

Intangible Cultural Heritage: Social Memory and the Axiology of Protection

Samanta Kowalska

PhD Samanta Kowalska
University of Kalisz
Faculty of Law
Institute of Legal Sciences
Poland
e-mail: s.kowalska@uniwersytetkaliszki.edu.pl
<https://orcid.org/0000-0002-8803-3901>

Muzeológia a kultúrne dedičstvo, 2024,12:3:63-75
doi: 10.46284/mkd.2024.12.3.5

Intangible Cultural Heritage: Social Memory and the Axiology of Protection

Traditional culture and values are the axiological foundation of states. Folk culture and folklore can be considered the cornerstone of national heritage. This article analyses the actions taken by UNESCO which contributed to the crystallisation of a multilateral international agreement that, for the first time in history, covered the conservation of intangible cultural heritage. The article's main research hypothesis is the statement that cultural heritage is an axiological mirror of civilisation, as well as the basis for the existence and development of society. This is connected with a more detailed thesis that the intangible manifestations of culture are the source of living heritage of humanity and carriers of values. Since cultural heritage encompasses manifestations of various cultures' activities and creativity, the comparative method was also used. The research findings show that supporting cultural diversity plays an important role in building interpersonal solidarity in the spirit of dialogue, mutual trust and cooperation. Respect for intangible cultural heritage is a guarantee of peace and security internally and from an international perspective.

Keywords: intangible cultural heritage, international law, cultural diversity, "living" books, ethics of protection

Introduction

Cultural heritage reflects the manifestations of human creativity and invention. Heritage is a reservoir of values through which social identity and memory can be nurtured. In heritage, axiological processes are constantly taking place that connect the past with the present. Cultural heritage carries human existence beyond the ontological and physical dimensions by referring to immutable, universal values. In the literature published so far, attention is mainly focused on the description of material heritage. However, the cultural codes of heritage would have no impact without "living" social tissue. Material artefacts such as monumental architectural structures, literary works that provoke reflection, or subtle objects such as works of art arouse admiration and respect for the artistry of the human mind. Artistic creation and contact with art imbue existence with a deeper dimension. This article will discuss the process of shaping intangible heritage conservation on an international level. The arguments will be supported by pointing to strategic programs introduced by UNESCO, which highlight the role and importance of intangible heritage conservation as the symbolic genetic code of humanity.

The world of culture and the values of cultural heritage

Culture creates the basis for social roots. The life of each individual takes place in a specific socio-cultural environment. Culture has both a material aspect (e.g. letters, book collections, maps) and an intangible aspect (e.g. beliefs, legends passed down from generation to generation, local ceremonies, ethnomedicine). The values that give meaning to human existence constitute the core of culture. Hence, it can be stated that culture includes symbolic features of the way of life of a specific nation or ethnicity.¹ In sociological terms, “culture” focuses on the social processes that lead to the externalisation of a given idea or concept. As Anthony Giddens points out, culture plays “an important role in consolidating the values and norms of a given society, but on the other hand, it creates significant opportunities for creativity”.² Social life is dynamic, which means that there are constant interactions in the sphere of culture. As a result, new patterns of creation and perception of the surrounding reality are formed. Culture expands, but also fills human activity with new content, for example, subcultures related to given professions, urban subcultures or ecological movements. Each social group uses a code of communication derived from the symbolic sphere. The objectification of human cognition in the form of a tangible work is a characteristic feature of the sphere of culture. In this approach, “the idea is the primary subject of the work which has been created”.³ This often leads to culture being perceived through the prism of material monuments and objects of contemporary art.

It should be noted, that the concept of “inheritance” stands for heritage passed down from our ancestors. Cultural heritage therefore goes beyond physical objects. As Jan Pruszyński emphasises:

monuments and cultural heritage are not synonymous.... Monuments can theoretically be perceived in isolation from history, creating abstract and academic constructions of artistic trends, styles, schools or masters’ workshops – cultural heritage cannot be considered in isolation from history, because as a phenomenon it provides evidence in the process of history. Heritage is an attitude to the past not only in its material dimension (...). Spiritual culture shapes the personality, material culture only sustains it.⁴

Cultural heritage is thus closely linked to spiritual values and universally accepted norms, which play an essential role in ensuring social development in the spirit of peaceful coexistence and dialogue. Kamil Zeidler underlines that “the moral and legal duty of the present generations is to pass on the cultural heritage of previous generations to future generations in the best possible condition”⁵. Lack of respect for monuments that are part of cultural heritage

¹ BALDWIN, Elaine, LONGHURST, Brian, McCracken, Scott, OGBORN, Miles, SMITH, Greg. *Wstęp do kulturoznawstwa*. Poznań: Wydawnictwo “Zysk i S-ka”, 2007, p. 24.

² GIDDENS, Anthony. *Sojologia*. Warszawa: Wydawnictwo Naukowe PWN, 2008, p. 48.

³ DASZKIEWICZ, Wojciech. Podstawowe rozumienie kultury - ujęcie filozoficzne. In: *Roczniki Kulturoznawcze*, 1, 2010, 58.

⁴ PRUSZYŃSKI, Jan. *Dziedzictwo kultury Polski - jego straty i ochrona prawna*, t. I. Kraków: Kantor Wydawniczy “Zakamycze”, 2001, pp. 42–43, 44–45, 48.

⁵ ZEIDLER, Kamil. Ochrona dziedzictwa kultury a turystyka, czyli w poszukiwaniu “złotego środka”. In: *Folia Turistica*, 20, 2009, 158.

results in the breaking of the “chain that allows it to endure”.⁶ The weakening or breaking of intergenerational ties can result in the erosion of culture and deprive the individual of a sense of participation in culture. Katarína Košťalová and Ivan Murin argue that cultural phenomena are transmitted in connection with the past or revitalised in the present.⁷ This process should proceed with respect for the axiological determinants of human personality. As Ladislav Lenovský points out, the terms “cultural values”, “cultural resources” and “cultural potential” are synonymous.⁸ Cultural management supports the process of influencing cultural potential through the multiplication of cultural assets. It should be noted that the genesis of cultural phenomena is rooted in the immaterial sphere. Intangible heritage creates an axiological matrix for the impulse that precedes the materialisation of cultural phenomena and goods in the literal dimension. Therefore, the description of intangible heritage as the “mother of all cultures”⁹ may be considered accurate. However, before the paradigm of the protection of intangible heritage is discussed, it is necessary to outline the issue of the link between heritage and national culture in more detail.

Sources of national identity

Throughout history, each individual and each social group has been expressed through culture. In the mirror of time, one can see the values that construct identity. Culture allows one to define oneself, draw inspiration from the past, and develop according to individual capacity based on an internal value system. Cultivating heritage is an essential factor in preserving culture with its unique regional features.¹⁰ It should be borne in mind that cultural identity and cultural diversity are not mutually exclusive. Admittedly, they are separate building blocks in the axiological core of a given social group, but together they form an image of humanity composed of all the nations of the world. Cultural community requires respect for the equality, sovereignty and dignity of every human being. The development of identity cannot take place through attempts to unify, exercise cultural hegemony or impose stereotypical cultural models. In the light of the above, the message of the UNESCO Mexico City Declaration – that all cultural policy should restore the human dimension to the idea of development – remains valid to this day.¹¹ The axiology of intangible cultural heritage is a condition for the functioning of a nation based on the social and spiritual dimension of human existence. Culture is the basis for morally engaged development.

⁶ DOBRZYN, Anna. *Międzynarodowy przepływ dzieł sztuki. Między reglamentacją a liberalizacją*, quoted for: ZEIDLER, Kamil. *Wartości zabytku jako kategoria normatywna*. In: SZAFRAŃSKI, Wojciech (ed.). *Wokół problematyki prawnej zabytków i dzieł sztuki*, t. II. Poznań: Wydawnictwo Poznańskie, 2008, p. 47.

⁷ KOŠTIALOVÁ, Katarína, MURIN, Ivan. Changes in Intangible Cultural Heritage in Slovakia. The Case the Fuja-ra. In: *Traditiones*, 50(1), 2021, 151.

⁸ LENOVSKÝ, Ladislav. Cultural Heritage as a Part of Cultural Potential (in the Context of Revitalization of Ethnic Minorities). In: *Studia Etnologiczne i Antropologiczne*, 19, 2019, 79.

⁹ ITO, Nobuo. *Intangible Cultural Heritage involved in Tangible Cultural Heritage*. In: *14th ICOMOS General Assembly and International Symposium: “Place, Memory, Meaning: Preserving Intangible Values in Monuments and Sites”*, 27–31 October 2003, Victoria Falls, Zimbabwe.

¹⁰ *Resilienz von Living Heritage: Mit Immateriellem Kulturerbe nachhaltig in die Zukunft*. In: BAUER, Marie-Theres, BIASETTO, Cristina (eds.). *Immaterielles Kulturerbe in Österreich. Eintragungen 2020–2021*. Österreichische UNESCO-Kommission, p. 14.

¹¹ Mexico City Declaration on Cultural Policies, World Conference on Cultural Policies, UNESCO, Mexico City, 26 July – 6 August 1982, pt. 15.

Traditional culture is at the core of the formation of national heritage. Folklore permeates the history and culture of nations. By definition, “folklore” is defined as the collective creation of a cultural community based on tradition.¹² Traditional culture, adopting various forms of folkloric expression, shapes the social identity of individuals and groups. As a result, folklore creates a “living” culture that makes up the spiritual structure of a given community. Folklore can, therefore, be considered a carrier of identity and community. Following this course of reasoning, traditional culture encompasses professed values, adopted ways of life, and the religious and symbolic spheres. Among the manifestations of folk art are the written word (literary folklore), traditional rituals, folk costumes, handicrafts and culinary products. Many manifestations of folk art function only in oral lore. The ephemeral nature of oral folklore makes it particularly vulnerable to loss.

It bears highlighting that folklore culture is not static but evolves with the transformations of social life. Modern media and communication technologies are increasingly entering everyday life. For many folk artists, new technologies create an opportunity to reach a larger audience. With the help of digitisation, it is possible to preserve and perpetuate cultural messages in digital form. Currently, we observe the shaping of e-folklore, which, using virtual media, changes its reach from the local to the global expanse of the Internet. Digital cultural institutions, blogs and groups on social networks are bringing together artists, art enthusiasts and folklorists. It should be emphasised that content on the Internet can be freely modified at any time and posted in many variants. The constant processing of information in the virtual space is a challenge for the conservation of cultural heritage. Faced with rapid technological development and the expansion of the phenomenon of globalisation, which unifies concepts, models and behaviours, there is an urgent need to protect that which constitutes the symbolic DNA code of humanity.

In contrast to the variability of media coverage and the expendability of corpus mechanicum, the warp of intangible heritage is aimed at ensuring the harmonious development of society based on a stable axiological foundation. The UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore indicates that folklore is a means of uniting people and confirming their identity.¹³ There is no doubt that without protecting its traditional culture, society cannot function and develop, just like a tree perishes without healthy roots and hydration. The values that make up the cells and tissues of a “living” culture constitute the “root system” for humanity. Mass culture, on the other hand, effaces the individual mark of the creator, their sense of aestheticism and artistry. In works of folk art, apart from the material dimension, the author’s personality, sensitivity and way of perceiving reality are externalised.

In light of UNESCO’s Recommendation of 15 November 1989, folklore should be protected by social groups whose identity is defined by it, as well as by scientific centres and cultural institutions. Member States should support folklore research, coordinate the development of legal instruments and implement educational activities, including pilot projects both on the regional and nation-wide level. The document emphasises the role of keeping

¹² *Guidelines for the Establishment of Living Human Treasures System*, UNESCO Section of Intangible Heritage, Korean National Commission for UNESCO, Paris-Seoul 2002, p. 5. See: PARK, Seong-Yong. *The Conceptual Evolution of Cultural Heritage and ICH*. In: *On Intangible Heritage Safeguarding Governance: An Asia-Pacific Context*. Newcastle upon Tyne: Cambridge Scholars Publishing, 2013, p. 15.

¹³ Recommendation on the Safeguarding of Traditional Culture and Folklore, adopted in Paris on 15 November 1989. See: KITTELÄ, Seppo. Folklore as an Evidential Category. In: *Folia Linguistica*, 54(3), 2020, 698, 699; MICHA-LOPOULOS, Stelios, XUE, Melanie Meng. Folklore. In: *Quarterly Journal of Economics*, 136(4), 2021, 1993.

regional and national registers of folklore institutions, keeping record of intangible cultural heritage phenomena and objects, and creating museums with folklore departments (sections).¹⁴ Considering that many forms of folkloric expression are created through a direct relationship between the creator and the recipient, it is necessary to document and carefully select instruments of protection that preserve the “spirit” of the intangible heritage. “Spoken” archives combining image and sound constitute a helpful tool in this regard. Another recommendation concerns the introduction of forms of support for folk artists, private museums and people considering studying traditional professions. Actions in this direction should be taken by national authorities and local government bodies. Many traditional cultural practices and skills are disappearing at a rapid pace, and the individuals who retain personal knowledge about them are often elderly. Intangible heritage forms the “tissue” of culture, hence one should not tarry. Witnesses of the past are like “living books” from whom one can learn, drawing on the knowledge and experience of past generations.

The Istanbul Declaration emphasised that intangible cultural heritage faces “extreme vulnerability” due to the threat of marginalisation, conflicts and growing social antagonism.¹⁵ Intangible heritage allows us to read the meaning of the codes used during the realisation of the creator’s vision in the form of a literal work, such as folk music, traditional dance, or a theatrical performance or dance drama relating to folk tales. Various forms of intangible heritage are characterised by being territorially unlimited, unlike immovable tangible monuments, which are closely related to a specific spatial structure. The axiology of intangible heritage through intangible values allows for the protection of traditions even if the members of a given nation had to leave their country and live in diaspora due to armed conflicts or persecution. Intangible heritage, due to its delicate nature, should be protected both during war and in times of relative stabilisation. For this purpose, protection strategies, documentation projects, scientific research and educational programs should be implemented. The Istanbul Declaration emphasises that intangible cultural heritage, which is the source of cultural identity for nations, is an integral part of the heritage of all humanity.¹⁶ This means that in order to protect intangible heritage, forward-looking actions should be implemented on a regional, national and international level.

In the 1990s, UNESCO took a number of actions to protect folk culture and folklore, which are now referred to as manifestations of intangible cultural heritage.¹⁷ Among the initiatives taken, one of special note has been the designation of “Living Human Treasures”. This strategic programme was launched in 1994. The term Living Human Treasures refers to people who are the creators, administrators and bearers of specified elements of intangible cultural

¹⁴ Pt. “B” and “C” of UNESCO’s Recommendation on the Safeguarding of Traditional Culture and Folklore, adopted in Paris on 15 November 1989.

¹⁵ Final Communiqué - Istanbul Declaration, Third Round Table of Ministers of Culture “Intangible Cultural Heritage, Mirror of Cultural Diversity”, Istanbul, Turkey 16–17 September 2002, pt. 4. Cf. BASTET, Tatiyana, HOUL-BROOK, Ceri. Folklore: Cultural Roadmaps to Creating, Perpetuating, Resolving and Evolving Peace and Conflict. In: *Peace Review: A Journal of Social Justice*, 35, 2023, 188.

¹⁶ Final Communiqué - Istanbul Declaration, Third Round Table of Ministers of Culture “Intangible Cultural Heritage, Mirror of Cultural Diversity”, Istanbul, Turkey 16–17 September 2002, pt. 1.

¹⁷ CHAINOGLOU, Kalliopi. The Protection of Intangible Cultural Heritage in Armed Conflict: Dissolving the Boundaries Between the Existing Legal Regimes? In: *Santander Art and Culture Law Review*, 2(3), 2017, 110. See also GKANA, Alik. Safeguarding Shared Intangible Cultural Heritage: A “Bridge over Troubled Water”? In: *Gdańskie Studia Międzynarodowe*, 18(1–2), 2020, 176.

heritage¹⁸ of high historical, cultural or artistic value.¹⁹ Traditional folklore knowledge is based on vanishing and increasingly rare skills. According to UNESCO, Living Human Treasures are “persons who embody in the very highest degree the skills and techniques necessary for the production of selected aspects of the cultural life of a people and the continued existence of their material cultural heritage”.²⁰ In actions taken to preserve intangible assets, it is extremely important to implement a heritage management mechanism that takes into account the national legal tradition. Hence, depending on the country, cultural circle and geographical region, terms such as Bearer of Popular Craft Tradition (Czech Republic), Holder of an Important Intangible Cultural Property (Japan and Republic of Korea) or National Living Treasure (Republic of Korea), are used.²¹ The Living Human Treasures program was based on concerns over the fragility and ephemerality of folk culture. The preservation of folklore is a prerequisite for the protection of national cultural identity and, in a broader sense, the creation of a “culture of peace through international cultural exchanges and co-operation”.²² By cultivating folk culture, it is therefore possible to strengthen the sense of axiological continuity as a guarantor of society’s harmonious development.

“A mirror of cultural diversity”²³ – intangible cultural heritage

A broader designation of intangible cultural heritage has been gradually gaining traction in international fora. In 2001, Janet Blake argued that the human context in which intangible heritage is created should be protected as much as its tangible manifestations.²⁴ Over time, the conviction began to crystallise that not only external manifestations of folklore should be protected²⁵ but also values, along with the processes that lead to the shaping of intangible cultural heritage.²⁶ Previously, the concepts of heritage protection were strongly embedded in historicism and conservation doctrine and practice.²⁷ The crystallisation of intangible heritage conservation shifted the focus to people as bearers of values and depositors of traditional knowledge and skills.

¹⁸ In the document UNESCO *Guidelines for the Establishment of National “Living Human Treasures” Systems* used in this matter the term “bearers of knowledge and skills”, pt. I, 2(i).

¹⁹ UNESCO *Guidelines for the Establishment of National “Living Human Treasures” Systems*, pt. I, 3(i).

²⁰ *Guidelines for the Establishment of Living Human Treasures System*, UNESCO Section of Intangible Heritage, Korean National Commission for UNESCO, Paris-Seoul 2002, p. 19. See: GAUTHIER, Antoine (ed.). *Living Human Treasures. Systems throughout the World*. Québec: Conseil québécois du patrimoine vivant, 2021, p. 6.

²¹ UNESCO *Guidelines for the Establishment of National “Living Human Treasures” Systems*, pt. I, 2(i).

²² Resolution on Establishment of a System of “Living Cultural Properties” (Living Human Treasures) [142 EX/18 and 142 EX/48], Executive Board of UNESCO at its 142nd Session in Paris on 10 December 1993, pt. 3.

²³ Final Communiqué - Istanbul Declaration, Third Round Table of Ministers of Culture “Intangible Cultural Heritage, Mirror of Cultural Diversity”, Istanbul, Turkey 16–17 September 2002.

²⁴ Developing a New Standard-Setting Instrument for the Safeguarding of Intangible Cultural Heritage. Elements for consideration by Janet Blake Honorary Visiting Research Fellow School of Law University of Glasgow (United Kingdom) [Revised Edition, 2002], UNESCO, Paris 2001, p. V.

²⁵ See: Action Plan for the Safeguarding of the Intangible Cultural Heritage as approved by the International Experts on the Occasion of the International Round Table on “Intangible Cultural Heritage - Working Definitions” organised by UNESCO in Piedmont, Italy, from 14 to 17 March 2001, pt. 7, 9.

²⁶ KOWALSKA, Samanta. Legal Protection of the Intangible Culture Heritage. In: *Societas et Iurisprudentia*, 2(3), 2014, pp. 79–95.

²⁷ GÜVEN ULUSOY, Özge F. Integrated Documentation of Tangible and Intangible Cultural Heritage in Urban Historical Sites. In: *The International Archives of the Photogrammetry, Remote Sensing and Spatial Information Sciences*, XLVIII -M-2-2023, 2023, 702; EICHLER, Jessika. *Intangible Cultural Heritage under Pressure? Examining Vulnerabilities in ICH Regimes - Minorities, Indigenous Peoples and Refugees*. Stuttgart: Institut für Auslandsbeziehungen, 2020, p. 14.

The first legally binding international instrument for the protection of intangible cultural heritage was signed in Paris on 17 October 2003. The UNESCO General Conference adopted the Convention for the Safeguarding of the Intangible Cultural Heritage at its 32nd session. It should be clarified that the items proclaimed as “Masterpieces of the Oral and Intangible Heritage of Humanity” before the Convention came into force were incorporated to the Representative List of the Intangible Cultural Heritage of Humanity.²⁸ The Masterpieces of the Oral and Intangible Heritage of Humanity program was introduced in 1997. The aim was to get governments and non-governmental organisations actively involved in the work of protecting oral and intangible heritage. Examples of intangible heritage of exceptional value or those threatened with extinction were to be proclaimed.²⁹ In this way, local communities were given the opportunity to cultivate and promote particularly valuable expressions of traditional culture. Masterpieces of thought and creativity make up the cultural and historical roots of a community.

The UNESCO Convention of 17 October 2003 created an legal framework for the protection of intangible heritage on an international level. Pre-existing international agreements and “soft law” acts were insufficient to fill the gap in international law. The existing resolutions and documents protected cultural and natural heritage³⁰ but an effective and efficient international legal instrument designed to protect intangible heritage was lacking. The intangible sphere touches the diverse, complex and multi-faceted dimensions of human life. The Preamble to the Convention noted that intangible heritage contributes to the development of creativity and the enrichment of cultural diversity. The Convention consists of 40 articles that form an internal and coherent whole. Article 2 contains a legal definition of the concept of “intangible cultural heritage”. Accordingly, the term intangible heritage encompasses practices, perceptions, means of transmission, knowledge and skills, as well as related instruments, objects and cultural artifacts. Language as a vehicle of cultural heritage, knowledge and practices about nature and the universe, customs, performing arts and folk crafts are all listed among the manifestations of intangible cultural heritage (Article 2, item 2). This aspects refers to elements of cultural heritage that do not have a material externalisation or physical form. Intangible heritage creates an axiological framework for the idea that precedes materialisation in phenomena and cultural assets.³¹ Hence, intangible heritage also includes what is non-literal: memories and feelings.³² Intangible heritage is transmitted intergenerationally, constantly recreated by communities and

²⁸ Article 31, item 1, the Convention for the Safeguarding of the Intangible Cultural Heritage adopted in Paris on 17 October 2003.

²⁹ *Guidelines for the Establishment of Living Human Treasures System*, UNESCO Section of Intangible Heritage, Korean National Commission for UNESCO, Paris-Seoul 2002, p. 29. See: Questionnaire (for Member States) for the Updating of the Existing “Guidelines for the Establishment of a ‘Living Human Treasures’ System” in the Member States [2002 Edition].

³⁰ Convention concerning the Protection of World Cultural and Natural Heritage, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its 17th session in Paris on 16 November 1972.

³¹ HANKE, Benjamin. *Begriffsdefinition und Dimensionen des Immateriellen Kulturerbes*. In: HANKE, Benjamin. *Kulturelle Teilhabe durch Immaterielles Kulturerbe. Instrumente der Kulturpolitik in Deutschland zur Umsetzung der UNESCO-Konvention von 2003*. Wiesbaden: Springer, 2024, p. 67.

³² STEFANO, Michelle, DAVIS, Peter, CORSANE, Gerard (eds.). *Safeguarding Intangible Cultural Heritage*. Woodbridge: The Boydell Press, 2012, p. 1. See also, e.g. ZOU, Hoideiniang, PRISCILLA, Evangeline. Folklore: An Identity Born of Shared Grief. In: *Cogent Arts & Humanities*, 10(1), 2023, pp. 1–15; GAO, Yang, LI, Mengmeng, LI, Qingning, HUANG, Keji, SHEN, Shiwei. Inheritors’ Happiness and its Relevant Factors in Intangible Cultural Heritage. In: *Sustainability*, 14(21), 2022, 1–17.

social groups in relation to their environment, history and the impacts of nature (Article 2, item 1). States Parties are obliged to protect the intangible cultural heritage located on their territory with the participation of local communities and individuals who create and transmit the heritage from generation to generation (Article 11 in relation to Article 15). Awareness of the importance of intangible heritage for maintaining socio-cultural continuity should encourage the implementation of strategic protection programs.

In order to protect and promote intangible heritage and develop the spirit of cooperation in this area, UNESCO established the Representative List of the Intangible Cultural Heritage of Humanity. Phenomena and cultural goods from various nations and ethnic groups are named. The List is maintained and updated by the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage. States Members are elected for a period of four years on the principles of equitable geographical representation, with half of the composition changing every two years.³³ Member States present candidates who are “qualified in the various fields of the intangible cultural heritage” (Article 6, item 7 in fine). Such candidates should combine specialist legal knowledge with verified scientific knowledge. Measures taken in this area are based on respect for human rights, social activation in the field of culture, promotion of both formal and informal cultural education, and the protection of the rights of indigenous people. An important role in this regard is played by intergenerational dialogue, building a sense of unity, tolerance and understanding between people.

The phenomenon of globalisation, progressive degradation of the cultural landscape, the rise of artificial divisions between people, natural disasters and armed conflicts make the delicate structure of intangible heritage particularly vulnerable to erosion. Anna Przyborowska-Klimczak pointed out that “preserving cultural diversity in this area [intangible heritage] is a special challenge for the international community. Awareness of the existing threats to these elements of heritage, which are quite fleeting, particularly sensitive and sometimes difficult to consolidate, should prompt states to seek appropriate legal and organizational instruments to prevent the irreversible loss of the most valuable elements of the world’s intangible heritage”³⁴. Elements threatened with extinction can, at the request of a state party, be entered on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding (Article 17, item 1).³⁵ International assistance on the basis of Convention norms may be granted for activities related to the protection of intangible heritage requiring urgent protection (Article 20, pt. “a”). A request for international assistance may be submitted to the committee by any state party in whose territory the threatened heritage elements are located. Where circumstances so require, a request may be made jointly by two or more states parties (Article 23, item 2). In cases requiring immediate action, the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage considers requests for assistance as a matter of priority.

Protection of intangible heritage integrated into biological tissue

Surveying and protecting intangible heritage should take into account regulations on the protection of tangible heritage, intellectual property rights and environmental norms. Indeed,

³³ Legal basis: Article 5, item 1 in relation to Article 6, item 1–2 and 4, the Convention for the Safeguarding of the Intangible Cultural Heritage adopted in Paris on 17 October 2003.

³⁴ PRZYBOROWSKA-KLIMCZAK, Anna. Międzynarodowa ochrona niematerialnego dziedzictwa kulturalnego. In: *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego*, 3, 2005, 20, 21.

³⁵ On the basis of Article 17, item 3, in cases of extreme urgency the Committee may inscribe an element of intangible cultural heritage following a consultation with a State Party.

the memory of nations lies not only in the chronicles and documents stored in archives and libraries but also in the environment in which human life takes place. When considering intangible cultural heritage, it is necessary to emphasise the importance of protecting the biological tissue in which human existence is embedded. For many people, nature is a source of creative inspiration and creative impulse. According to the holistic view of nature, all elements and processes are related and complementary to each other.

There is no doubt that holism should also be applied to artistic activity and expression, which is shaped under the influence of social interactions and biotic factors in a specific natural spaces.³⁶ An illustration of these arguments is Iran's Chovgan (Chovqan, Chowkan) tradition, which has existed for over 2,000 years. Chovgan is a traditional horse-riding game in Iran that combines storytelling with a musical spectacle.³⁷ The traditions and customs nurtured as part of Chovgan serve to maintain socio-cultural continuity. Chovgan is based on respect for ancestral heritage and natural heritage. The rider and the horse form an inseparable whole. People who care for the horses care for the animals and live in harmony with them. The emotional bond of caregivers with their animals is also very important in the traditional breeding of the white horses known as Lipizzans, important in much of Central and Eastern Europe.³⁸ Horse breeding brings whole families together. The horses are also taken care of by people associated with hippotherapy, horse riding, agriculture and stud farms. At stud farms, the caregiver's custody begins with the birth of the foal, which creates a strong bond with the animal. Each horse is also provided with the care of a qualified veterinarian. Breeding Lipizzans combines material heritage with the intangible sphere, for example, horse-inspired painting, the creation of accessories and riding costumes, traditional vocabulary. The breeding of falcons is also a carrier of identity in many cultures. Falconry is an example of a "living" heritage that has been passed down from generation to generation in various regions of the world for over 4,000 years.³⁹ Originally, people trained birds of prey to hunt for food. Over time, falconry has become an integral part of cultural heritage. Falconers have a special bond with their birds. Falcon breeding is a symbol of regional cultures in which attention is paid to maintaining harmonious relations with nature. Nowadays, falconers support the establishment of falcon breeding facilities and hospitals for birds, as well as the protection of the natural habitats of falcons. Thus, interactions and interdependencies between cultural and natural heritage are strong. Humans are dependent on the forces of nature; hence, in order to protect cultural heritage, the natural environment in which the processes that make up the systems of life on Earth take place should be taken into account. Without protection of the natural environment, it is impossible to ensure decent living conditions for people and healthy ecosystems.

³⁶ The role of considering natural values while preserving cultural heritage objects is indicated in Article 5.1, The Burra Charter. The document was adopted by Australia ICOMOS (the Australian National Committee of ICOMOS) on 19 August 1979. The Charter was revised in 1981, 1988, 1999 and 2013.

³⁷ The Chowkan tradition was inscribed on the Representative List of the Intangible Cultural Heritage of Humanity in 2017 (Iran).

³⁸ Lipizzan horse breeding traditions were inscribed on the Representative List of the Intangible Cultural Heritage of Humanity in 2022 (Austria, Bosnia and Herzegovina, Croatia, Hungary, Italy, Romania, Slovakia, Slovenia).

³⁹ Falconry has been inscribed on the Representative List of the Intangible Cultural Heritage of Humanity in 2021 (Austria, Belgium, Croatia, Czechia, France, Germany, Hungary, Ireland, Italy, Kazakhstan, Kyrgyzstan, Mongolia, Morocco, Netherlands, Pakistan, Poland, Portugal, Qatar, Republic of Korea, Saudi Arabia, Slovakia, Spain, Syrian Arab Republic, United Arab Emirates).

Authenticity and the importance of the vitality of cultures

Currently, protection of heritage is challenged by the phenomenon of merchandising, which leads to the transformation of cultural goods into retail products. Using social engineering methods, merchandising influences customer behaviour through the way goods are presented and arranged, the interior design of the space, and the atmosphere created by the seller. In this context we are dealing with so-called dedicated merchandising products aimed at generating profits with a relatively low production cost.⁴⁰ In the sphere of culture, the technique of merchandising can lead to the mass production of goods that reference the socio-historical context of a given community but are not, in fact, ephemeral cultural goods. Objects sold as souvenirs in museum gift shops which are modelled on actual exhibits and monuments serve as an example here.⁴¹ Often, the industrial production of such products teeters on the border of legality, for example, when images of celebrated figures are used without the knowledge and consent of their descendants. Images of historical figures are often placed on objects unworthy of their legacy and their contribution to public life, society, science and art. Freedom of thought, expression and information does not excuse the violation of personal rights or the distortion of the cultural image of individuals and social groups. Currently, merchandising products are increasingly sold via electronic trading platforms (e-commerce platforms).

The UNESCO Convention of 20 October 2005 emphasises that cultural diversity contributes to the broadening of people's horizons, nurturing human capacities and values and forms of expression.⁴² The distribution of cultural goods is a form of flow and exchange of ideas, stimulating culture-forming and cultural interactions between people. Culture plays an important role in the design and implementation of national development policies. With the help of cultural services, it is possible to disseminate literary and artistic creations and develop the potential of individual communities. A balanced and fair cultural exchange fosters dialogue between cultures, promotes tolerance and generates respect for the cultural heritage of individual nations which together form the cultural heritage of humanity. Hence, rationally implemented means of distributing cultural goods can provide an additional impulse for the development of cultural institutions, creators and artists, and, on a transnational scale, protect and promote the vitality of cultures. However, in undertaking action in this area, it is important to bear in mind that, as emphasised in the Convention, cultural goods are carriers of identity, meanings and values, therefore they cannot be reduced to or treated as purely commercial and mercantile objects.

Summary

Actions taken to protect intangible cultural heritage are preceded by legal acts and recommendations for the protection of folk culture. While monuments and material objects

⁴⁰ PALÙ, Doriana Dal, LERMA, Beatrice, BOZZOLA, Marco, DE GIORGI, Claudia. Merchandising as a Strategic Tool to Enhance and Spread Intangible Values of Cultural Resources. In: *Sustainability*, 10(7), 2018, 1.

⁴¹ CHENG, Sida. *How Do Museums Develop a Sustainable Business Model through Retail Merchandising? A Case Study of the Palace Museum*. Leuven: KU Leuven, Faculty of Arts, 2018–2019, p. 25. Cf. ZHANG, Bolun, CHENG, Peng, DENG, Lujie, ROMAÏNOOR, Nurul Hanim, HAN, Jianhong, LUO, Guoshuai, GAO, Tianbo. Can AI-generated Art Stimulate the Sustainability of Intangible Cultural Heritage? A Quantitative Research on Cultural and Creative Products of New Year Prints generated by AI. In: *Heliyon*, 9(10), 2023, 1–15.

⁴² Preamble, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in Paris on 20 October 2005 during the 33rd session of the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

define the socio-cultural space of human functioning, intangible heritage is rooted in the sphere of thought, emotions and spirituality. Federico Lenzerini correctly states that the culture of a nation is created by values and all those intangible elements that a given community considers to be components of its internal identity, distinguishing it from other social groups.⁴³ At the same time, the aforementioned elements make up the “very heart of [the] distinctive idiosyncrasy”⁴⁴ of a given nation. Despite its distinctiveness, intangible heritage makes it possible to build bridges between people. Although it is externalised in the material sphere, intangible heritage exists primarily in the spiritual one. This leads us to the conclusion that intangible heritage is not constructed by the representativeness of tangible objects such as monuments, towering buildings or large architectural complexes. A human being is the creator and bearer of intangible heritage. Preserving intangible cultural heritage therefore involves on listening to the “living books” of culture-bearers, recording and understanding their words in order to be able to pass them on. Intangible heritage consists of the collective memory of humanity, a factor in shaping and confirming the cultural identity of various individuals and social groups. As Laurajane Smith and Natsuko Akagawa argue, heritage creates and recreates a sense of social inclusion.⁴⁵ Hence, blurring traces of the past will lead to the exclusion and alienation of people in a world in which authenticity is increasingly displaced by triteness, pettiness and cheap fakes. Cultural heritage, on the other hand, is closely related to the identity that is shaped by intangible values. Intangible heritage represents the diversity of living heritage of humanity. A strong rootedness in heritage is therefore a guarantee of the development and continuation of a active culture in which human beings can ground their identity.

References

- BASTET, Tatiyana, HOULBROOK, Ceri (2023). Folklore: Cultural Roadmaps to Creating, Perpetuating, Resolving and Evolving Peace and Conflict. In: *Peace Review: A Journal of Social Justice*, vol. 35, pp. 187–194.
- BALDWIN, Elaine, LONGHURST, Brian, McCracken, Scott, OGBORN, Miles, SMITH, Greg. (2007). *Wstęp do kulturoznawstwa*, Poznań: Wydawnictwo “Zysk i S-ka”. ISBN 978-83-7506-079-9.
- CHAINOGLU, Kalliopi (2017). The Protection of Intangible Cultural Heritage in Armed Conflict: Dissolving the Boundaries Between the Existing Legal Regimes? In: *Santander Art and Culture Law Review*, vol. 3, No. 2, pp. 109–134.
- CHENG, Sida. (2018–2019). *How Do Museums Develop a Sustainable Business Model through Retail Merchandising? A Case Study of the Palace Museum*. Leuven: KU Leuven, Faculty of Arts.
- EICHLER, Jessika (2020). *Intangible Cultural Heritage under Pressure? Examining Vulnerabilities in ICH Regimes - Minorities, Indigenous Peoples and Refugees*. Stuttgart: Institut für Auslandsbeziehungen. ISBN 978-3-948205-15-7.
- DASZKIEWICZ, Wojciech. (2010). Podstawowe rozumienie kultury - ujęcie filozoficzne. In: *Roczniki Kulturoznawcze*, 1, pp. 43–64.

⁴³ LENZERINI, Federico. Intangible Cultural Heritage: The Living Culture of Peoples. In: *The European Journal of International Law*, 22(1), 2011, 101.

⁴⁴ LENZERINI, Federico. Intangible Cultural Heritage ..., p. 102.

⁴⁵ SMITH, Laurajane, AKAGAWA, Natsuko (eds.). *Intangible Heritage*, London, New York: Routledge Taylor & Francis Group, 2009, p. 7.

- DOBRZYŃ, Anna. Międzynarodowy przepływ dzieł sztuki. Między reglamentacją a liberalizacją, quoted for: ZEIDLER, Kamil. Wartości zabytku jako kategoria normatywna. (2008). In: SZAFRAŃSKI, Wojciech (ed.). *Wokół problematyki prawnej zabytków i dzieł sztuki*, t. II. Poznań: Wydawnictwo Poznańskie, 2008. ISBN 978-83-7177-590-1.
- GAO, Yang, LI, Mengmeng, LI, Qingning, huang, Keji, SHEN, Shiwei (2022). Inheritors' Happiness and its Relevant Factors in Intangible Cultural Heritage. In: *Sustainability*, vol. 21, No. 14, pp. 1–17.
- GAUTHIER, Antoine (ed.). (2021). *Living Human Treasures. Systems throughout the World*. Québec: Conseil québécois du patrimoine vivant. ISBN 978-2-922180-37-4.
- GIDDENS, Anthony. (2008). *Socjologia*. Warszawa: Wydawnictwo Naukowe PWN. ISBN 978-83-01-14408-1.
- GKANA, Aliko (2020). Safeguarding Shared Intangible Cultural Heritage: A “Bridge over Troubled Water”? In: *Gdańskie Studia Międzynarodowe*, Vol. 1–2, No. 18, pp. 176–194.
- GÜVEN ULUSOY, Özge F. (2023). Integrated Documentation of Tangible and Intangible Cultural Heritage in Urban Historical Sites. In: *The International Archives of the Photogrammetry, Remote Sensing and Spatial Information Sciences*, XLVIII-M-2-2023, pp. 701–707.
- HANKE, Benjamin. Begriffsdefinition und Dimensionen des Immateriellen Kulturerbes (2024). In: HANKE, Benjamin. *Kulturelle Teilhabe durch Immaterielles Kulturerbe. Instrumente der Kulturpolitik in Deutschland zur Umsetzung der UNESCO-Konvention von 2003*. Wiesbaden: Springer. ISBN 978-3-658-44085-5.
- ITO, Nobuo. Intangible Cultural Heritage involved in Tangible Cultural Heritage. (2003). In: *14th ICOMOS General Assembly and International Symposium: 'Place, Memory, Meaning: Preserving Intangible Values in Monuments and Sites'*, 27–31 October 2003, Victoria Falls, Zimbabwe.
- KITILÄ, Seppo. (2020). Folklore as an Evidential Category. In: *Folia Linguistica*, 54(3), pp. 697–721.
- KOŠTIALOVÁ, Katarína, MURIN, Ivan. (2021). Changes in Intangible Cultural Heritage in Slovakia. The Case the Fujara. In: *Traditiones*, 50(1), 151–171.
- KOWALSKA, Samanta (2014). Legal Protection of the Intangible Culture Heritage. In: *Societas et Iurisprudencia*, 2(3), pp. 79–95.
- LENOVSKÝ, Ladislav. (2019). Cultural Heritage as a Part of Cultural Potential (in the Context of Revitalization of Ethnic Minorities). In: *Studia Etnologiczne i Antropologiczne*, vol. 19, pp. 77–88.
- LENZERINI, Federico (2011). Intangible Cultural Heritage: The Living Culture of Peoples. In: *The European Journal of International Law*, 22(1), pp. 101–120.
- MICHALOPOULOS, Stelios, XUE, Melanie Meng (2021). Folklore. In: *Quarterly Journal of Economics*, 136(4), pp. 1993–2046.
- PALÙ, Doriana Dal, Ierma, Beatrice, BOZZOLA, Marco, DE GIORGI, Claudia (2018). Merchandising as a Strategic Tool to Enhance and Spread Intangible Values of Cultural Resources. In: *Sustainability*, vol. 7, No. 10, pp.1–23.
- PARK, Seong-Yong. The Conceptual Evolution of Cultural Heritage and ICH (2013). In: *On Intangible Heritage Safeguarding Governance: An Asia-Pacific Context*. Newcastle upon Tyne: Cambridge Scholars Publishing. ISBN 1-4438-5173-6.
- PRZYBOROWSKA-KLIMCZAK, Anna (2005). Międzynarodowa ochrona niematerialnego dziedzictwa kulturalnego. In: *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego*, vol. 3, pp. 5–21.

- PRUSZYŃSKI, Jan (2001). *Dziedzictwo kultury Polski - jego straty i ochrona prawna*, t. I. Kraków: Kantor Wydawniczy „Zakamycze”. ISBN 83-88551-55-8.
- Resilienz von Living Heritage: Mit Immateriellem Kulturerbe nachhaltig in die Zukunft. In: BAUER, Marie-Theres, BIASETTO, Cristina (eds.). *Immaterielles Kulturerbe in Österreich. Eintragungen 2020–2021*. Österreichische UNESCO-Kommission. ISBN 978-3-902379-10-8.
- SMITH, Laurajane, AKAGAWA, Natsuko (eds.). (2009). *Intangible Heritage*. London-New York: Routledge Taylor & Francis Group. ISBN 978-0-415-47396-5.
- STEFANO, Michelle, DAVIS, Peter, CORSANE, Gerard (eds.) (2012). *Safeguarding Intangible Cultural Heritage*. Woodbridge: The Boydell Press. ISBN 978-1-84383-710-7.
- ZEIDLER, Kamil. (2009). Ochrona dziedzictwa kultury a turystyka, czyli w poszukiwaniu “złotego środka”. In: *Folia Turistica*, vol. 20, pp. 157–170.
- ZHANG, Bolun, CHENG, Peng, DENG, Lujie, ROMAINOOR, Nurul Hanim, HAN, Jianhong, LUO, Guoshuai, GAO, Tianbo. (2023). Can AI-generated Art Stimulate the Sustainability of Intangible Cultural Heritage? A Quantitative Research on Cultural and Creative Products of New Year Prints generated by AI. In: *Heliyon*, 9(10), pp. 1–15.
- ZOU, Hoideiniang, PRISCILLA, Evangeline (2023). Folklore: An Identity Born of Shared Grief. In: *Cogent Arts & Humanities*, 10(1), pp. 1–15.