshlands, protection of natural areas belonging to traditional communities, etc., a common legal framework as well as a common structure for setting and implementing their administrative measures would be much more effective.

A Bill has been introduced to the Islamic Consultative Assembly (Parliament) concerning the establishment of a new Ministry for Cultural Heritage, Handicrafts and Tourism in the place of the present Organization (ICHTTO). It would seem that, in the light of the previous discussion that it would be preferable to establish a common Ministry for Cultural heritage and Environmental Protection given their joint missions and responsibilities for these in such fields as ecotourism and the protection of natural heritage and

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<sup>3</sup> The ICHTTO covers cultural heritage and the Environmental Protection Organization (EPO) for the environment. The Heads of both organizations are Vice-Presidents of the Islamic Republic of Iran.

resources protection with the help of traditional communities. Finally, and in the same vein, revision of the Civil Code as well as the Islamic Penal Code through the integration of articles covering crimes related to cultural heritage and the environment in a single chapter may help to raise awareness of the interface between these two fields.