



Newsletter Glawcal

Focus on:

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The Protection of Intangible Cultural Heritage

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Focus on

The Protection of INTANGIBLE CULTURAL HERITAGE

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his new issue of gLAWcal is focussed on the Protection of Intangible Cultural Heritage (ICH).

In 2003, UNESCO adopted the “Convention for the Safeguarding of Intangible Cultural Heritage”; since then, international community has been developing long-term plans to ensure traditional knowledge on proper protection and encourage younger generations to perpetuate these practices and skills.

The first part of the newsletter will drive you through an overview of ICH protection in Asia. We will see how China is vigorously raising awareness on this topic by drafting new laws across the board, organizing exhibitions and promoting specialized workshops and courses in universities.

Then, we will move to Tibet multilateral approach and we will analyze how some countries have decided to face the issue via international cooperation, as it has been shown by SAARC members.

To conclude our overview, we will consider the importance of traditions in the fight against climate change consequences, as well as in the fight against discrimination.

“A love for tradition has never weakened a nation,
indeed it has strengthened nations in their hour of peril.”

(Sir Winston Churchill)



The Protection of Intangible Cultural Heritage

CHINA EFFORTS TO PROTECT ITS ICH

China is investing in Intangible Cultural Heritage (ICH) protection to exploit its commercial potential. The ancient city of Beijing features 800 years of history and, besides its majestic architecture, the Chinese capital offers various experiences to plunge into its cultural richness.

When in 2006 the government established the national ICH Day, several cities, Beijing included, launched surveys to inventory their treasures. The Northern Capital lists more than 12.000 items that show its energetic roots and colourful people's lifestyles. Exhibition collects folk dances, traditional music and craftsmanship and secures them for future generations thanks to a 20-volume book, as well as digital equipment such as systematic audio and video recording.

In 2011, Chinese government passed the bill on national ICH safeguarding; so far it has recognized 108 national peculiarities, 43 more items recognition are pending, while other 235 receive city-level protection. An interesting point to make is that these lists also include people as ICH inheritors: traditional knowledge keepers.



Beijing Municipal government has adopted a multidisciplinary approach to address ICH protection, involving 14 different departments and establishing a Protection Center for the heritage that has been reproduced at lower-levels in Beijing's districts and counties.

The whole country is working hard to effectively preserve its cultural heritage and maintain a sustainable development. As far as the capital is concerned, the local government has planned training programme enhancements, public funds, higher visibility to the issue and it counts on promoting tourism-related initiatives to exploit the commercial potential of ICH and encourage companies to get more involved.





The Protection of Intangible Cultural Heritage

SHANGHAI UNIVERSITIES ABOUT TO LAUNCH MAJORS IN INTANGIBLE CULTURAL HERITAGE

Bamboo Carving

Chinese Intangible Cultural Heritage (ICH) is receiving more and more recognition and protection; especially in Shanghai where local universities are about to launch undergraduate and postgraduate majors in the city's ICH.

According to Yang Qinghong - an official with the Shanghai Municipal Administration of Culture, Radio, Film and TV - this long-term project also includes publications of specific textbooks, special funds and a constant exchange between experts and students in order to share expertise and experience.

A lot of items concerning Chinese arts, traditions, practices and skills are already officially listed and safeguarded by UNESCO; this number is even higher if we consider national-level and city-level protections, where a law passed in 2011 positively impacted people engagement in ICH preservation.

The peculiarity of Shanghai's ICH consists in a unique mix of eastern and western culture due to the opening of the city's harbour to international commerce in 1843. Examples of this "China-meets-west" flavour are shikumen style buildings and Tushanwan, also known as "the cradle of western paintings".



Over the past few years, Shanghai has considerably increased its commitment on ICH protection: indeed, beyond universities courses, many local primary and middle schools have integrated their curricula with traditional skills such as shadow play, paper cutting, bamboo carving and dough modelling; in addition to this, the local government is providing folk artists with allowances so that they can hand their arts down to new generations.

Despite the Ministry of Culture has shown its support to foster these initiatives, many advocate the urgency of further actions since apprentices are few and youngsters are hardly appealed by these ancient arts with slow and difficult returns.





The Protection of Intangible Cultural Heritage

BRICK CARVINGS ADDED TO BEIJING INTANGIBLE CULTURAL HERITAGE LIST



Zhang Yan is not alone; his daughter strongly supports him and decided to devote her life to the same mission. She started by establishing a youth organization at the Communication University of China; the Youths Advocating the Protection and Inheritance of Intangible Cultural Heritage promotes ICH protection and awareness among schoolmates, organizes workshops with knowledgeable craftsmen to help them spread their art and recently filmed an educational documentary to show inheritors' lifestyle.

Zhang Yan's daughter is so engaged in keeping alive traditional brick carving that she has planned her academic career in order to have a 360 degree preparation. She will indeed study to pass national examination and become an ICH state official and work at the department for the protection of intangible cultural heritage under the Chinese National Academy of Arts.

Beijing Municipality has recently added to its ICH list the traditional brick carvings that can be admired in many historic buildings in the mainland. The first appearance of these carvings dates back to Eastern Zhou dynasty (770-256 BC); during the Ming dynasty (1368-1644) it represented the owner's wealth and power. From Qing dynasty (1644-1911) onwards, many residents started to use them to decorate their courtyard. They constituted as a sort of ancient business card, as the carvings made it possible to understand the owner's identity. The immense value of the carvings lie in the fact that they embody Chinese philosophical, aesthetic, literary and artistic ideologies.

In 2001, Zhang Yan has been awarded by the local government with the official title of brick carvings inheritor and he is committed to keep alive this precious form of ICH.





The Protection of Intangible Cultural Heritage

TIBET ADOPTS A MULTILATERAL APPROACH TO SAFEGUARD ITS INTANGIBLE CULTURAL HERITAGE



Another positive project has been the integration of modern technologies to bronze statue forging in Litu village. New methods and machines to quench, polish and weld have helped households to reach a higher productivity and expand their market.

Finally, Tibetan authorities have also set up cooperative workshops to improve the efficiency, lower the costs and increase the incomes of once separate household workshops.

Consequently to these measures, Tibetan ICH is expected to be better integrated in new tourist attractions and bring extra economic benefits to the region.

In the Tibet autonomous region, the government has implemented a wide range of measures in order to protect its intangible cultural heritage (ICH). After an in-depth survey aiming at collecting information to record and list local culture, Tibetan authorities have amended the ICH legal framework that now requires prefectures and counties to enliven local arts by providing allowances to skilful people in order to educate younger generations.

Besides increasing financial support and extending the list of traditional forms eligible for subsidies and protection, many tailored programs are proliferating. For instance, an accredited craftsman specialized in Thangka art - a painting on cotton, or silk appliqué, usually depicting Buddha - has been invited to lecture more than 200 students in a Qamdo's school. Students willing to qualify have followed him in his workshop as apprentices.





The Protection of Intangible Cultural Heritage

SAARC NATIONS TO DEVELOP A SHARED INTANGIBLE CULTURAL HERITAGE DATABASE

During the South Asian Association for Regional Cooperation (SAARC) Cultural Festival on Traditional Dances of South Asia held in New Delhi, speakers at the workshop on “Intangible Cultural Heritage in the context of SAARC” have all agreed with the idea of developing a shared-database in order to better coordinate ICH interventions and promote their passing down from generation to generation.

Many support the importance of these initiatives, but they also highlight how it is crucial to create an atmosphere where youngsters are spurred to take over south Asian traditional knowledge; therefore it would be useful to establish arts and crafts hubs in addition to those situated in tourism spots.

This occasion was also taken to announce publicly that a SAARC Heritage Committee will be soon established and that Colombo and New Delhi has finally signed an agreement to cooperate in the preservation of Orissa Buddhist sites.

To emphasize South Asia's cultural wealth, the Festival offered various performances from all over SAARC nations: Afghanistan presented its Mili Attan and Karsak recitals; Bangladesh its bottle dance and Jhoom; Nepal provided exhibitions of Manjushree and Bhairav Kali dance; Sri Lanka contributed with Kandyan dance; and India took part with Chhau dances, Dhol Cholam and Kathakali.

SAARC Members



Indian Dance Kathakali



The Protection of Intangible Cultural Heritage

INDIGENOUS KNOWLEDGE COULD HELP DEALING WITH CLIMATE CHANGE

If local and indigenous knowledge systems (LINKS) were scientifically validated, coastal and island communities would enjoy substantial benefits. Among the territories most affected by climate change, there are numerous remote islands in Indonesia, where modern technologies for disaster prevention and management are hardly available.

During the centuries, local communities have developed different ways to face natural disasters; indeed, these populations have based their relationship with the surrounding, wild and violent nature on a multitude of traditions, customs and practices. Protected by UNESCO under the Convention for the safeguarding of intangible cultural heritage, these systems include calendars able to forecast extreme conditions such as tsunamis, strong winds and drought seasons.



Even though scientific and technological development was inspired by these effective systems, the scientific community hasn't put enough effort in giving solid, scientific validation to LINKS, resulting in no funds allocation to revitalize and take advantage from this local traditional heritage.

On the other hand, if governments, scientists and academics supported LINKS, these would offer better opportunities to assist, mitigate and help the recovery of small communities from the devastating effects of climate change and they would encourage resilience together with the promotion of cultural identity.



Among the territories most affected by climate change, there are numerous remote islands in Indonesia, where modern technologies for disaster prevention and management are hardly available.





The Protection of Intangible Cultural Heritage

MOROCCO HOSTED A WORKSHOP ON HOW TO INVENTORY MAGHREBI ICH

Fine experts from Morocco, Tunisia and Mauritania gathered in Marrakech to discuss the creation of a participative inventory on their Intangible Cultural Heritage (ICH). This workshop is part of a broader program that aims at promoting the purposes of the Convention for the safeguarding of ICH, and the consequent call to action in order to enforce it.

In the past years, the Moroccan Ministry of Culture has been focusing its efforts on preserving and increasing the value of its national cultural heritage. The administration has therefore developed a plan of action, called "Patrimoine 2020", which includes concrete programs for ICH protection, training, promotion and to raise awareness on this important issue.



Coat of Arms of Morocco



The workshop held in Marrakech was fundamental to shine a light on components of Maghrebi traditions (such as songs, dances and craft skills) that have been neglected for too long and that risk to be forgotten. The idea is to start an inventory to simplify the realization of specific strategies based on each ICH peculiarity.

The UNESCO Workshop in Marrakech



The Protection of Intangible Cultural Heritage

MALI HOSTED A WORKSHOP TO TRAIN SPECIALISED ICH OFFICERS

The Malian Ministry of Culture sponsored a workshop to train technical officers with the purpose of protecting and preserving national intangible cultural heritage (ICH).

The Minister Ndiaye Ramatoulaye Diallo took the chance to remark the wealth and diversification of natural and intangible cultural heritage in Mali. The melting-pot of ethnic groups living in the country has created a unique identity full of cultural expressions, social rituals and peculiar religious ceremonies.

The Minister also stressed how the occupation by armed groups of the territories in the north of the country has violently and precisely afflicted Malian ICH; for this reason the government intervention in this area will be a top priority of the ICH project.

Officers training will be held in partnership with UNESCO and its experts; the first step will involve methods of inventory and documentation in order to develop skills and organize further regional-level workshops.



The Minister Ndiaye Ramatoulaye Diallo

The Great Mosque Timbuktu





The Protection of Intangible Cultural Heritage

DIGITAL ACTIVISM TO REVITALIZE INDIGENOUS LANGUAGES IN MEXICO



A workshop in Oaxaca allowed digital activists to join forces in the preservation of Mexican linguistic diversity. Indeed, it has been estimated about 68 indigenous languages to coexist in Mexico, and this astonishing number is even higher if we consider variants and dialects spoken across the country. In order not to lose this important intangible cultural heritage threatened by Spanish dominant speakers, a group of activists found the internet to be their safe harbour. Advocates of this cause are encouraging native speakers to create original content online and together with more traditional means - such as academic research, documentation and language courses - they aim at revitalizing indigenous languages.

During the workshop participants had the occasion to networking, share their knowledge and plan strategies to promote sensitization on the issue. The gathering featured sessions providing different perspectives on various challenges: linguistic as well as technical, social, cultural and organizational. Besides discussion panels these young volunteers organized active how-to sessions to develop practical skills such as creating audio podcasts, subtitle videos, blogs, translate Wikipedia and engage with free software localization projects.

The success of the initiative led this new network towards more ambitious goals; soon they will replicate workshop activities at local-level events and they will constantly report their experience online so to inspire other supporters and communities alike.

Indigenous Language Digital Activists



gLAWcal Activities

Papers

TRANSNATIONAL DISPUTE MANAGEMENT, Special Issues “The New Frontiers of Cultural Law: Intangible Heritage Disputes”, in Volume 11, Issues 2, 2014, ISSN 1875-4120

The article is available online at the following website: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2472339

DESIRABILITY OF COMMODIFICATION OF INTANGIBLE CULTURAL HERITAGE: THE UNSATISFYING ROLE OF IPRS

(Paolo D. Farah and Riccardo Tremolada)

Abstract

“The increasing sensibility regarding cultural heritage provides momentum to better define a legal framework for the protection of these peculiar intangible goods. It is indeed fundamental to ascertain whether the current intellectual property rights (IPRs) regime represents an adequate model of protection *vis-à-vis* intangible cultural heritage. A plethora of caveats must be taken into consideration, starting from the desirability of the commodification of intangible cultural heritage, *i.e.* its exploitation in commercialization through the IPRs regime, but also the outlining of the legal instruments needed for guaranteeing adequate advantages for the countries and communities representing the sources of origin of the intangible goods.

Our analysis begins framing the crucial issues detected in literature regarding intangible cultural heritage and then proceeds to investigate the ways in which the actual IPRs regime grants protection to intangible goods. Our evaluation supports the idea that without a many-faceted remodeling, current intellectual property laws represent an unsatisfactory footing to protect intangible cultural heritage, as one can infer from the inefficacy of IPRs under the patent and copyright regimes to ensure protection of cultural heritage, besides falling short of fostering an appropriate comprehensive social policy.”

RIVISTA DI DIRITTO INDUSTRIALE, Issue 2, Part I, 2014, ISSN: 0035-614X, Giuffrè, pp. 21-47

The article is available online at the following website: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2472388

DIRITTI DI PROPRIETÀ INTELLETTUALE, DIRITTI UMANI E PATRIMONIO CULTURALE IMMATERIALE

(Paolo D. Farah and Riccardo Tremolada)

Abstract.

Nell'attuale contesto globale, la tutela del patrimonio culturale immateriale richiede una definizione chiara del regime giuridico applicabile nonché un vaglio circa l'adeguatezza della protezione del patrimonio culturale immateriale offerta dai diritti di proprietà intellettuale alla luce delle specificità geografiche e culturali in cui si opera. La possibilità di proteggere e salvaguardare il patrimonio culturale immateriale è di vitale importanza per alcune comunità, le quali palesano l'esigenza di mantenere controllo su tali espressioni, il cui utilizzo da parte di soggetti esterni ha spesso una portata identitaria e spirituale con riflessi sul benessere generale. L'utilizzo improprio e l'appropriazione illecita del patrimonio culturale immateriale costituiscono dunque fenomeni che non costano in un mero pregiudizio economico, bensì rappresentano una sorta di violazione dei diritti umani ovvero un oltraggio all'identità della comunità stessa. In quest'ottica un aspetto controverso riguarda la mercificazione del patrimonio culturale immateriale che risulta dall'applicazione del regime dei diritti di proprietà intellettuale. Il presente articolo persegue l'obiettivo di individuare i principali problemi posti in rilievo dalla letteratura giuridica circa il patrimonio culturale immateriale analizzando le modalità tramite cui gli attuali diritti di proprietà intellettuale garantiscono la protezione dei beni immateriali costituenti il patrimonio culturale di specifiche comunità tradizionali. Alla luce delle questioni emerse nel campo di diritti d'autore e dei brevetti, si rileva che in mancanza di un'adeguata modifica dei principali strumenti giuridici utilizzati per la tutela dei diritti di proprietà intellettuale, l'attuale regime giuridico non sia in grado di garantire una protezione efficace nei confronti degli aspetti non fisici del patrimonio culturale immateriale.

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GLAWCAL

Global Law Initiatives for sustainable Development

WHO are We

gLAWcal is an independent non-profit research organization (think tank) that aims at providing a new focus on issues related to economic law, globalization and development, namely the relationship between international economy and trade, with special attention to a number of non-trade-related values and concerns.

Through research and policy analysis, gLAWcal sheds a new light on issues such as good governance, human rights, right to water, rights to food, social, economic and cultural rights, labour rights, access to knowledge, public health, social welfare, consumer interests and animal welfare, climate change, energy, environmental protection and sustainable development, product safety, food safety and security.

All these values are directly affected by the global expansion of world trade and should be upheld to balance the excesses of globalization.

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