

Summary

The Mongolian report has been submitted by the Foundation for Protection of Natural and Cultural Heritage. The institute has worked in collaboration with two others national institutes; The Mongolian National Broadcaster, which is the official State-funded television channel in Mongolia, and The National Center of Cultural Heritage under the Ministry of Education, Culture and Science.

The Mongolian report has been arranged according to the number of institutes involved. Each section contains; Institutes' profiles, Information building and sharing activities in Institutes, and IP issues arising in the process of information building and sharing activities.

1. Mongolian National Broadcaster

Since its establishment, the institute has been engaged in ICH research, advertisement, documentation, broadcasting, dissemination to the public, maintaining and archiving activities.

1) Profile of the Institute

Mongolian National Radio (MNR) constantly broadcasts programmes with traditional songs, music, folk performing arts, traditional customs and rituals to the foreign audiences through its "Mongolian Voice" Radio Station. The institute operates 2 channels at the national level, one in Ulaanbaatar city and broadcasts various programmes in 5 different languages abroad. MNB Channel 2 is broadcast for the minority groups at the national level.

2) Information Building and Sharing

MNB is engaged in all activities including identification, documentation, inventory making, database/archive building, publication, distribution, and utilizing digital contents.

Activities Description

Through research and study or through field surveys, MNB conducts the identification and documentation of specified individual, group or community who possess the targeted subject or knowledge and skills concerning ICH element. Every collected material such as audio-visual recordings, photo and other related materials are subjected to become archive/database material. These materials are widely broadcasted, distributed and utilized for information building and sharing activities.

In 1954, the Golden Fund (archive) of Song and Music at the Mongolian National Radio (MNR) was established. According to the statements of former employees of the MNR, the Golden Fund contains abundant materials starting from folk traditional songs and music, to the best of contemporary works composed and performed by the renowned masters of today.

In 1983, the new TV programme of folk performing arts entitled the “Repertoire of Folk music” was launched and is still actively reached to the audiences.

In 1976, the very first of the TV series with the title of “Works of Folk Art” was started under the theme of ‘Traditional craftsmanship of wood engraving’. Since this period, the production of TV documentaries of ICH works, their dissemination and broadcasting, and as well the safeguarding activities for the research and advertisement purposes, were effectively started.

Different Stages in Information Building and Sharing

MNB obtains ICH-related data or archives through field work and documentation.

At the first stage, the concerned ICH professionals and experts from MNB are designated to conduct comprehensive research using all available sources of data and information; also to identify the main subject/ICH bearer, his or her residency and other related information.

At the second stage, the subject/ICH bearer is invited to the studio for the production of the TV programme, or in most cases the selected team of professionals travels to the spot of the subject or place/residency of the ICH bearer to document the ICH element in its original state environment during the adequate time/period or season.

ICH related Projects

MNB and the Government Implementing Agency – Culture and Art Committee– , have signed a contract to cooperate. The contract aims the collaboration in view of safeguarding and preserving the tangible and intangible cultural heritage and oral literature of the Mongols. It also focus on the implementation of the national projects including ‘Morin Khuur (Horse head fiddle)’, ‘Urtiin Duu (Folk long song)’, ‘Mongol Khuumei’ and ‘Mongolian Traditional Dance - Bii Biilgee’. Through the contract, both parties work at strengthening the knowledge on national language, script,

traditional knowledge of upbringing children, documentation and distribution of Folk Arts Festival to the general public and other significant measures.”

3) IP Issues in Information Building and Sharing

The Center of Cultural Heritage is a State-funded government organization equipped with many data archives. Several IP issues have been identified in the course of activities.

Index of Data Archives

- Name of data: Audio visual records
- Presentation: Offline data/online
- Type of data: Text, Photo, Video, and Audio.
- Source of data: Field work and documentation

IP Issues

Although the subject concerning ICH-IP and copyright issues relates to every activity, it mainly involves TV programmes, documentation, film production, registration and information database/archive building, information sharing, utilizing digital contents in TV programmes, broadcasting and distribution.

The institute does not have experience with a project regarding IP aspects of ICH. There is no unit, or undertaking tasks related to IP. However, there is a supernumerary individual working as a MNB Legal Council.

If any issue arises in relation to ICH IP, it is obligatory to settle in accordance with the copyright law of Mongolia. There are no other specific and active rules or regulations at present. No specific issues or problems concerning ICH intellectual property have been in effect up to date. It is certain that, currently, the function or any regulatory factors towards the intellectual property and copyright issues has not been set properly or at all at the MNB and its operational directives.

IP Guidelines in Institute

MNB does not have a principle for protecting IP aspects of ICH at present. Few guidelines however exist:

Employment Morality Guideline: The employee shall not use any material without its owners confirmed consent.

Copyrights on broadcastings: Article 26.1 Chapter 8 of Mongolian law on Broadcasting, states that the “Broadcasters may only broadcast programmes which they produced or for which they hold broadcasting rights, and copyright must be clearly indicated as part of the credits displayed with each programme.” Article 26.2 of the same chapter, states that “The name of the producer of every programme shall be displayed or read out at the end of the programme.” Besides these texts, there are no other statements included for the copyright or other intellectual property issues.

2. Center of Cultural Heritage

The Center of Cultural Heritage is a professional body for protecting tangible and intangible cultural heritage. The Center is equipped with a Protection Division, which is the responsible unit at the national level for protection, advertisement, documentation (audio-video) of ICH elements; also, identification and registration of ICH bearers, and helping them transmit their skills and knowledge to the next generation. The Center also works for establishment and improvement of the consolidated registration and information database, its archival management too.

1) Profile of the Institute

The Center of Cultural Heritage is classified as Government department, and State-funded government organization. The Protection Division at the Center is specialized in the following ICH domains.

- Oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
- Folk Performing Arts;
- Social practices, rituals and festive events;
- Traditional techniques, knowledge and practices concerning nature and the universe;
- Traditional craftsmanship.

2) Information Building and Sharing

The Center of Cultural Heritage has done or is doing the following activities:

- Identification
- Documentation
- Inventory making
- Database/Archive building
- Publication and distribution

- Utilizing digital contents

Activities in Institute

The Center implemented the project “Documentation of the Oral and Intangible Cultural Heritage of Mongolia with Audio and Video Recordings”, which set the groundwork for establishing the database and archive for oral and intangible cultural heritage.

The institute ICH Division contributes greatly to intangible cultural heritage related activities in cooperation with other relevant organizations including:

- Preparation of nomination of “Mongolian traditional music of Tsur” to the UNESCO List of the ICH in need of urgent safeguarding”;
- Symposium-“On the issues of the Safeguarding and promoting of Mongolian ICH”;
- Mongolian Long Song Festival held in Uvurkhangai province;
- Preparation of the general rule for designation and recognition of the ICH and its bearers, and a rule for prefectural advising subcommittee for designation and recognition of the ICH bearers.

Projects in Institute

The Center’s Intangible Cultural Heritage Protection Division is the responsible unit at the national level for protection, advertisement, documentation (audio-video) of ICH elements; also identification and registration of ICH bearers, while respectively focusing on all activities stated above. Although the Division for the last three years, has not fully established the coherent set of system constituting these activities yet, was however able to set the groundwork for their further effectiveness.

In 2011, the institute has successfully implemented the project for “Elaboration of the Inventories of the Representative List and List of ICH in Need of Urgent Safeguarding in Mongolia.”

Currently, there is documentation of skills and knowledge, techniques, traditions, customs, practices and repertoires of more than 1600 individual culture bearers with photos, 720 hours of audio-visual material and 215 hours of audio recordings housed at the National Archive. These documentation materials gathered to form the ICH Database, are a valuable resource for further research and study, and to safeguard, revitalize, promote, disseminate and transmit the Mongolian intangible cultural heritage.

3) IP Issues in Information Building and Sharing

This section contains the IP guidelines existing in institutes, the related issues, and the legal provisions in the field such as enacted in Mongolia.

IP Guidelines in Institute

The institute applies one rule entitled: “Rule for the Establishment of Cultural Heritage Registration-Information Database and its Registration”. This rule defines the right to registration and copyright.

- Approved by the Minister of Education, Culture and Science, it does mention that registration of information of concerned organizations and individuals will be kept secret at their own request;
- The copyright of audio and video records of any organization or individual is protected under or according to the concerned laws and regulations.

Other than the above statement, there are no provisions regarding the ICH intellectual property and copyright issues included. The concerned laws and regulations mainly consider the “Law of Mongolia on Copyright and Related Rights” and the “Law for Protection of Cultural Heritage”.

The reports mentioned that intellectual property, ICH copyright issues in particular are poorly observed at the Center of Cultural Heritage. There is a little understanding or knowledge concerning the IP issues among concerned organizations, individuals, and general public. Therefore, the need to elaborate a rule with detailed regulative guidelines concerning the ICH IP issues that could arise during the activities of information collecting, utilizing, sharing and protecting.

IP Issues in Institute

The Center of Cultural Heritage does have few cases of guaranteeing the rights and the participation of ICH subjects in its information building and sharing activities.

- Issues on Copyright materials: In most cases, the misuse of copyrighted materials is observed at the national level. But, no complaints or issues of any kind has been noted so far. It is due to the lack of proper legislative framework for the copyright and IP related issues.
- Issues concerning publications: Concerning the publications of books or media materials, no problem or issues have been persistent in

relation to copyright or ICH related intellectual property. As standard of compliance in the production of books and manuals, the statement text for the copyright appears such as “©This book is protected by the Copyright Law of Mongolia. The name of the author shall be included in any copy, duplication or transcription of this book.” This statement is regularly included at the back of the book cover. In general, all references used for the book including photos and texts are stated at the end page of the book in the references part. Necessary IP or copyright related regulations for possible issues, if any, are specifically stated in the contract and signed by both parties.

- Issues related to the production of nomination files: The ICH-07 Forms for UNESCO ICH Representative List such as “Session of Rights and Register of Video Recordings” for video materials, and the “Session of Rights and Register of Photos” for photos, are executed for granting to UNESCO the non-exclusive rights to use, publish, reproduce, distribute, display, communicate or make available to the public, in any language or form and by any means including digital, in whole or in part. Whatsoever, there has been no issue been risen from these activities yet.
- Issues related to the Constitution of Mongolia: There are two important issues concerning the intellectual value and the copyright as stated in the Constitution of Mongolia. In the Chapter 1 of the Constitution of Mongolia, it is stated that the historical, cultural, scientific and intellectual heritages of the Mongolian people shall be under State protection, and the intellectual values produced by the citizens are the property of their authors and the national wealth of Mongolia. Furthermore, in the 8 of article 16, Chapter 2, it is said that the citizens of Mongolia shall be guaranteed the privilege to enjoy the right to engage in creative work in cultural, artistic and scientific fields and to benefit thereof. Copyrights and patents shall be protected by law.

Legal Provisions in Mongolia

Under Mongolia legislation, there are several avenues for the legal protection of ICH elements under existing IP and other legislations.

- The Constitution of Mongolia: Contains provisions that specially recognize and guarantee protection to intellectual property rights
- Related Rights: The definition of performer in Article 3.1.3 (“...an individual who performs literary and artistic works, as well as expressions of folklore for the purposes of circus, stage, screen and

artistic performances through acts such as singing, playing, acting, dancing and declaiming”) suggests that expressions of folklore can be protected by related rights.

- Copyright law: The Law on Copyright and Related Rights in Article 3.1.4 gives a definition of expression of folklore as “a work of traditional literature and arts which is communicated by any means from one generation to another and the author of which is unknown”. Expressions of folklore, as such, are not protected by copyright (as clearly stated in Article 8.1.7), but “derivative works based on the works of folklore” are included in the list of works protected by copyright (Article 7.1 12).

The Intellectual Property Office of Mongolia (IPOM) is responsible for implementation of the public policy to protect copyright and performs, among other functions, the function “to work with citizens and organizations on protecting expressions of folklore” (Article 26.1.9).

IPOM undertakes an active capacity building programme aimed at the protection of the intellectual property interests of the bearers and custodians of traditional cultures, including when their cultural heritage is recorded, digitized and disseminated.

The example of such best practice is a DVD titled “Mongolian Folklore-Worshipping the Nature” produced by IPOM with the assistance of WIPO for promotional purpose. Not only consent of performers was sought and obtained with proper remuneration given but a copyright notice and acknowledgement were displayed on cover sheet of the DVD. The acknowledgement reads as follows: “The Intellectual Property Office of Mongolia would like to express its gratitude to native people of Hovd aimag, Munkhkhairhan soum and other amateur performers for their talent and endeavours to preserve our cultural heritage”.