



Community Empowerment at the Periphery?
**The role of the Government in developing the community
participation to safeguard the Intangible Cultural Heritage
(The Kyrgyz Republic and the Republic of Korea)**

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Abstract

Since the adoption of the UNESCO 2003 Convention, the safeguarding of the intangible cultural heritage (ICH) has become a new phenomenon in developing community participation. The role of the communities was stressed as an integral part of the 2003 Convention although, community participation has been one of the most challenging aspects in the implementation of the Convention. National governments adopting it would be legally bound by the Convention to designate and empower communities in safeguarding the ICH. However, there is no unified set of measures to manage ICH in different local communities. It is not easy for central governments to manage the ICH practiced by different local communities. Therefore, the paper aims to give an overview regarding the challenges of the Republic of Korea and the Kyrgyz Republic by examining the roles of the two governments within the scope of the Convention.

Introduction

The Intangible Cultural Heritage (ICH) is relatively a new phenomenon in international heritage law. With the increasing globalization and homogenizing of the culture, the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the Convention for the Safeguarding of the Intangible Cultural Heritage in 2003 (hereafter 2003 Convention). The 2003 Convention aims to ensure the survival and vitality of the world's living local, national, and regional cultural heritage.³⁴⁾ UNESCO clarifies that the cultural heritage is not limited to the tangible heritage and the 2003 Convention is an illustration to safeguard the living expressions and the traditions inherited from their descendants. Accordingly, the 2003 Convention defines ICH as:

"The "intangible cultural heritage" means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity."³⁵⁾

According to the article 2 of the 2003 Convention, the ICH has following domains:

- (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;*
- (b) performing arts;*
- (c) social practices, rituals and festive events;*
- (d) knowledge and practices concerning nature and the universe;*
- (e) traditional craftsmanship.*

The main goal of the 2003 Convention is: (a) to safeguard the ICH, (b) to ensure respect for the intangible cultural heritage of the communities, groups and individuals concerned, (c) to raise the awareness at the local, national and international levels of the importance of ICH, and (d) to provide for international cooperation and assistance.³⁶⁾ Moreover, to safeguard the ICH, the 2003 Convention stresses on the role of both government and concerned communities in safeguarding the ICH. Both, the

34) Richard Kurin, "Safeguarding Intangible Cultural Heritage: Key Factors in Implementing the 2003 Convention," 2003, 10.

35) "Convention for the Safeguarding of the Intangible Cultural Heritage 2003," 12 § (2003), article 2, http://www.journals.cambridge.org/abstract_S0940739105050277.

36) Convention for the Safeguarding of the Intangible Cultural Heritage 2003, article 1.

government and communities have to actively participate in safeguarding and promoting their local intangible culture. Communities play a vital role as the main bearers and practitioners of the ICH element. For that reason, the 2003 Convention stresses that

"within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavor to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management."³⁷⁾

The fact that State Parties stay as a key player in safeguarding the heritage within their territory as Lucas Lixinski argues "the Convention, however, leaves to the states, and not the communities, the faculty of determining which should be inventoried and protected, both at the national and, most importantly, at the international level, through the List of Representative Intangible Heritage of Mankind."³⁸⁾ Therefore, it is States Parties' responsibilities to strengthen and to ensure community participation in safeguarding the ICH because States Parties are the one who are bound by the Convention and the one to make sure that the Convention is in force.

Problem statement/Significance of the paper

However, the community participation in all safeguarding activities has been proven to be one of the most challenging aspects in the implementation of the 2003 Convention. As Janet Blake argues that communities are involved to some extent and in many cases their participation is limited to that of being informants.³⁹⁾ Similarly, Lixinski mentions that "states are the only ones which can nominate manifestations of heritage for the list, it is very easy to see that states will prefer those manifestations of heritage that are not politically controversial."⁴⁰⁾ Although, the 2003 Convention stresses on the widest possible participation of the communities, the problem with community involvement is sufficient. For instance, the 2003 Convention requires States Parties to involve communities as a key to implement the Convention. State Parties shall ensure their participation in the identification of ICH, inventorying, preparation of nomination files and program implementation. Moreover, States Parties shall facilitate the capacity building of communities and sharing information on the ICH elements so that communities can maintain and transmit the heritage.⁴¹⁾ The 2003 Convention has made considerable efforts to require

37) Convention for the Safeguarding of the Intangible Cultural Heritage 2003, article 15.

38) L. Lixinski, "Selecting Heritage: The Interplay of Art, Politics and Identity," *European Journal of International Law* 22, no. 1 (February 1, 2011): 82, <https://doi.org/10.1093/ejil/chr001>.

39) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," n.d., 40.

40) Lixinski, "Selecting Heritage," 82.

State Parties to involve communities in all safeguarding activities as to build capacity community-based programs, projects, inventorying, and other initiatives.

Although, community participation is at the heart of the 2003 Convention, their involvement depends on State Parties. Therefore, in order to analyze why communities are not always sufficiently involved in safeguarding the ICH, there is a need to analyze the government's commitment in strengthening the community participation within their territory.

Accordingly, the paper focuses on the role of the government in strengthening the community participation in safeguarding the ICH. Particularly, the roles of the government in the Republic of Korea and the Kyrgyz Republic will be analyzed because the two countries represent significantly different policies in safeguarding their ICH. The paper does not intend to make a comparative analysis taking into consideration both countries' GDP, demographics etc. The main goal of the paper is to analyze both countries' governmental role in strengthening the community participation after their ratification of the 2003 Convention. The Republic of Korea ratified the 2003 Convention in 2005 and the Kyrgyz Republic ratified in 2006. After the ratification of the 2003 Convention, both countries made major changes in safeguarding the ICH. Nonetheless, the community participation is still challenging to most of the countries and needs to be enhanced. The paper argues that the reason for these shortcomings vary from country to country. Therefore, the case of the Republic of Korea and the Kyrgyz Republic will illustrate the different perspectives and the current status of the ICH elements after their ratification of the 2003 Convention.

Furthermore, the paper analyses the governmental commitment in involving the communities such as legislative and policy environment, awareness (by all stakeholders, including communities) about the principles of the Convention, and community capacities to self-organize and implement safeguarding activities. The paper also takes into consideration other socio-economic factors among community members, impact of modernization and globalization. Accordingly, the central discussion of the paper is the role of the government in the Republic of Korea and in the Kyrgyz Republic, particularly:

- The role of the government in safeguarding the ICH
- The role of the communities, groups, and individuals concerned
- Governmental commitment in safeguarding the ICH
 - Legislation
 - Transmission
 - Involvement of communities

41) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," 40.

The objectives of the paper are:

- To identify the challenges of both the Kyrgyz Republic and the Republic of Korea after their ratification of 2003 UNESCO Convention
- To identify the main changes in involving the communities in safeguarding the ICH after their ratification of 2003 Convention
- To promote and sustain the community participation in all safeguarding activities
- To advocate the effective measures in developing and strengthening the community participation
- To provide general information for the future efforts of governments towards strengthening community participation as a whole

Considering the fact that the community participation is still challenging to most UNESCO State Parties, the paper will contribute to the literature of community involvement in safeguarding the ICH. Unlike tangible heritage, it is not easy to manage the intangible cultural heritage. As Heekyung Choi and Sumi Nam mentioned "tangible heritage is fixed in its place, and preservation, restoration and management are not particularly difficult. However, there are various communities that possess intangible heritage and their ways of safeguarding it are all different."⁴²⁾ Consequently, it is not easy for central governments to manage the ICH because the ICH is possessed by different local communities. Therefore, there is no unified set of measures to manage ICH in various communities, groups, and individuals. The case of the Republic of Korea and the Kyrgyz Republic will illustrate different perspectives of the government using various methods and tools for implementing the Convention.

The limitation of the study

The paper concentrates on the challenges of both the Kyrgyz Republic and the Republic of Korea after their ratification of 2003 UNESCO Convention. Moreover, there is no unique or unified set of conceptual framework on how the governments can strengthen the community participation. In order to identify the basic criteria on community involvement in safeguarding the ICH, the paper will analyze the 2003 Convention itself as well as the literature review. By analyzing the literature review, the paper intends to identify the key approaches of the community involvement by government (external indications, types of communities). The scope of the data has complications considering the fact that ICH is a new phenomenon for scholars. Particularly, in Kyrgyzstan most of the scholars focused on politics,

42) Heekyung Choi and Sumi Nam, "Why Local Governments Matter in Implementing the UNESCO 2003 Convention: The Case for ICCN," n.d., 148.

economy, and security studies. Nonetheless, the paper is focused on the community involvement by central government, and its policies for safeguarding and transmission. Therefore, the paper mainly analyses the existing laws and policies of both countries that are supported by interviews.

Methodology

In order to examine the role of the government in strengthening the community participation, the qualitative analysis will be employed in this study. The primary sources are the legal documents of the Republic of Korea and the Kyrgyz Republic such as 2015 Act on the Safeguarding and Promotion of Intangible Cultural Heritage and 2012 Law on the Intangible Cultural Heritage of the Kyrgyz Republic. I will explore the policies that are intended to strengthen the community participation and the main changes after the ratification of the 2003 Convention. Besides, semi-structured interviews were conducted with governmental officials and with independent experts. Secondary sources are the scientific researches, books, journal articles, publications, policy papers, and news articles that cover the role of the government and communities in safeguarding the ICH. The paper is a conceptual research that will identify the problem, review the literature, and explore the approaches of the governments in involving the communities in all safeguarding activities that will be applied for the empirical analysis.

Structurally, the paper is divided into three parts. The first part identifies the conceptual framework. The second defines the approaches of the government of ROK in strengthening the community participation, institutions, and challenges. Finally, the paper explores the policies of the Kyrgyz Republic and its challenges. As a result, the research analyzes the implications of the study and summarizes the findings of the study.

Conceptual Framework

To analyze the role of the government in strengthening the community participation in safeguarding the ICH, there is a need to define a conceptual framework of both the role of the government and the role of the communities in safeguarding the ICH. Particularly, the paper will identify the role of the government and the basic methods and tools of government in strengthening the communities. Considering the fact that there is no unique conceptual framework of community involvement in safeguarding the ICH, the aim of this chapter is to: analyze the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage. Particularly, identify given rights and obligations of both government and communities in safeguarding the ICH and analyze how different scholars tried to conceptualize the role of the government and community participation in safeguarding the ICH.

The role of the government

The 2003 UNESCO Convention placed a great importance to both government and community as key players in safeguarding the ICH. State Parties after the ratification of the 2003 Convention has an obligation to take necessary measures for safeguarding the ICH within their territory. According to the article 11 of the UNESCO 2003 each State Party shall:

(a) take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory;

(b) among the safeguarding measures referred to in Article 2, paragraph 3, identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant non-governmental organizations.⁴³⁾

Basically, State Parties are responsible organs implementing all necessary measures in identifying and defining the ICH, awareness-raising, inventorying ICH elements, submitting the nominations, developing safeguarding plans for their ICH, developing ICH-related policies, regulations and legislation, and implementing all necessary measures to safeguard their ICH elements⁴⁴⁾ but only with the "widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management."⁴⁵⁾ State Parties are responsible to take all necessary measures in safeguarding the ICH, Richard Kurin points out "ICH is not preserved in states' archives or national museums. It is preserved in communities whose members practice and manifest its forms. If the tradition is still alive, vital and sustainable in the community, it is safeguarded."⁴⁶⁾ Similarly, Blake also stresses that UNESCO 2003 "provides State Parties with a framework for their work and communities with a tool they can use to call upon their respective Governments to support ICH safeguarding and to ensure community participation."⁴⁷⁾ Therefore, involvement of communities in safeguarding specific element of ICH is vital as well as they carry the most important responsibility in safeguarding the ICH.

43) "Convention for the Safeguarding of the Intangible Cultural Heritage," article 11, accessed November 1, 2018, http://portal.unesco.org/en/ev.php-URL_ID=17716&URL_DO=DO_TOPIC&URL_SECTION=201.html.

44) Convention for the Safeguarding of the Intangible Cultural Heritage, articles 13,14.

45) Ibid., article 15.

46) Richard Kurin, "Safeguarding Intangible Cultural Heritage: Key Factors in Implementing the 2003 Convention," 2003, 12.

47) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," n.d., 10.

The role of concerned communities

According to UNESCO 2003 Convention, communities described as the main stakeholders in safeguarding specific elements of the ICH. The basic purposes of the Convention describes communities as the primary responsible parties for safeguarding of intangible heritage. Similar to the government, communities are also responsible for transmission, identifying and defining the ICH, continued practice and ensure safeguarding. Communities have to be involved in all safeguarding processes, including the inscription of the element, preparation, documentation, inventorying, and other planning activities. For instance, the inscription of the specific element cannot be included without the free, prior and informed consent of the community or group concerned.⁴⁸⁾ However, the provisions of the Convention and its Operational Directives do not define the term ‘community’ thus the term is interpreted broadly. Sabrina Urbinati argues that the Operational Directives gave glossary “‘community’, ‘cultural community’, ‘indigenous community’ and ‘local community’, without however taking into consideration the notions of ‘groups’ and ‘individuals’, which were seldom employed in the first and second preliminary draft of the Convention.”⁴⁹⁾ The fact that the Convention does not identify the definition of the communities since it may vary from one place to another. For instance, it can be dominant or non-dominant or single individual that might belong to different communities at the same time.⁵⁰⁾ Accordingly, community participation in safeguarding the ICH differs from country to country. Considering the fact that communities are different from country to country, and States Parties use various definitions and methods for implementing the Convention.

Conceptualization of the community participation in safeguarding the ICH (Literature Review)

Intangible cultural heritage is possessed by different communities and the ways of safeguarding their element is different from place to place making it "especially difficult for central government to implement a single, unified set of measures to manage ICH in different local communities."⁵¹⁾ For that reason, Blake also argues that "usually, communities are involved to some extent. In many cases their participation is limited to that of being informants."⁵²⁾ She maintains that traditionally in former Soviet

48) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," n.d., 47.

49) Silvia Borelli and Federico Lenzerini, eds., *Cultural Heritage, Cultural Rights, Cultural Diversity: New Developments in International Law*, Studies in Intercultural Human Rights 4 (Leiden ; Boston: Martinus Nijhoff Publishers, 2012), 203–4.

50) "Implementing the Convention for the Safeguarding of ICH," 4, accessed November 1, 2018, <https://webcache.googleusercontent.com/search?q=cache:JiK-HSiZ7tEJ:https://ich.unesco.org/doc/src/01853-EN.pdf+&cd=1&hl=en&ct=clnk&gl=kr>.

51) Heekyung Choi and Sumi Nam, "Why Local Governments Matter in Implementing the UNESCO 2003 Convention: The Case for ICCN," n.d., 148.

countries, inventorying was led by researches and experts in cooperation with Government.⁵³⁾ Similar to Blake, Lucas Lixinski underlines that the states remain as the key player, who can nominate manifestations of heritage for the list and that are not politically controversial.⁵⁴⁾ Consequently, the problem with weak community representation is still in practice. The controversy comes from the weak state mechanisms for community participation.

UNESCO 2003 Convention emphasizes community involvement is in a great importance as the main bearers and practitioners in safeguarding the ICH. UNESCO 2003 Convention underlines that practitioners of the ICH play the most important role since without practitioners transmission of the ICH is impossible. Aisyah Abu Bakar, Mariana Mohamed Osman, Syahriah Bachok, Mansor Ibrahim argue that "unlike tangible heritage, ICH is alive and needs to be transmitted."⁵⁵⁾ Meaning that transmission and safeguarding of the intangible heritage is greatly subjected to the concerned communities. Consequently, they maintain that "concerned communities generate, recreate, transmit and sustain their ICH, the approaches of community involvement are essential."⁵⁶⁾ State Parties use different methods for strengthening the community participation. However, there is still a problem for governments to improve. As Janet Blake highlights, "although community participation is at the heart of the 2003 Convention, it has proven to be one of the most challenging aspects in its implementation."⁵⁷⁾ Similarly, Lixinski says that the community participation is an important element, which means government needs to commit and to ensure that the bearers and practitioners of the ICH may fully benefit from the Convention. He argues that "one of the core goals of the Convention is to raise awareness as to the importance of ICH; this should be done primarily at the local level, because it is only by creating a sense of 'pride' binding a community to its heritage that one can guarantee its survival."⁵⁸⁾ The most controversial reason of why communities are not always sufficiently involved in safeguarding the ICH is because of the weak legislative and lack of governmental commitment in strengthening the community participation, policy mechanisms, lack of networking and cooperation between communities and government, and weak community capacities to implement safeguarding activities.⁵⁹⁾ Other than that,

52) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," 40.

53) Ibid, p. 40

54) L. Lixinski, "Selecting Heritage: The Interplay of Art, Politics and Identity," *European Journal of International Law* 22, no. 1 (February 1, 2011): 82, <https://doi.org/10.1093/ejil/chr001>.

55) Aisyah Abu Bakar et al., "Analysis on Community Involvement Level in Intangible Cultural Heritage: Malacca Cultural Community," *Procedia - Social and Behavioral Sciences* 153 (October 2014): 287, <https://doi.org/10.1016/j.sbspro.2014.10.062>.

56) Ibid., 287.

57) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," v.

58) Lixinski, "Selecting Heritage," 85.

there might be socio-economic inequality problems among community members, strong ethnic enclaves, and mostly impact of modernization and globalization where youth are easily absorbing the western way of life.⁶⁰⁾

All stakeholders including government and concerned communities should make an effort to safeguard the ICH. Nevertheless, as Blake mentions "community participation alone is not a guarantee that all will go well, but it is one of several factors that increase the likelihood that the implementation of the Convention will be successful."⁶¹⁾ Likewise, Choi and Nam argue that "as traditional cultures from various regions and communities ICH should be understood and safeguarded in its place of origin, the role of local government in providing the necessary infrastructure cannot be underestimated."⁶²⁾ The fact that community involvement and their participation in the process of safeguarding activities depends and differs from county to county and concerned community. While, both government and community play a vital role in safeguarding the ICH.

Nonetheless, State Parties stay as main responsible body to take all necessary measure including the involvement of communities in safeguarding the ICH. As a result, the insufficient involvement of the communities includes but not limited to the lack of awareness about the principles of the Convention, government policies and legislation, financial resources, as well as weak community capacities safeguarding activities.

Therefore, the next chapter analyses the awareness of the principles of Convention, legislation, other resources, and communities in the Republic of Korea and in the Kyrgyz Republic. It was illustrated that the role of the government in involving the communities in safeguarding the ICH depends and differs county by county. Consequently, two different countries were chosen to analyse their policies in strengthening the communities' participation. Kyrgyzstan as the newly developing county and the Republic of Korea that has long history in safeguarding the ICH. Thus, it is worth to analyze how the 2003 UNESCO Convention affected in strengthening the community participation in safeguarding the ICH in both different countries.

59) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," 42.

60) Bakar et al., "Analysis on Community Involvement Level in Intangible Cultural Heritage," 288.

61) "Evaluation of UNESCO's Standard-Setting Work of the Culture Sector, Part I: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage; Final Report; 2013," 43.

62) Choi and Nam, "Why Local Governments Matter in Implementing the UNESCO 2003 Convention: The Case for ICCN," 148.

The Republic of Korea and the Kyrgyz Republic

To analyze the role of the government in Republic of Korea (ROK) and in the Kyrgyz Republic (KR) in involving the communities in safeguarding the ICH, the paper will analyze the main policies of the governments after their ratification of the 2003 Convention. The ROK ratified the 2003 Convention in 2005 and Kyrgyzstan in 2006. Accordingly, the paper will identify the main responsible institutions of these two countries and their main changes in legislative and other approaches to involve the communities in safeguarding the ICH after their ratification of the Convention. Both KR and ROK are different countries. Nonetheless, the paper concentrates on both countries' policies in involving the communities considering the fact that the conceptual framework illustrated that the role of the government in strengthening the community participation varies in each country. Involving the communities in safeguarding the intangible heritage is controversial in comparison to tangible heritage because of different factors such as the lack of awareness about the principles of the Convention, government policies and legislation, financial resources, as well as weak community capacities are the main reasons but not limited to the insufficient involvement of the communities. Hence, the case study of the KR and the ROK will present different approaches in strengthening the community participation and the effect of the 2003 Convention in safeguarding the ICH.

The Republic of Korea (Government institutions and policies)

The Republic of Korea has a long history in developing the process of safeguarding the ICH. Since, the early 1960s until now, the lawmaking process has been upgrading with relevant stakeholders. According to Jihon Kim and Sungtae Nam, the ROK has several stages of changes in developing the legislation in the field of cultural heritage.⁶³⁾ In 1962 Cultural Heritage Protection Act was established to safeguard the ICH. The purpose of the act was edification and promotion of human culture. According to article 2 of the Cultural Heritage Protection Act "ICH is intangible cultural works of outstanding historic, artistic, or academic value, such as drama, music, dance, game, ritual, craft skills, etc."⁶⁴⁾ By the time several cultures related institutions were founded and some additional propositions were made to the new legislation. Accordingly, in 1990s Cultural Heritage Administration (hereinafter CHA) established separate Intangible Cultural Heritage Division under CHA office as well as Certification system of

63) Jihon Kim and Sungtae Nam, "National Response to International Conventions: The Case of the 2003 UNESCO Intangible Cultural Heritage Convention and the New Korean Legislation," *Journal of International and Area Studies* 23, no. 2 (2016): 49.

64) "Intangible Cultural Heritage Safeguarding Efforts in the Asia-Pacific 201-14," Field Survey Report, accessed November 3, 2018, <http://www.ichcap.org/eng/ek/sub1/sub2.php:8>.

Honorary Holders.⁶⁵⁾ The prominent changed due to the introduction of the 2003 Convention. In 2005, the ROK joined the 2003 Convention and ratified it in 2005. Following years to support the implementation of the 2003 Convention, in 2011 the ROK established International Information and Networking Centre for ICH in the Asia-Pacific Region (ICHCAP) as a Category 2 center under the auspices of UNESCO⁶⁶⁾ and in 2014 the National Intangible Heritage Center (NIHC). As a result, the government of ROK aimed to develop a new policy system for the ICH in accordance with 2003 Convention. It established the Act on the Safeguarding and Promotion of Intangible Cultural Heritage in 2015 which entered into force in March 2016.⁶⁷⁾

After the ratification of the 2003 Convention, the ROK has undertaken great effort to safeguard their ICH. As of now, 19 ICH elements are inscribed under the UNESCO Representative List and a number of accredited NGOs working in the field of ICH safeguarding.⁶⁸⁾ A variety of activities have been implementing, documenting, and safeguarding the ICH as well as developing to foster the individual transmitters, holders and overall bearers and practitioners of the ICH. The main governmental bodies that are in charge of ICH are the Ministry of Culture, Sport and Tourism, Cultural Heritage Administration, and National Intangible Heritage Center while the main divisions in charge are Intangible Cultural Heritage Division, Heritage Policy Bureau, and Cultural Administrative Heritage in Korea. The governing system of the ROK is divided into two categories. For instance, the important cultural heritage is managed by the central government which is CHA while the local heritage is managed by city local governments.⁶⁹⁾ For now, the government of ROK is working to safeguard the ICH such as raising public awareness, capacity building, documenting, and also striving to foster motivation among concerned communities to transmit and safeguard the ICH.

65) Yang Jinjo, "The Status of Korean Intangible Heritage Act and Inventory-Making," Expert report from Korea, n.d., 54, accessed November 3, 2018.

66) Matija Dronjić, "An Outline of the Republic of Korea's Intangible Cultural Heritage Safeguarding Framework," November 2017, 11, https://www.google.ru/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwiCuOLrhLjeAhVDvrwKHjYdjCCwQFjAAegQICBAC&url=https%3A%2F%2Fhrcaak.srce.hr%2Ffile%2F291558&usg=AOvVaw276fs_FXi1RfSR7hJSOWLL.

67) Yang Jinjo, "The Status of Korean Intangible Heritage Act and Inventory-Making," 54.

68) "Republic of Korea - Intangible Heritage - Culture Sector - UNESCO," accessed November 3, 2018, <https://ich.unesco.org/en/state/republic-of-korea-KR>.

69) ICHCAP, "ICHCAP Field Survey Report on ICH Saveguarding Effords in East Asian Coutries (2009-2013)," 2013, 8/9, <http://www.ichcap.org/eng/ek/sub1/sub2.php>.

Community Involvement Challenges

The government of ROK has been protecting the cultural heritage for a decade. The ROK has been developing its safeguarding system for many years while the 2003 Convention is another step to evolve new changes. The ROK safeguarding system is centralized to the government while, communities are the beneficiaries and receivers of government recognition and support.⁷⁰⁾ According to ICHCAP Filed Survey Report, the government of Korea is working to establish bottom-up approach safeguarding system for intangible heritage, to involve communities in safeguarding activities and where local government is more important than central.⁷¹⁾ Ms Eunseon Jeong from the CHA office mentioned that the government of Korea made significant efforts to strengthen the community participation and the new law of the 2015 Act on the Safeguarding and Promotion of tangible Cultural Heritage is an illustration.⁷²⁾ The major changes were made to 2015 Act on the Safeguarding and Promotion of ICH including the definition of the ICH. For instance, in the 1962 Cultural Heritage Protection, ICH was included in the concept of cultural heritage and was described as an outstanding historic, artistic, or academic value but in the 2015 law, the scope of the ICH safeguarding expanded not only to outstanding heritage but also various fields as traditional knowledge, oral culture, craft and performing art skills. In other words, ICH has been passed on throughout many generations.⁷³⁾ This is one of the major changes in accordance to the 2003 Convention. The other major difference is the involvement of the communities. The fact that the 2003 Convention requires State Parties to ensure widest possible community participation and all relevant stakeholders in taking all necessary measure in safeguarding activities. As was mentioned, article 11 (b) and 15 of the 2003 Convention as well as the Operational Directives of the Convention facilitates to develop community participation not only in maintaining and transmitting but also in safeguarding and managing as well.⁷⁴⁾

Consequently, through the 2015 Act, ROK divided the communities into four categories highlighting the importance of transmitting the ICH to the next generation:

- a. Holders-means a person, who is able to master and practice technical skills, artistic skills, etc. of ICH as the archetype of that ICH, as prescribed by Presidential Degree
- b. Group holder-means a group, that is able to master and practice technical skills, artistic skills, etc. of ICH as the archetype of that ICH, as prescribed by Presidential Degree

70) ICHCAP, ICHCAP Field Survey Report on ICH Saveguarding Effords in East Asian Coutries (2009-2013)," 2013, 9.

71) Ibid., 9.

72) Eunseon Jeong (Programme Officer in World Heritage Team, ROK). Tape recording. Daejeon, the Republic of Korea, 2018

73) Eunseon Jeong, Tape recording. Daejeon, the Republic of Korea, 2018

74) Kim and Nam, "National Response to International Conventions," 56.

- c. Assistant instructor for successor training-means a person, to assist a holder or group of holder in transmitting the ICH (at least 5 years' experience after receiving a certificate of completion of successor training)
- d. Certified trainee-means a person issued with a certificate of completion of successor training (At least 3 years of training is required)⁷⁵⁾

Holders	Group holder	Assistant instructor for successor training	Certified trainee	Total
168	66	286	6.189	6.709

These are the number of holders, group holders, assistant successor training, and certified trainee as of 2018.⁷⁶⁾ The 2015 Act described the duties and obligation of these successors. For instance, according to article 25, holders and holder groups are required to conduct successor training and submit successor training plans to the CHA Administrator.⁷⁷⁾ Moreover, there are successors of the ICH such as assistant instructor for successor training and certified trainees. This is the one of the major transmission system initiated by the ROK though education and training for young and talented successors. There are a number of Universities to offer successor training allowing students to become certified trainees and possibly become future successors of the ICH. ⁷⁸⁾ CHA office in charge of selecting the certified trainees based on surveys of holders. The government also implemented the Traditional Craft Product Certification System and Bank of Traditional Craft Products⁷⁹⁾ to develop traditional craft products of the ROK and even funding start-up business in these fields.

Furthermore, the government of Korea is funding within the available budget for the public presentation, exhibitions, and performance. Holders and group of holders get financial assistance for their public presentations and for their successor training plans and reports in accordance with Regulations on Provision and Management of National ICH Transmission.⁸⁰⁾ The below is the government subsidy for transmission of the ROK government.

75) "Act on the Safeguarding and Promotion of Intangible Cultural Heritage," Pub. L. No. Act No. 14434., Partial Amendment (2017), www.Law.go.kr.

76) Eunseon Jeong, Tape recording. Daejeon, the Republic of Korea, 2018

77) Yang Jinjo, "The Status of Korean Intangible Heritage Act and Inventory-Making," 57.

78) Yang Jinjo, "The Status of Korean Intangible Heritage Act and Inventory-Making," 55.

79) Yang Jinjo, "The Status of Korean Intangible Heritage Act and Inventory-Making," 56.

80) Yang Jinjo, "The Status of Korean Intangible Heritage Act and Inventory-Making," 58.

Government Subsidy for Transmission

Community, groups and individuals	Holder	Group Holder	Assistant instructor for successor training
500,000 USD/yearly	1,320 USD/monthly	320-420 USD/monthly	66USD/Monthly

The government of ROK established policy framework in accordance with the 2003 Convention. Particularly, strengthening and encouraging the community participation in safeguarding the ICH. It's funding policies to promote and transmit the ICH to the next generation. Ms Eunseon Jeong from the CHA office mentioned that these policies of transmission existed even before the 2015 Act.⁸¹⁾ The ROK has long history in developing these policies to transmit their ICH to the next generation. Since the ROK has a strong top-down approach for a decade, the 2015 Act is another example of the ROK to involve communities and strengthen the participation in safeguarding the ICH. The 2015 Act also leaves the government as a central body not the communities. It is a fact that the government of ROK is developing community participation however, communities still stay as direct beneficiaries of the governmental support since the 2015 Act imposed the obligations of the communities rather than ensuring their rights. According to Kim and Nam, "Article 5 of the new legislation (the responsibility of the ICH transmitter) views the safeguarding and advancement as a duty instead of a right of communities."⁸²⁾ It mentions their obligations with regard to transmission. But the 2003 Convention urges States Parties, the widest possible participation of the communities not only in transmitting and maintaining but also in managing and safeguarding activities in cooperation with the government.

According to the new legislation, the main institution in safeguarding the ICH is CHA office, which has a major role in identifying, investigation, protection, inventorying, promotion and other administrative directives.⁸³⁾ The legislation do not mention communities' role in implementing coherent policies along with any other governmental agencies. Nonetheless, the Periodic Report by the Republic of Korea guaranteed their opportunities to participate in the entire process of inventorying. There is a community participation in the inventorying process for defining and identifying ICH element and submitting the application. Meanwhile, the reverent community is taking part in inventorying process in cooperation with non-governmental organizations and researchers to elaborate more objective application as mentioned in the Operational Directives that encourage State Parties to create consultative body to facilitate community participation in cooperation with experts and research institutes etc. Generally, concerned communities involved as the main transmitters of the ICH as mentioned in Periodic

81) Eunseon Jeong, Tape recording. Daejeon, the Republic of Korea, 2018

82) Kim and Nam, "National Response to International Conventions," 56.

83).IKim and Nam, "National Response to International Conventions," 54.

Report of the ROK "Communities, groups and individuals directly involved in preserving and transmitting ICH are participating in regular training courses to teach relevant ICH skills and artistry to the general public."⁸⁴⁾ The Government of ROK made major changes in strengthening the community participation in the new legislation. The process of community participation in the overall management and safeguarding process is still developing considering the fact that the new legislation was adopted not long ago. The new legislation approach has made implicit changes in the implementation of the 2003 Convention.

The Kyrgyz Republic (Government institutions and policies)

After its independence, the Kyrgyz Republic (KR) adopted legal basis for the preservation and conservation of the historical and cultural heritage. In 1999, the Law on Protection and Use of Historical and Cultural Heritage was amended by the Jokorku Kenesh.⁸⁵⁾ Since then the government of the Kyrgyz Republic adopted a number of legal act alongside with the international norms and regulations to protect both tangible and intangible heritage. The Law on Protection and Use of Historical and Cultural Heritage identified cultural heritage as both tangible and intangible values to safeguard the national cultural identity of Kyrgyz people. According to the article 1 cultural heritage was defined as "culture is a set of tangible and intangible values, created by mankind, that together point out a certain level of development within a society."⁸⁶⁾ The law covered all historical and cultural value including languages and dialects, national traditions and customs, folklore arts and crafts, works of literature, art and folk art, historical buildings and places, monuments etc.⁸⁷⁾ The law was mostly determined on tangible heritage defining both movable and immovable heritage. Immovable objects are historical places, monuments of archaeology while movable is transferable object as antiquities, historical relics, works of art as paintings, archaeological findings.⁸⁸⁾ Meanwhile, the government of Kyrgyzstan made several important steps to improve the legal framework in the field of intangible cultural heritage as well. Due to its nomadic culture, Kyrgyzstan embraced very rich intangible cultural heritage as well. Consequently, in 2006, Kyrgyzstan adopted UNESCO 2003 Convention on safeguarding the ICH. As of now, Kyrgyzstan

84) "REPORT ON THE IMPLEMENTATION OF THE CONVENTION AND ON THE STATUS OF ELEMENTS INSCRIBED ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE OF HUMANITY," 2012, 11, <https://ich.unesco.org/en-state/republic-of-korea-KR?info=periodic-reporting#rp>.

85) Aida Abdykanova, "Kyrgyzstan: Cultural Heritage Management," Encyclopedia of Global Archaeology, n.d., 2.

86) Elvira Khakimova, "Cultural Policy in Central Asia: Comparative Analysis of Legislations and Public Policies" (Electronic Thesis or Dissertation, 2014), 83–84, <http://e-theses.imtlucca.it/159/>.

87) Elvira Khakimova, "Cultural Policy in Central Asia: Comparative Analysis of Legislations and Public Policies" (Electronic Thesis or Dissertation, 2014), 82, <http://e-theses.imtlucca.it/159/>.

88) Ibid., 84.

has a separate structure for the safeguarding the ICH.

Cultural Heritage		
Historical-cultural Heritage		Intangible Cultural Heritage
Immovable	Movable	

After its ratification of the 2003 Convention, the government of Kyrgyzstan has undertaken a number of activities to safeguard the ICH. As of now, Kyrgyzstan inscribed eight elements to the Representative List and one element to the Urgent Safeguarding List.⁸⁹⁾ A variety of non-governmental organizations are working in safeguarding the ICH including the Aigine Cultural Research Center - accredited NGO in Kyrgyzstan. They have been implementing different projects in the fields of traditional knowledge, education, humanities and social research. One of the major changes is the adoption of the Kyrgyz Law on Intangible Cultural Heritage in 2012. The 2012 Law on Intangible Cultural Heritage, defines ICH:

‘Intangible cultural heritage: customs, traditional games, national sports, forms of representation and expressions, knowledge and skills, as well as related tools, objects, artifacts, and cultural spaces that are recognized as cultural heritage, are transmitted from generation to generation, are constantly reconstituted by communities and groups, and show the cultural diversity of the nation of the Kyrgyz Republic, and that represent historical and cultural significance and are included in the National List of Intangible Cultural Heritage.’⁹⁰⁾

According to the article 3.(5) the intangible cultural heritage of the Kyrgyz Republic is divided into the following types:

- 1) Oral traditions and forms of expression;
- 2) Languages of the peoples in Kyrgyzstan;
- 3) Performing arts of the peoples in Kyrgyzstan;
- 4) Customs, rituals, festivals (tools, objects, artifacts and cultural spaces);
- 5) Knowledge and customs related to nature and the universe;
- 6) Knowledge and skills related to traditional crafts;
- 7) Natural spaces and memorable places (mazars);

89) "Kyrgyzstan - Intangible Heritage - Culture Sector - UNESCO," accessed November 6, 2018, <https://ich.unesco.org/en/state/kyrgyzstan-KG>.

90) "Закон КР О Нематериальном Культурном Наследии Кыргызской Республики," Pub. L. No. № 163 (2012), <http://cbd.minjust.gov.kg/act/view/ru-ru/203763/20?mode=tekst>, art.2.

8) Traditional games, national sports.⁹¹⁾

In addition to the Law of the Intangible Cultural Heritage, Kyrgyzstan has the Law on the Protection of Traditional Knowledge (2007) and the Law on the Epic Heritage (2011) for safeguarding the cultural heritage.⁹²⁾ The main governmental body that is in charge of ICH is the Ministry of Culture and Tourism of the Kyrgyz Republic and there is also a separate department, the National Committee for the Intangible Cultural Heritage. But other than the Ministry of Culture and Tourism, the National Commission of the Kyrgyz Republic for UNESCO, Kyrgyz National Academy of Sciences, practitioners, and non-governmental organizations is actively working to safeguard the ICH in Kyrgyzstan.⁹³⁾

Community Involvement Challenges

The government of Kyrgyzstan plays an important role in safeguarding and overall managing the ICH in Kyrgyzstan. Other than the governmental and non-governmental organizations, communities play an important role as the main bearers and practitioners of the ICH. Accordingly, the government is the central body that makes sure the widest possible participation in the safeguarding the ICH as it mentioned in 2003 Convention. The government of Kyrgyzstan has made major changes after its ratification of the 2003 Convention. As was mentioned, the new 2012 Law on Intangible Cultural Heritage of Kyrgyz Republic is an illustration. The law defined the ICH and the responsibilities of the government in safeguarding the ICH. Article 4 mentions the protection and restoration various types and forms of traditional folk culture, population of the elements, the support of the "Masters-bearers" of folk culture, training and professional development of personnel in the field of non-material culture, drawing attention at the local, national and international levels to the significance of ICH.⁹⁴⁾

The government of Kyrgyzstan led efforts to strengthen the community participation in safeguarding the ICH in accordance with the 2003 Convention. Article 11 (b) and 15 of the 2003 Convention mention that the development of community participation is not only maintaining and transmitting but also safeguarding and managing as well.⁹⁵⁾ Accordingly, the 2012 Law on Intangible Cultural Heritage of Kyrgyz Republic, article 6 states that in order to fully identify the elements of intangible cultural heritage

91) Закон КР О нематериальном культурном наследии Кыргызской Республики", article 3.

92) "Kyrgyzstan - Intangible Heritage - Culture Sector - UNESCO." accessed November 6, 2018, <https://ich.unesco.org/en/state/kyrgyzstan-KG>.

93) "The Kyrgyz Republic Periodic Reporting on the Convention for the Safeguarding of the Intangible Cultural Heritage," 2012, <https://ich.unesco.org/en/state/kyrgyzstan-KG?info=periodic-reporting>.

94) Закон КР О нематериальном культурном наследии Кыргызской Республики", article4.

95) Kim and Nam, "National Response to International Conventions," 56.

and promote their preservation, the elements are subject to state registration that has to be developed with the participation of researchers, industry professionals, communities of the intangible cultural heritage and representatives of civil society.⁹⁶⁾ Moreover, the 2012 Law of the Intangible Cultural Heritage mentions about the "Master holder". The "master holder" is an honorary title assigned to individuals who are recognized by society as holders of culture and traditional knowledge, and who are safeguarding, creating, and transmitting the elements of the intangible cultural heritage in unchanged traditional ways and means;⁹⁷⁾ article 4 of the Law on Intangible Cultural Heritage states that "the purpose of this Law is to prevent the loss of intangible cultural heritage as part of the national cultural heritage, fostering respect for the intangible cultural heritage of individuals, communities, and groups to ensure recognition of heritage values at the local and national levels."⁹⁸⁾ The article gives a special provision to "Master holder" of the ICH and carries out the award of the honorary title "Master holder" determined by the government of the Kyrgyz Republic.⁹⁹⁾

However, Kyrgyzstan is lacking an integrated regulatory framework to safeguard the ICH. The fact that the existence of legislative framework on intangible heritage does not clearly reflect the present needs of communities commitments in safeguarding the ICH. Nonetheless, the government of Kyrgyzstan adopted distinct laws on safeguarding and transmitting on specific element to the next generation. For instance, the Law of the Kyrgyz Republic on epic trilogy "Manas" was adopted in 2011 for safeguarding, developing and popularization of the trilogy of the epos "Manas" (the epos "Manas", "Semetey", "Seytek"), a unique spiritual heritage of the Kyrgyz people.¹⁰⁰⁾ Moreover, the Law is established to develop and raise the awareness at the national and international level, to support the bearers and practitioner –manaschy, to create the conditions for a comprehensive study of the trilogy among the general population of the country. Therefore, for the purpose of transmitting and safeguarding the element, in 2012 the government ran the National Program to build the respect for the trilogy of the epic "Manas" and raise the patriotic duty of every citizen of the Kyrgyz Republic.¹⁰¹⁾ Based on the program, a number of schools and studios is developing for the young manaschi as well as the government implemented curriculum "Manasovedenie" for all educational institutions in Kyrgyzstan.¹⁰²⁾

96) Закон КР О нематериальном культурном наследии Кыргызской Республики".

97) Ibid., article 2.

98) Ibid., article 4.

99) Ibid., article 7(12).

100) "Закон КР 'Об Эпосе "Манас,"" Pub. L. No. 59 (2011), <http://cbd.minjust.gov.kg/act/view/ru-ru/203303>.

101) "Национальная Программа По Сохранению, Изучению и Популяризации Эпоса 'Манас' На Период 2012-2017 Годы," Pub. L. No. 67 (2012), <http://cbd.minjust.gov.kg/act/view/ru-ru/93599>.

102) Ibid.,

Furthermore, the lack of the financial resources of the Kyrgyz Republic should be noted, many project and programs have yet to be implemented. Nonetheless, the government of Kyrgyzstan is providing financial resources adequately so that projects and programs can be implemented. Nevertheless, most of the safeguarding activities are implemented together with other organizations as well. To illustrate, National Commission of the Kyrgyz Republic is actively involved in safeguarding the ICH in cooperation with different organizations, bearers and practitioners of the ICH. The National Commission of the KR for UNESCO, the government of the KR together with Japanese Funds-in-Trust (JFIT) developed a national plan to safeguard the art of Akyns, Kyrgyz epic tellers. As a result of the action plan, a network of youth centers called as Studios were established in various regions of the country.¹⁰³⁾ These activities contributed to the transmission of the element to the youth and other individuals who are interested. Moreover, Chinara Beksultanova also highlights Manaschi Studio as well as other specific changes in strengthening of communities as COCSA, Kiyiz-Duino, Oimo achieved great success and participating in international festivals and marketing.¹⁰⁴⁾ The local administrations together with local communities making an important efforts to organize such events while central government supports in funding and promotion of the elements. The fact that the local administrations are the key players who have a connection between the Ministry of Culture and with local communities.

Hence, the role of the government in strengthening the community participation is important but it also depends on the concerned communities as well. As was mentioned in the conceptual framework, strengthening the communities' participation is not easy for the central government because communities may vary. Chinara Beksultanova stresses that there are difficulties in safeguarding the ICH in Kyrgyzstan especially with regard to the poor awareness of young people about ICH and inadequate support by state administrative bodies. She argues that therefore it is important for communities themselves to understand the importance and development of the element as part of the cultural heritage and to initiate the measures to protect the element.¹⁰⁵⁾ At present, the government of Kyrgyzstan is actively integrating with other stakeholders to safeguard and transmit the ICH and emerging its safeguarding system in the country.

103) "Kyrgyz_2011_05_Representative_List_of_the_Intangible_Cultural_Heritage_of_Humanity," 76, accessed November 8, 2018, <http://www.ichcap.org/eng/ek/sub1/sub1.php>.

104) Chinara, Beksultanova (Expert of the National ICH Committee, KR). Bishkek, the Kyrgyz Republic, 2018

105) Chinara, Beksultanova. Bishkek, the Kyrgyz Republic, 2018

Conclusion

The paper aimed to analyze the importance of both government and concerned communities in safeguarding the ICH. Central to the discussion is the UNESCO 2003 Convention for Safeguarding the Intangible Cultural Heritage as the new phenomenon in international heritage law. The fact that the State Parties are the focal points regarding the implementation of the 2003 Convention, therefore, it is State's obligation to strengthen their community participation within their territory. Communities play a vital role as the main bearers and practitioners of the ICH elements. Accordingly, the 2003 Convention requires State Parties for the involvement of the widest possible participation of communities not only as transmitters but also in all safeguarding activities including the identification of elements. However, as was mentioned in the conceptual framework, community participation is highly dependent on states and the capabilities of the communities themselves. Consequently, the safeguarding system of the ROK and KR was chosen to analyze since both countries possess different background and the approaches of implementing the 2003 Convention are different. It is worth to analyze the commitment of the government of ROK and KR in safeguarding the ICH, role of the communities, and their commitment in implementing safeguarding ICH (Legislation, Transmission) policies.

The paper focused on the role of the government in both countries after their ratification of the 2003 Convention. The community participation is still challenged, though both countries have made major improvements in safeguarding the ICH. The paper argued that the reason for these shortcomings vary depending on the country. There is no unified set of measures to manage ICH in various communities, groups, and individuals. It is not easy to manage the ICH and the involvement of communities is highly dependent on the willingness and capacity of the communities themselves. In addition, the government of both countries have been welcoming the safeguarding initiatives from the communities. The government of ROK has developed policy environments for the stakeholders, including communities to transmit and safeguard their ICH. The government of KR in cooperation with other stakeholders also spearheaded its safeguarding system in the country. Both countries have integrated the community participation in safeguarding activities while communities have the main roles in safeguarding and transmitting the ICH. The case of the Republic of Korea and the Kyrgyz Republic illustrated different perspectives on how the government develop various methods and tools for implementing the Convention and involving the communities in safeguarding the ICH, yet many projects and programs in this area remain to be implemented.

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