UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and the Republic of Korea*

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1. Introduction

The Convention for the Safeguarding of the Intangible Cultural Heritage (henceforth, the 2003 Convention), adopted in 2003 by the General

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Conference of UNESCO, is today supported by 165 countries and 391 elements of intangible cultural heritage (henceforth, ICH) were inscribed on the lists under the Convention.

Soon after the adoption of the Convention, several anthropologists expressed their views and concerns relating to this UNESCO’s initiative. Most of them were satisfied by the shift that had occurred in thinking about the ICH. They appreciated notably the fact that in the Convention the role of the practitioner-communities and the viability of the ICH within the communities are considered of great importance. They noted with satisfaction that the Convention regarded the skills and process for enactment as ICH rather than the end products. Many of them apprehended, however, the “heritagization” of ICH caused by their inscription on the Lists under the Convention. They were concerned about the pernicious effect of the inscription on the ICH elements such as hierarchization of ICH elements, freezing of living heritage, and its transformation such as “officialization” or “folklorization.”

2. Setting up a Programme: Safeguarding the ICH in UNESCO

“Cultural Heritage,” that was limited to the tangible heritage, was a thriving programme at UNESCO in the 1970s, and the adoption of the World Heritage Convention in 1972 prompted the spotlighting of the programme as a whole. ICH-related activities such as studies of local languages, folklore, cultural values and practices that had hitherto been carried out under different programmes of UNESCO1) were, in early

1) Projects related to vernacular languages were dealt with by the Education Sector of UNESCO
1970s, grouped together under one multi-disciplinary programme entitled “Cultural Studies.”

However, it was the World Conference on Cultural Policies (MONDIACULT), held in Mexico in 1982, that enlarged the definition of “cultural heritage” by integrating the ICH into the concept of “cultural heritage.” The Conference also recognized the role of traditional and folk culture as a means for the affirmation of cultural identity (MONDIACULT Recommendation 63).

Following the Mexico recommendations ICH-related activities were moved into the UNESCO Cultural Heritage Programme in 1984 under the name of “non-physical heritage” that “includes signs and symbols transmitted through the arts, literatures, languages, oral traditions, handicrafts, folklore, myths and beliefs, values, customs rites and games.” However, when the non-physical heritage programme was merged with the tangible heritage programme, the non-physical programme was largely marginalized from substantial, administrative and budgetary perspectives. Moreover, the programme focussed on the clarification of concepts and the elaboration of a universal standard typology and a standard methodology for research, study and preservation, during which lengthy and unproductive theoretical disputes took place between anthropologists and folklorists. During the 1980s, the non-physical programme was tossed back and forth between the programme for cultural identity and that for cultural heritage. It was better treated when it came under the cultural identity programme than when it came under the cultural heritage programme (Aikawa-Faure 2007: 51–52). But the non-physical heritage

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2) Mexico City Declaration on Cultural Policies, paragraph 23.
3) 21C/5 paragraph 11052.
programme never really took off nonetheless.

At the beginning of the 1990s when the Cold War had ended and globalization began to emerge, states began to look at the ICH as, on the one hand, a factor allowing communities and nations to affirm their cultural identity and necessary to consolidate newly restructured nations, and on the other as a factor ensuring cultural diversity in an era of cultural standardization. In reply to a request from its Member States, UNESCO set up a new programme entitled the Intangible Cultural Heritage.

In shaping the perspectives of the new programme, anthropologists, ethnologists and linguists advised UNESCO to prioritize activities that would help practitioners and communities in revitalizing and transmitting their own ICH rather than documentation and research to be conducted by academic research institutions.

East Asian countries, notably the Republic of Korea and Japan, played significant roles in launching this new programme, Korea by introducing a new concept: “Living Human Treasures” programme and developing a related new programme and Japan by setting up a yearly Funds-in-Trust. The “Living Human Treasures” programme contributed to raising awareness of the notion of the ICH and the role of its related practitioners/bearers worldwide while it had been until then unknown.

With the aim of increasing public awareness of the need to safeguard many disappearing elements of the ICH, notably the oral heritage, UNESCO embarked in 1997 on a programme entitled “Proclamation of the Masterpieces of the Oral and Intangible Heritage of Humanity.” At its initial stage, the scope of the programme was limited to the Oral Heritage. But it was the Republic of Korea that underscored the importance to enlarge the scope encompassing the whole domain of the ICH. This
foresighted amendment paved the way for drafting a new convention for the safeguarding of ICH. The project allowed UNESCO Member States to become familiarized with the term ICH, though the creation of the new programme provoked a number of stormy debates in international fora where a North-South divide became obvious (Aikawa-Faure 2008: 14–22). For the countries of the South, given that the ICH is their most representative cultural expression they wanted to see this heritage estimated as highly as the World Heritage.\footnote{Speech of the Ambassador of Benin, June 2003 (Hafstein 2009: 103).} However, for the countries of the North, the ICH was a secondary cultural expression. For countries having minority or indigenous groups, highlighting the ICH of minority populations was also not necessarily welcome.

Despite those obstacles, the Proclamation of the Masterpieces Programme was launched, and 90 Masterpieces were proclaimed between 2001 and 2005. In 2008, all of the 90 elements were integrated into the Representative List of the Intangible Heritage of Humanity under the Convention. The programme, which was supported neither by international standard instrument nor intergovernmental committee, had a jury of 12 members. I would like to take this opportunity to thank Dr. Yim Dawnhee for her highly scientific rigour with which she evaluated the candidature files.

3. The Washington Conference as the Key Event in the Preparation of the 2003 Convention

Since the 1970s, UNESCO’s Copyrights Division had attempted to
establish jointly with the World Intellectual Property Organization (WIPO) an international instrument having two objectives, first for the safeguarding of the ICH and second for the protection of intellectual property rights relating to the ICH. However, by 1985 it had become clear that aiming at these two objectives in a single instrument was too ambitious. As a result, UNESCO henceforth pursued without the WIPO’s involvement the drafting of an international legal instrument focusing on the global safeguarding of the ICH. It finally succeeded in having the UNESCO General Conference adopt in 1989 the “Recommendation on the Safeguarding of the Traditional Culture and Folklore” (henceforth, the 1989 Recommendation). But surveys conducted by UNESCO between 1995 and 1999 revealed that this non-binding international legal instrument had little impact on Member States, so in 1999 UNESCO and the Smithsonian Institutions organized an international conference entitled “A Global Assessment of the 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore: Local Empowerment and International Cooperation” to re-examine the 1989 Recommendation.

The Conference, attended by many legal experts specialized in cultural heritage, concluded that the principal concepts underlying the 1989 Recommendation and the approaches towards safeguarding actions it contained were no longer adequate to the contemporary world situation (Seitel 2001: 272–275) and recommended that a new instrument compatible with the then-contemporary world social and cultural environment be drawn up. The criticisms were particularly addressed to the use of the term “folklore” and its definition, which was too product-oriented when related symbols, values and processes should be given primary significance. The Conference proposed to develop a “more inclusive definition based on the event of the creation or recreation as a
social act in line with the current academic definition of folklor e…” (McCann et al. 2001: 59).

The new principles laid down by the Washington Conference guided the drafting of the 2003 Convention throughout.

4. Parallel Actions: Developing the Proclamation of Masterpieces Programme and the Drafting of the Convention

The Proclamation of Masterpieces Programme was launched in 1998. Meanwhile, and following the Washington recommendations, the process of drafting a new international legal document on the ICH was prompted by the Czech Republic, Lithuania, and Bolivia in October 1999.

UNESCO launched the Proclamation of Masterpieces Programme in parallel with the preparation of the future Convention, the former to test the validity of the concepts and problematic that could be addressed as the drafting process.5) The Director-General of the Organization then mainstreamed the ICH programme by choosing it as one of the eight priority programmes of the Organization as a whole.6) This announcement triggered a number of ebullient and controversial debates among Member States.

Among the numerous preparatory meetings for the Convention, two are particularly worth mentioning. The first was the International Round Table on Intangible Cultural Heritage Working Definitions (the so-called

5) Director-General’s speech on 5 May 2000 at the information meeting for the Permanent Delegations; introductory speech at the Executive Board 162th session (October 2001).

The second important meeting, the Round Table of Ministers of Culture: Intangible Cultural Heritage—Mirror of Cultural Diversity \(^7\) (UNESCO 2002), also played a significant role in the drawing up of the Convention, but in a different manner. This meeting was decisive in obtaining the political support of the Member States of UNESCO. The Secretariat’s strategy was to gain the support of countries campaigning to establish a new Convention for the Protection and Promotion of Expressions of Cultural Diversity. The proposed theme for the meeting was to examine how the ICH and the cultural diversity were the two sides of the same coin, implying that Member States supporting the preparation of the Cultural Diversity Convention should also support the ICH Convention and vice versa. This strategy was a success, and it saw the prompt adoption of the two Conventions, one in 2003 and the other in 2005.

The ICH Convention was finally adopted in October 2003 without opposing votes but with eight abstentions from the UK, Australia, New Zealand, Denmark, the Russian Federation, the United States, Canada and Switzerland. The Asian countries, notably China, Japan and the Republic of Korea and, together with some African countries, fought firmly in favour of its early adoption in its present form.

\(^7\) Final communiqué –Istanbul Declaration : UNESCO
5. The Asian Turn at the Beginning of the Implementation of the Convention

Ratification by eight Asian countries including ROK accelerated the process of the entry into force of the Convention in 2006.

The “Asian turn” was already preponderant in the number of proclaimed Masterpieces, nearly one-third of which were from Asian countries. Under the Convention this trend continued, and between 2009 and 2010 China inscribed 30 elements on the Convention lists, Japan 14 and the Republic of Korea 7. The Intergovernmental Committee of the Convention was concerned about this geographical imbalance and decided to limit the total number of nominations that the Committee would examine. UNESCO in 2011 also strengthened its worldwide capacity-building activities with a particular emphasis on Africa, and a better geographical balance has been progressively introduced.

Asian countries were also active in granting financial and in-kind contribution to UNESCO. Between 2007 and 2014, Republic of Korea provided the financial contribution of nearly 600,000 $ to UNESCO in the domain of ICH. It also took the initiative in hosting a Category 2 Centre that is required to support the implementation of the UNESCO programme using national funding and human resources. This initiative was followed by China, Japan and Iran. The three East Asian Centres divided their tasks, Korea in information and networking, China in training, and Japan in research into safeguarding methodologies.
6. Conclusion

Soon after the adoption of the Convention some anthropologists expressed concerns over the listing system on which this international agreement is built. Today an increasing number of experts share their warning (Bendix & Eggert 2013). The Intergovernmental Committee, of which ROK is currently a member on its second term, has been repeatedly reminding the States Parties of the need to take steps to mitigate adverse impact that the inscription could cause, such as de-contextualization, folklorization, over-commercialization or exploitation for tourism development. Such simple appeals by the Committee, however, might not be sufficient to prevent the unfavourable evolution of a number of the inscribed ICH elements. The Committee might have to establish a stronger mechanism to monitor the evolution of the inscribed elements to make sure that their existing social function remains viable.

The Republic of Korea has been so active in safeguarding the ICH both at the national and the international levels. Its national law for the protection of cultural properties dates from 1962 and has been already amended three times. Its elaborate system to ensure the transmission of the skills and artistry of ICH elements is unique in the World (Park Weonmo 2015: 309–342). The country, however, has been suffering from inconsistencies in the concepts and legal systems adopted between the national and international levels. In this respect, the recent Korean success story in overhauling its national law to make it compatible with the 2003 Convention and the contemporary socio-cultural environment (Park Weonmo 2015: 343–357) is commendable. I hope that the new processes would include a mechanism to monitor the evolution of the ICH elements inscribed on both national and international lists. Also I wish that some
new measures be taken to ensure that not only the techniques and artistry of ICH elements are transmitted but also their social function and cultural meaning continue to be viable within the concerned communities. I finally recommend that Korea would assist other countries in revising their existing safeguarding system and methodology that are not compatible with the UNESCO Convention.
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국문초록

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