In policy reviews, more attention is usually focused on the legislation than on its likely mode of implementation. One of the interesting features of the discussion on intangible heritage is that it challenges the neat compartmentalisation of government departments, UNESCO divisions and legislative categories. The way in which instruments to safeguard intangible heritage deal with these challenges to the existing structure will determine whether the matter of intangible heritage becomes a positive force for change within heritage management and the culture-development axis, or a holdall for the bits of the heritage sector that are tricky for other sectors to deal with.

Most communities, whether Western or not, indigenous or not, make little distinction between the tangible and the intangible or between heritage places and other forms of heritage (Munjeri 2000). At an official level, however, the legislation and administrative processes relating to heritage places, objects and performance art (or intangible heritage) are often separated. This differentiation is not really an analytical one, having its origin in the fact that initial attention was given mainly to the built heritage, which was later expanded to include cultural associations with natural sites. The historical development of the concept of intangible heritage has meant that policy managing intangible heritage is treated largely as an add-on. At an international level, intangible heritage values associated with places have been accommodated by criterion (vi) of the WHC, while intangible heritage *per se* (performing arts, orality, knowledge) will be accommodated in the new Convention on intangible heritage.

At a national level this differentiation is sometimes reproduced, where for example in South Africa we recognise a broad definition of intangible heritage and have numerous oral history projects, but current heritage legislation only formally protects those intangible heritage associated with objects and places. The federal Department of Canadian Heritage is unusual compared to other national governments in that it deals with both tangible and intangible heritage. There is a growing interest in that Department in 'bringing issues of ecological integrity and diversity [together] with those of cultural integrity and diversity, and exploring the relationships between natural and human ecology. The Department has taken strong steps towards a more integrated view of heritage which builds on the views of cultural landscape articulated by First Nations communities. These views are seen as a way towards embracing a complex cultural diversity within a complex physical environment' (Smith in Campean 2001: Canada page 47).

In Japan, the *Cultural Properties Protection Act* of 1950 also protects both tangible and intangible heritage. Intangible heritage is divided into Intangible Cultural Properties (artistry and skills employed in drama, music and applied arts) and Folk-Cultural Properties (clothing, implements, houses, etc. used in connection with intangible folk-cultural properties such as manners and customs related to food, clothing and housing, occupations, religious faith, festivals and other annual observances, folk performing arts) (Nishimura in Campean 2001). This seems to be a division between high culture and low culture or between intangible heritage with and without tangible forms. An interesting aspect of the Japanese legislation is its relatively late (1996) but nevertheless decisive inclusion of listed buildings in the same legislation and the early use of a special category of place heritage related to Japanese aesthetics (the original legislation dates from 1919). In the *Cultural Properties Protection Act*, tangibles are divided into Tangible Cultural Properties (buildings and other structures, fine and applied arts), Monuments, Groups of Historic Buildings, Cultural Properties Conservation Techniques and Buried Cultural Properties. Monuments are further subdivided into three categories such as Historic Sites,

Places of Scenic Beauty and Natural Monuments. Places of Scenic Beauty (*Meishou* in Japanese) is a unique interpretation of the notion of a cultural landscape. It includes gardens, bridges, gorges, seashores, mountains and other places of scenic beauty that possess high artistic or aesthetic values for Japanese society (Nishimura in Campean 2001).

Engaging with intangible heritage issues may help ministries to raise awareness of the importance of heritage and of intragovernmental collaboration. National culture or heritage ministries, especially in developing countries, are generally poorly funded because it is difficult to convince governments of the monetary value of heritage as a tool of local and national identity or to demonstrate the link between associated income (such as tourism) and expenditure on heritage. Broadening the concept of heritage may help to raise the profile of cultural ministries and provide points of integration with other ministries. Including intangible heritage in national heritage registers can, for example, encourage better communication between government departments and between different stakeholders, including indigenous communities. In Australia, for example, policy development on intangible heritage and the interdisciplinary work of the AHC and Australia ICOMOS have actually helped to foster greater dialogue between the various departments responsible for heritage (Truscott 2003).

> Australian heritage conservation is ... marked by its compartmentalisation into separate government structures for heritage places and movable heritage, reinforced by administrative divisions between natural and cultural heritage and between indigenous and non-indigenous cultural heritage. ... This is further complicated by Australia's federal system of government with different levels of responsibility for heritage. ... Non-indigenous intangible values also tend to be categorised separately into the arts or folklore ... This increasing convergence by the different streams of heritage conservation in Australia to accept intangible values represents an increasing confidence with the insubstantial and the unmeasurable. (Truscott 2000)

Recommendations

Although tangible heritage always has intangible significance, the concept of intangible heritage can provide an important corrective to the focus on heritage places and objects. This is especially important in countries that have suffered under a colonial past in which the cultural resources of large sections of the population were ignored and denigrated. It can assist in acknowledging non-Western heritage forms at an international level and reminding the West of its own intangible heritage. The difference between tangible and intangible heritage should not, however, be expressed within the old civilised/primitive or Western/non-Western dichotomies that characterised so much of Western thought in the nineteenth and twentieth centuries. It is therefore essential not to restrict the definition of intangible heritage to 'primitive culture' or the pre-modern folklore of an indigenous community of a specific region. Intangible heritage consists of traditional, indigenous or local cultural forms but it is also made up of vibrant contemporary mixtures of cultural practice that may or may not relate to a national or regional identities.

There is no reason why national governments should not seek to safeguard tangible and intangible heritage in the same instrument and to search for a holistic definition of heritage. Similarly, there is little reason to perpetuate the distinction created by UNESCO between intangible heritage *per se* and intangible values associated with objects and places.

Instruments providing for the management of all cultural heritage should:
- Identify and acknowledge the value of the resource in national or international terms and within the culture of the community owning the resource (Johnston in Smith & Marotta in press).
- Safeguard the resource, including its continued transmission, dissemination and use (UNESCO 2001a: 5–6). Instruments should record changes in the resource as the practice of and knowledge about the resource becomes more widespread (limits must be placed on wider access to this knowledge where appropriate). Attention should be paid to potentially negative impacts of policy instruments themselves on the identification, management or practice of cultural heritage forms.
- Benefit the practising or 'owner' community. This may include acknowledging the community's right to expression through the medium of the heritage resource (Johnston in Smith & Marotta in press), reinforcing identity for the community owning the resource (Johnston in Smith & Marotta in press; UNESCO 2001a: 5–6) and assisting the community's development (Stockholm 1998).
- Benefit the broader community where possible, encouraging social co-operation within and between groups, enhance the creative diversity of humanity and encourage the appreciation, use and enjoyment of this diversity (UNESCO 2001a: 5–6).

Management of intangible heritage requires careful extension and adaptation of existing measures for managing heritage places and objects. Most policies on intangible heritage could and should apply to tangible heritage forms. All heritage, tangible and intangible, naturally changes over time, a fact accepted in traditional heritage management practices for places and objects. Managing intangible heritage poses new challenges because it is always being recreated. The speed of change is very rapid and the ambit of change is potentially very broad – what core significance should be protected and how should this be done? Management of intangible heritage can involve the collation of information in registers or databases and strategies for involving and protecting the practising community, including financial instruments. It should also include the adoption of an approach to protect material traces and places associated with intangible heritage, to

make intangible forms tangible and to recreate and renew intangible heritage. Any 'safeguarding' interventions will, however, introduce new incentives for change by (a) defining and limiting what they are and what they mean, and (b) providing a new environment for engagement in cultural practices (incentives provided by tourism, use for political lobbying, etc.).

Conserving or safeguarding both tangible and intangible heritage does not mean preventing change. It should include:
- Involving as many stakeholders as possible in helping to identify what makes a heritage form significant.
- Establishing ethical and effective methods of ensuring that the significance of a heritage form is safeguarded, including for example the continued practice and transmission of intangible heritage forms, even if in an altered format.
- Engaging relevant communities in practising, recording and documenting their heritage and its changes over time (assisted where necessary by others).
- Developing a clear strategy for creating and managing benefits accruing from use of the heritage.

Instruments safeguarding intangible heritage should thus support the rights of practising communities to identify, manage and benefit from their own cultural practices. They should also encourage the extension of the practising community where possible. In performing these tasks, it is essential that governments create channels of communication not only with communities but also between departments responsible for different aspects of this heritage.

This can be achieved by establishing a government agency or agencies to do the following:
- Maintain and administer the listing and information management process for registers of intangible heritage.
- Proactively seek listings of threatened resources and ensure the implementation of management plans for them.
- Make independent decisions around the compatibility of intangible resources with human rights codes.
- Assist communities to list resources where necessary and where necessary also to manage them after listing.
- Help to document and address disputes arising over the ownership and management of intangible heritage.
- Help to protect community rights and to channel benefits related to intangible heritage back into communities.
- Develop funding strategies for community-based management of the resource.
- Engage with other government and non-governmental agencies.

The format for listing of intangible heritage on national or international registers will need to be different from that used to create lists of tangible resources. On seeking listing on national or international heritage registers, practising communities would need to provide information to confirm the provenance, significance and ownership of such resources. There would have to be a variation on this documentation process for resources that do not have a cohesive, well-defined or extant practising community, or whose practising community is willing but unable to be involved in listing the resource. In creating such registers or databases, due attention should be given to the protection of intellectual property.

The following information should be provided for each intangible heritage form on such databases, making allowances for access restrictions:

- The historical background to the intangible heritage and a description of it that acknowledges its vitality and fluidity.
- A clear description of who (if anyone) claims to be the practising community associated with the intangible heritage and verified evidence for the basis of this claim.
- A statement that the values expressed by the resource conform to the principles of human rights (where such values are enshrined in international or national charters or legislation) or that values not conforming to these principles will be debated and/or discouraged from further transmission.
- A clear statement of the significance of the intangible heritage, including the value of the resource to the practising community (especially its social value), its relationship to community identity (Field 2003), and the value of the intangible heritage in a broader context (including scientific, environmental and historical values; rarity, representativeness, etc.).
- A clear and viable strategy, related to its mode of transmission, for managing and sustaining the intangible heritage and its benefit to the community.
- Information about the public or restricted status of the intangible heritage and associated data.

Policy instruments should make a clear link between intangible heritage management and developing a model for benefiting the practising community. Intellectual property rights must be part of this model, but the notion of ownership (individual or collective) may have limitations.

Economic incentives to safeguard intangible heritage will probably play the largest role of all in encouraging transmission and re-enactment of intangible heritage. New reasons for cultural production will change traditional craft techniques, performances and other forms of expression and may (or may not) have a negative impact on the meaning of the heritage resource for the community. Simply creating a heritage product for sale to outsiders will not necessarily safeguard intangible heritage or be sustainable. Models of successful interventions and innovative instruments need to be developed and shared more broadly. The most successful incentives, and safeguarding strategies, will involve the use of intangible heritage forms as springboards for new cultural expressions that have relevance and meaning in the modern world. An excellent example can be found in broadcasting initiatives that use local vernaculars to tell current news and provide cultural commentaries while collecting advertising revenue.

As the intangible characteristic of heritage is given by the community rather than the expert, it implies a new 'contract' between civil society and the state (Roy in Campean 2001). In the practice of safeguarding intangible heritage, we constantly need to ask ourselves (a) whose voices are heard and (b) whose interests are ultimately served (Ryan in Campean 2001). This requires sensitivity on the part of government agencies towards the relationship between heritage 'experts' and community representatives and recognition of the need to manage the distribution of potential benefits in the most equitable and appropriate way.

However, it is also important to address the needs and rights of the broader national or international community. Heritage is often deployed as part of an attempt by community

elders to strengthen a shaky current power base and recreate some idyllic past in which, for example, men were men, women were in the kitchen and children listened to their elders. Recording what we know of the past (whatever its moral status) and using it to inform the present is helpful and valuable, but uncritically accepting utopian versions of the past or perpetuating damaging aspects of the past is not. We cannot, for example, condone the physical abuse of women because it is 'traditional'. The notion of human rights is often presented as a universal aim of all societies but in reality many societies continue to function in ways incompatible with human rights discourse. If we restrict intangible heritage listings to forms of heritage that correspond with human rights principles, this will affect not only what can be considered heritage but it may also mean that the form and/or modes of transmission of some forms of heritage would have to be encouraged to change.

There has been, and has to be, an ongoing conversation between national approaches to intangible heritage and the international Guidelines and Conventions developed by UNESCO and associated bodies. One of the motives behind developing international instruments on intangible heritage and intellectual property is to influence national legislation in a positive way. The international debates over intangible heritage can be used as a departure point for national debates about the revision and formulation of heritage legislation and cultural policy, but regional, national and local viewpoints should be fed back into the international debates, especially through UNESCO and WIPO. International organisations like these always have to draft instruments in such a way as to encourage agreement between countries; so regionally specific emphases and concerns must find expression in national legal and financial instruments.

One of the biggest challenges for the safeguarding of heritage, particularly the intangible elements, is not just the development of national cultural policy and legislation but also the better integration of the functions of government departments responsible for culture, heritage and social development. UNESCO has decided not to include intangible heritage in the WHC but that does not mean instruments for safeguarding intangible heritage should be separated from other heritage legislation at a national level. New instruments can provide an important corrective to the expert-centred approaches to managing tangible heritage which do not encourage community interest or support community rights. Several different government departments may be responsible for heritage issues, particularly intangible heritage: Environment, Sport, Trade and Industry, Tourism, Arts and Culture, and so on.

As with built heritage, there are differences in the way one safeguards and manages intangible heritage of different kinds, but these differences should not mask the similar functions and management requirements of all these resources as *heritage*. The general approach to managing heritage should be as consistent and integrated as possible (Smith 2002). Safeguarding intangible heritage will also have to become part of a broader strategy of community development since the safeguarding of transmission mechanisms will be inseparable from national debates around development, land rights and identity politics. The solution is not to ring-fence budgets and instruments for safeguarding intangible heritage but to integrate issues around heritage conservation into all development work and to write national instruments with this in mind. Safeguarding intangible heritage should not be a cheap ticket to development funding so much as one of the ways in which development funding finds appropriate and sustainable channels for use.

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