



Regione Lombardia

IL CONSIGLIO

Banca dati delle leggi regionali

Legge Regionale **23 ottobre 2008 n. 27** Valorizzazione del **patrimonio culturale immateriale**
(BURL n. 44, 1° suppl. ord. 28 Ottobre 2008) urn:nir:regione.lombardia:legge:2008-10-23;27

[Art. 1] (Ambito di applicazione e finalità)

1. La Regione, in conformità a quanto previsto dal proprio Statuto e ispirandosi alla **Convenzione per la salvaguardia del patrimonio culturale immateriale ratificata con la legge 27 settembre 2007 n. 255** (ratifica ed esecuzione della Convenzione per la salvaguardia del patrimonio culturale immateriale, adottata a Parigi il 17 ottobre 2003 dalla XXXII sessione della Conferenza generale dell'Organizzazione delle Nazioni Unite per l'educazione, la scienza e la cultura (**UNESCO**)), **riconosce e valorizza**, nelle sue diverse forme ed espressioni, **il patrimonio culturale immateriale presente sul territorio lombardo o presso comunità di cittadini lombardi residenti all'estero o comunque riferibile alle tradizioni lombarde**.

2. Ai fini della presente legge per **patrimonio culturale immateriale** regionale si intendono:

a) **le prassi**, le rappresentazioni, le espressioni, le conoscenze, i saperi, e quanto ad esso connesso, che le comunità locali, i gruppi sociali o i singoli individui riconoscono in quanto parte del loro **patrimonio culturale**, della loro storia e della loro **identità**;
b) **la memoria** di eventi storici significativi per la loro rilevanza spirituale, morale e civile di carattere universale, nonché per la loro rilevanza culturale identitaria per le comunità locali e le **tradizioni orali**, i miti, le leggende ad essi connessi.

Art. 2 (Linee d'azione)

1. Per il perseguimento delle finalità di cui all'articolo 1, la Regione provvede, **attraverso l'Archivio di etnografia e storia sociale (AESS)**, struttura già incardinata nella direzione generale regionale competente in materia, direttamente o in concorso con altri soggetti pubblici e privati a:

a) promuovere l'**individuazione** degli elementi del **patrimonio culturale immateriale** con particolare riguardo a:

1) **tradizioni ed espressioni orali**, compresi i **dialetti**, la **storia orale**, la narrativa e la **toponomastica**;
2) musica e arti dello **spettacolo di tradizione**, rappresentate in forma stabile o ambulante, nonché espressione artistica di strada;
3) **consuetudini sociali**, eventi rituali e festivi;
4) **saperi, pratiche, credenze** relative al ciclo dell'anno e della vita, alla natura e all'universo;
5) **saperi e tecniche tradizionali** relativi ad attività produttive, commerciali e artistiche;

b) conservare, mantenere, organizzare, classificare, in **inventari e banche dati**, i documenti cartacei, iconografici, sonori e audiovisivi;

c) favorire la **consultazione** dei documenti conservati presso AESS ed altri soggetti convenzionati, anche attraverso la predisposizione di idonei strumenti informatici e l'uso della rete web utilizzando, in via preferenziale, strumenti liberi per la gestione e mettendo a disposizione i documenti con formati aperti;

d) promuovere la **conoscenza** del **patrimonio culturale immateriale** anche attraverso:

1) l'**acquisizione di fondi documentari**;
2) lo **studio e la ricerca sul campo**;
3) la **realizzazione di una rete di collegamenti con soggetti pubblici e privati**;

e) diffondere l'utilizzo di **buone pratiche e di metodologie scientifiche** per la raccolta, la gestione, l'inventariazione e la valorizzazione del **patrimonio culturale immateriale** anche attraverso la diffusione digitale e la rete web;

f) promuovere la **divulgazione** del **patrimonio culturale immateriale** attraverso:

1) l'**organizzazione** o il sostegno di eventi culturali;
2) la **pubblicazione** delle fonti documentarie, dei risultati delle ricerche, nonché la realizzazione di prodotti comunicativi, anche con strumenti e supporti innovativi;

g) promuovere e organizzare **attività di formazione** e favorire la trasmissione tra generazioni attraverso modalità di educazione anche informale;

h) favorire la **conservazione** e l'accompagnamento nel suo sviluppo del **patrimonio culturale immateriale** anche attraverso attività di sostegno mirate, da definire con i soggetti pubblici e privati interessati;

i) riconoscere le **eccellenze** nella creazione, conservazione, valorizzazione o innovazione del **patrimonio culturale immateriale**.

[Art. 3] (Programmazione degli interventi)

1. In base alle linee d'azione di cui all'articolo 2, la Giunta regionale, sentita la competente commissione consiliare, approva **annualmente un programma** d'interventi con cui definisce obiettivi, modalità e strumenti di realizzazione.

2. Il dirigente della direzione generale regionale competente cura gli adempimenti conseguenti.

[Art. 4] (Norma finanziaria)

1. Alle spese derivanti dalla presente legge si provvederà con successivo provvedimento di legge.

questa legge regionale sembrerebbe ratificare la Convenzione UNESCO "ich" del 17 ottobre 2003 o perlomeno lascia intendere di accettare la ratifica già eseguita dallo Stato italiano il 27 settembre 2007 con legge n.167 vale a dire che dovrebbe (deve) accettare la Convenzione UNESCO "ich" così com'è, perchè è un Trattato in piena regola e i Trattati si rispettano... ma invece

dichiara che in subordine allo statuto regionale

(e cioè in subordine alla annessione del 1859 al regno di Savoia e al successivo ordinamento)

si ispira alla Convenzione per la salvaguardia del patrimonio culturale immateriale già ratificata dallo Stato (cioè non si adegua alla Convenzione "ich" ed evidentemente non l'accetta perchè la usa come una semplice ispirazione)

di conseguenza crea una legge del tutto distaccata dalle prescrizioni della Convenzione "ich" la quale serve soltanto come un punto di riferimento, una specie di proposta, un messaggio in bottiglia tra le onde del mare, una "ispirazione" appunto

difatti, mentre la Convenzione UNESCO riconosce che sono "le comunità" e non gli stati e le provincie o le regioni a svolgere un ruolo nella salvaguardia di questo patrimonio ed "in modo particolare le comunità indigene" si vede bene che la legge regionale lo ignora bellamente, perchè riconosce soltanto il patrimonio "presente sul territorio lombardo... comunque riferibile alle tradizioni lombarde" e c'è una differenza fondamentale perchè tralascia che per la Convenzione "ich" quelle tradizioni debbano essere "in modo particolare delle comunità indigene" nel senso di tradizioni autòctone/aboriginali e non di qualsiasi altro genere

non è sufficiente che siano "riferibili" alle tradizioni lombarde ma "devono essere lombarde e salvaguardate dagli aborigeni" vale a dire salvaguardate collettivamente dalla comunità degli aborigeni lombardi e non come vuole lo Stato o la regione

la decisione di ignorare quel poco che ancora vale la comunità aborigene lombarda è una aggressione fondamentale perchè apre la strada agli abusi previsti da Richard Kurin al punto n. 11 quando la Convenzione entrava in vigore

non a caso la legge regionale prosegue con l'art.2 in cui decide che tutta la salvaguardia verrà eseguita non dagli indigeni ma dalla burocrazia regionale denominata AESS negando così la conservazione della tradizione (e della comunità) indigena com'è invece prescritto dalla Convenzione

gliel'abbiamo fatto rilevare con lettera del 18 febbraio 2019 inutilmente (l'assessore sig. Stefano Bruno Galli non ci ha ricevuti)

[1]

the practices, representations, expressions, knowledge, skills - as well as the instruments, objects, artifacts 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.

le prassi, rappresentazioni, espressioni, conoscenze, abilità, così come gli strumenti, oggetti, manufatti e spazi culturali che vi sono associati, che le comunità, gruppi e, in alcuni casi, individui riconoscono come parte della loro eredità culturale.

Questa eredità culturale intangibile, trasmessa di generazione in generazione, è costantemente ricreata da comunità e gruppi in risposta al loro ambiente, loro interazione con la natura e loro storia, e li fornisce con un senso di identità e continuità...

[2]

il termine "eredità culturale intangibile" rimpiazza oggi le parole folklore, cultura tradizionale, tradizione orale, cultura popolare.

The term 'intangible cultural heritage' replaced less technical-sounding and less culturally charged, but historically familiar, terms such as 'folklore,' 'traditional culture,' 'oral heritage,' and 'popular culture.' With the Convention, there was also an important shift of emphasis. Intangible cultural heritage was, foremost, living heritage as itself practiced and expressed by members of cultural communities through such forms as oral traditions, song, performance, rituals, craftsmanship and artistry and systems of knowledge. ICH was not the mere products, objectified remains or documentation of such living cultural forms (Seitel 2001a). It was not the songs as recorded on sound tapes or in digital form, or their transcriptions. ICH is the actual singing of the songs.

But it is not the songs sung in any recreated or imitative form - no matter how well meaning or how literally correct - by scholars, or performers, or members of some other community. It is the singing of the songs by the members of the very community who regard those songs as theirs, and indicative of their identity as a cultural group. It is the singing by the people who nurtured the traditions and who will, in all probability, transmit those songs to the next generation [Kurin 2004a].

The definition assumes the agency of a group of people who recognise a particular form of cultural expression as a symbol of their communal identity, who place it conceptually in a self-reflexive category of 'heritage,' legitimised by historical practice and specifically noted as valuable (Early and Seitel 2002). This means that ICH cannot retain its designation as such if it is appropriated by others who are not members of that community - whether they be government officials, scholars, artists, businessmen or anyone else.

The definition also assumes that ICH is articulated

questo significa che la sigla ICH non può conservare il suo significato se fosse utilizzata da altri che non siano membri di questa comunità,

sia che fossero funzionari governativi, professori, artisti, uomini d'affari o chiunque altro.

[3]

SAFEGUARDING INTANGIBLE CULTURAL HERITAGE

key factors in implementing the 2003 Convention

by **Richard Kurin** (Director, Smithsonian Center for Folklife and Cultural Heritage)
inaugural public lecture, Smithsonian Institution and the University of Queensland ceremony 23 november 2006
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with social processes and other aspects of life. It is not something that can easily be isolated from a larger constellation of lifestyles, nor de-articulated from a broader world of ecological, economic, political and geographic interactions.

'Safeguarding' ICH, according to Article 2.2 of the Convention [UNESCO 2003b], means:

measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.

In order to safeguard ICH, then, it must be viable - and this then assumes its continued practice within and by the relevant cultural community. That is, living cultural heritage has to be vital, dynamic and sustainable in order to be considered safeguarded.

Safeguarded ICH, defined as a living process, a socially articulated and consciously manipulated heritage, is in this Convention quite different from previously promulgated ideas of folklore and cultural tradition (Aikawa 2004). Prior to the Convention, folklore and cultural tradition were viewed in UNESCO parlance as somewhat alienable expressions of an unreflective populace, 'naturally' practiced customs that could be abstracted from other aspects of life, and perhaps best preserved in the documentary records of scholars or in the collections of museums.

Unlike the idea of traditional culture or folklore in the 1989 Recommendation, or as found in much institutional practice around the world, the 2003 Convention shifts both the measure and onus of safeguarding work to the cultural community itself. 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. If it exists just as a documentary record of a song, a videotape of a celebration, a multi-volume monographic treatment of folk knowledge, or as ritual artifacts in the finest museums in the country, it is not safeguarded.

Furthermore, ICH is not something fixed in form that remains constant forever, safeguarded when only found in its pure, essential form. While various types and

[4]

Non è qualcosa che può essere facilmente isolata da una più grande costellazione di stili di vita, nè disarticolata da un più grande mondo di interazioni ecologiche, economiche, politiche e geografiche.

Per salvaguardare la ICH questa deve essere vivibile, il che presuppone la sua continua pratica, nella e dalla comunità culturale cui l'eredità appartiene.

[5]

La ICH non è salvaguardata negli archivi degli stati o nei musei nazionali (o regionali) è salvaguardata nelle comunità i cui membri praticano ed esprimono le sue forme.

[6]

Se la tradizione è ancora viva, allora è salvaguardata. Se esiste soltanto come la registrazione di una canzone, il filmato di una cerimonia, una raccolta di libri e carte sul folklore, o come un bell'oggetto nel migliore museo, allora non è salvaguardata.

expressions of ICH may be articulated at certain points in history by their practitioner communities as the 'pure,' 'real,' or 'authentic' form, such judgements need to be regarded as historically-based assessments, subject to change - even within the community - and to alternative formulations by various segments of the contemporary community. If a form of ICH is living it will, by definition, change over time. An art form that might have originated from a peasant's utilitarian response to a particular need might have grown, over time, into an elite art practiced in a royal court, or have acquired a sacred meaning, only to later become a common skill for making market crafts and trade items, and even later to be transformed into the means of making decorative tourist goods. Cultural practices at one time part of life's daily routine, might, over time, become the province of elitist practice, and even later become confined to special occasions or holidays. What then is 'authentic' or 'pure,' and what is to be safeguarded?

From the standpoint of the Convention, it is the dynamic social processes of creativity, of identity-making, of taking and respecting the historically received and remaking it as one's own that is to be safeguarded. And the arbiters of value - those who might be mindful of variants and yet decide on their relative significance and correctness - are not governments or scholars or collectors or aficionados, but rather members of the concerned communities themselves.

Gli arbitri di questi valori non sono i governi o gli studiosi o i collezionisti o gli aficionados, ma gli stessi membri delle comunità interessate.

[7]

The biggest problem with government control over ICH safeguarding efforts is one of freedom and human rights. In many countries around the world, minority cultural communities do not see government as representing their interests - particularly when it comes to their living cultural traditions and their vitality as living, dynamic communities. Historically, government efforts have often been aimed at eliminating cultural practices - a native religion, a minority language, particular rites, certain instruments, and so on.

Important parts of the ICH - such as songs of protest, epics of struggle, knowledge of traditional territorial occupation - may be seen as opposing government positions and practices. Human rights charters, particularly the *International Declaration of Human Rights*, seek to protect individual and communal forms of expression from onerous government control and regulation. Government inventories of cultural practice may seem too much like cultural registries - officialising and de-officialising cultural practice, and allowing for all sorts of misuses of information. Having the government in charge of ICH activities could create uneven relationships of power between cultural regulators and cultural practitioners, where the latter might feel there was undue intrusion into the life of their community.

Storicamente, gli sforzi dei governi sono stati spesso indirizzati ad eliminare le pratiche culturali: una religione nativa, un linguaggio isolato, rituali particolari, certi strumenti e così via.

[8]

might argue, the preservation of grassroots cultural diversity around the world, and particularly, within the contemporary nation-state. Cultural diversity in the ICH Convention means the diversity of cultural communities - hence their foregrounding as both the subject and object of safeguarding efforts. It is quite noteworthy that this is not the case in the *2005 International Convention on the Diversity of Cultural Contents and Artistic Expressions*. Nations are the important unit of cultural diversity in the 2005 Convention, not communities (UNESCO 2005).

While according to the Convention, communities are to be equal partners with the official government agencies in documenting, researching, presenting, promulgating, promoting and protecting their traditions, this will create tensions. Statements by government

[9]

Mentre, secondo la Convenzione, le comunità sono eguali partners con gli uffici governativi nel documentare, ricercare, presentare, promulgare, promuovere e proteggere le loro tradizioni, questo creerà delle tensioni.

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representatives during the drafting of the Convention, and subsequent discussions during the first meeting of the International Committee charged with the Convention's implementation, reveal some unhappiness with the power accorded to cultural communities. Some governments assume that their own constitutional status enables them to speak for any community of their citizens or inhabitants. They see this as a matter of national sovereignty. They resent having to cede any authority to communities - especially those regarded as marginal or lower in status than the ruling government. Others have so completely absorbed 'community' identification, leadership, and governance within their own governmental structures as to render the concept sociologically meaningless. Simply, the government is the community, with any vestiges of freedom, autonomy, or distinctive group boundary absorbed within a larger social reality.

Whatever the sociological situation within the States Parties, the intention of the Convention is clear. The folks - the people who actually practice the traditions, who have learned from and identify with those who have practiced them in the past, who take them as emblematic of their identity - constitute the community and need to be fully involved in any and all decisions regarding the safeguarding of their ICH. To the extent that there is any psychological sense of 'ownership' of the tradition, their ICH 'belongs' to them - not to the state or the government or the Ministry of Culture.

Hence, members of the relevant communities can and should be encouraged to do participatory self-research and documentation, work with civil scholars in devising and carrying out inventory activities, work with museums, performing arts centres, publishing houses,

Quale che fusse la situazione sociologica negli Stati contraenti, l'intenzione della Convenzione è chiara: la gente, il popolo che di fatto pratica le tradizioni, che ha imparato da, e pratica con, chi le ha praticate in passato, che le prende come emblematiche della propria identità, costituisce la comunità e deve essere coinvolta completamente in ciascuna e tutte le decisioni riguardanti la salvaguardia della propria ICH. Fino al punto che ci sia ogni senso psicologico di "proprietà" della tradizione, la loro ICH appartiene a loro stessi, non allo stato o al governo o al ministero della cultura.

[10]

Conclusion

The large, unanswerable question for now is – is the 2003 Intangible Cultural Heritage Convention up to the task it has set for itself? Can it really hope, or presume, to actually safeguard ICH around the world? Frankly, I do not think it can. The connections of ICH to the larger matrix of ecological, social, technological, economic and political relationships is too complex, too multi-faceted and nuanced to be reduced to the simple formula proposed by the 2003 treaty. The problem is, we do not have anything better.

We could let 'nature' take its course and have no such cultural intervention. But there is nothing 'natural' about the issues that beset ICH in the world today. They are the result of particular social and economic activities that characterise contemporary societies and world systems. And those activities and systems are not so tightly bound or determinative that various forms of ICH, if invested with attention, resources and a good bit of creativity, could not survive and flourish. That is, there is plenty of scope for social action and intervention to produce valuable results – at least in the opinions of those communities, people and advocates concerned with the preservation of particular forms of cultural heritage.

As has long been pointed out in the anthropological literature, results can be deceptive. Unwanted results, unintended consequences and undesired repercussions can flow from the most well-meaning of interventions.

The ICH Convention, as discussed here, could be misused as a means of government control and regulation of community-based culture in the guise of actually supporting it (Hairstein forthcoming, Kirshenblatt-Gimblett 2004). That might happen anyway, with or

without the Convention. But with the Convention, as with the International Declaration of Human Rights and other such multilateral treaties and declarations, a standard is set – at least aspirationally – that provides a reasonable, universal expectation of what can be called normative action. That action is endowed with a certain legitimacy, founded on the authority of nations to be sure – but a lot of them, from all parts of the world, and representing a great religious, ethnic, and linguistic diversity. In this case, the action advised is one of respect and tolerance for the diverse traditions of the many many communities found within and among nations. That is not a bad thing to support.

SAFEGUARDING INTANGIBLE CULTURAL HERITAGE key factors in implementing the 2003 Convention

by **Richard Kurin** (Director, Smithsonian Center for Folklife and Cultural Heritage)
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La Convenzione ICH come illustrata qui potrebbe essere abusata come un mezzo di controllo governativo e disciplina delle culture comunitarie fingendo di sostenerle.

[11]

Implementing the 2003 Convention

Safeguarding Intangible Cultural Heritage: Key Factors in Implementing the 2003 Convention

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La Convenzione riconosce come ICH soltanto quelle forme di espressione culturale che siano consistenti con i diritti umani. [12]

Introduction

In 2003, at the biennial General Conference of UNESCO its Member States voted overwhelmingly for the adoption of a new international treaty: the *Convention for the Safeguarding of the Intangible Cultural Heritage*. The Convention aims to ensure the survival and vitality of the world's living local, national, and regional cultural heritage in the face of increasing globalisation and its perceived homogenising effects on culture (Matsuura 2004). Intangible Cultural Heritage (ICH) – a loose English translation of the Japanese *mukeni bunkazi*, is broadly defined in terms of oral traditions, expressive culture, the social practices, ephemeral aesthetic manifestations, and forms of knowledge carried and transmitted within cultural communities. It includes everything from stories and tales to music and celebration, folk medicine, craftsmanship, the culinary arts and vernacular architecture. National governments adopting it would be legally bound by the Convention to designate and empower organisations to document intangible cultural heritage and create inventories thereof, and also to encourage the presentation, preservation, protection, and

transmission of intangible cultural heritage by working closely and cooperatively with the relevant communities.

Importantly, the Convention recognises as ICH only those forms of cultural expression consistent with human rights. At the international level, a new International Committee elected from the States Parties to the new

Convention will develop two lists – one of representative traditions proposed by member states, and the other of endangered traditions in urgent need of safeguarding and eligible for financial support from a newly established international fund. The text of the treaty has been widely distributed and is available on the UNESCO website [1]. The Convention came into effect in April 2006. By the end of May 2007 seventy-eight nations had ratified it – among them China, India, Japan, Nigeria, Egypt, France, Spain, Turkey, Mexico and Brazil, and I expect it will be ratified by more than 100 within the next year or so. Neither the United States, the United Kingdom, Canada nor Australia has yet ratified the Convention, though the U.S. is reconsidering its position. The Convention is likely to become the standard-setting instrument for the safeguarding of living cultural heritage in years to come.

*Inaugural Public Lecture, Smithsonian Institution and the University of Queensland MoU Ceremony, 23 November 2006. Dr Kurin is Honorary Professor in Museum Studies at the University of Queensland, Brisbane, Australia.