

Synergies Between UNESCO's Conventions of 2003 and 2005: Safeguarding Cultural Heritage and Cultural Diversity⁴¹

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A few definitions

The 2003 Convention defines intangible cultural heritage as⁴³: "The practices, representations, expressions, knowledge and skills - as well as the instruments, objects, artefacts and cultural spaces associated with them - that communities, groups and, where appropriate, individuals recognise as part of their cultural heritage".

For the 2005 Convention, the cultural expressions to be protected and promoted are "expressions resulting from the creativity of individuals, groups and societies, and having a cultural content [which] refers to the symbolic meaning, artistic dimension and cultural values which originate from or express cultural identities"⁴⁴.

The origins of the 2005 Convention are linked to the political and economic context of the 2000s on the interface between culture and commerce. The concept of cultural goods and services lies at the heart of the 2005 Convention and is essential to understand its scope. Although the Convention is a standard-setting framework in the field of culture, the goods and cultural services which support cultural expressions refer to categories of products covered by many free trade agreements, including books, newspapers, films, television programmes, sound recordings, visual arts and various artistic performances.⁴⁵

While these two conventions are autonomous legal instruments, conceived according to distinct philosophies and specific objectives, they nevertheless maintain certain links. We will therefore try to first observe the synergies of a transversal approach to the two subjects, then we will see the limits and finally conclude on their complementarities.

41 Speech delivered at the Colloquium "The 2003 Convention and sustainable development in Latin America and the Caribbean" organized under the framework of the Celebration of the 20th Anniversary of 2003 Convention during the Latin America and the Caribbean Week at UNESCO – SALC 2023 21 June 2023.

42 Secretary of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

43 Article 2.1 of the Convention for the Safeguarding of the Intangible Cultural Heritage.

44 Articles 4.2 and 4.3 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

45 Regards croisés sur la convention pour la sauvegarde du patrimoine culturel immatériel et la convention sur la protection et la promotion de la diversité des expressions culturelles, Presses de l'Université Laval, 2019

Synergies

The synergies between intangible cultural heritage and the diversity of cultural expressions are profound. Intangible cultural heritage forms the basis of diverse cultural expressions and serves as a source of inspiration, creativity and innovation. It fosters a sense of identity, belonging and pride within communities, thereby strengthening social cohesion and intercultural dialogue. The diversity of cultural expressions, for its part, refers, as we have seen, to the different ways in which cultures manifest themselves through language, the arts, music, dance, literature and other forms of creative expression. It is through these diverse expressions that cultures thrive, evolve and contribute to the richness of our global heritage. A transversal approach recognises the interconnectedness of different cultural expressions and the need to promote dialogue and exchange between them. It recognises that cultural diversity is not static but constantly evolving, influenced by various factors such as globalisation, migration and technological progress. By adopting a cross-cutting approach, we can better understand and appreciate the complexities and interdependencies of cultural expressions, fostering mutual respect and understanding between diverse communities.

It is in this context that we can see that the 2003 and 2005 Conventions are united by the general objective they pursue, namely: the protection of cultural diversity as the common heritage of humanity.

Certain fundamental elements of the 2003 and 2005 Conventions have their source in the Universal Declaration on Cultural Diversity, adopted unanimously by the Member States of UNESCO on 2 November 2001.

The first article of the 2001 Declaration states that cultural diversity is one of the components of the common heritage of humanity. This approach to diversity is not new, since the notion of the “fruitful diversity” of cultures already featured in UNESCO’s 1945 Constitution. However, it has taken on a particular dimension since the advent of the globalisation of trade, including cultural trade, in the ‘80s and ‘90s. In such a context, there was a risk of homogenisation of cultures, which would inevitably have repercussions on intangible cultural heritage of communities and their potential to create, produce, distribute and disseminate their own cultural expressions.⁴⁶ This was a decisive factor in mobilising the international community to adopt these two instruments. This is why the fear of globalisation processes is explicitly stated in the preambles to the Convention for the Safeguarding of Intangible Cultural Heritage, adopted in 2003, and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted in 2005.

The above common characteristics are not exhaustive and in no way exclude general principles such as respect for human rights and fundamental freedoms, reconciliation, exchanges and mutual understanding between peoples, cooperation and international assistance, etc.

⁴⁶ Regards croisés sur la convention pour la sauvegarde du patrimoine culturel immatériel et la convention sur la protection et la promotion de la diversité des expressions culturelles, Presses de l’Université Laval, 2019

Another factor that has helped to bring the two Conventions closer together conceptually is the growing awareness of the cultural dimension of sustainable development. It is important to remember that in September 2002, during the Johannesburg Summit on Sustainable Development, a Declaration was adopted recognising cultural diversity as a collective strength that must be enhanced in order to ensure sustainable development. In this respect, the two conventions postulate the essential contribution of intangible cultural heritage and the diversity of cultural expressions to the sustainable development of societies.

Limits

However, it is important to recognise the limits of a cross-disciplinary approach. Although it aims to promote inclusiveness and dialogue, it can also come up against the difficulty of striking a balance between preserving cultural diversity and adapting to changing contexts. Striking a balance between safeguarding traditions and being able to innovate and adapt requires careful thought and collaboration between communities, cultural practitioners, policymakers and other stakeholders.

These limitations also apply to international instruments. While the 2003 Convention and the 2005 Convention share the need to preserve and promote cultural diversity imposed by a common historical context, they have different approaches and tools for achieving this.

Each of the two conventions offers its own toolbox. The 2003 Convention gives priority, for example, to the compilation and updating of inventories, to which may be added other measures likely to contribute to the safeguarding of intangible cultural heritage, such as the enhancement of the latter, the designation of competent bodies to ensure its safeguarding, support for research aimed at identifying new methods of safeguarding, or the adoption of appropriate legal, technical, administrative and financial measures aimed at guaranteeing access to this heritage. The measures favoured by the 2005 Convention are of a different order, since they are essentially aimed at supporting the creation, production, dissemination, distribution and access to cultural expressions, for example through quotas, financial aid, support for public service institutions and support for artists.⁴⁷

At national level, the rights and obligations of the Parties are sufficiently clear and precise without the need to dwell on elements of comparison.

On the other hand, at international level, there are quite clear differences of approach in the implementation of the two Conventions. I would just like to highlight two of them.

⁴⁷ Regards croisés sur la convention pour la sauvegarde du patrimoine culturel immatériel et la convention sur la protection et la promotion de la diversité des expressions culturelles, Presses de l'Université Laval, 2019

The first indicates a more collaborative and inclusive approach by all Parties to the 2003 Convention, and a cooperative approach aimed primarily at developing countries under the 2005 Convention.

For the 2003 Convention, safeguarding intangible heritage means first identifying the heritage to be safeguarded. The safeguarding of cultural heritage is carried out at the international level on the basis of (i) the Representative List of the Cultural Heritage of Humanity (Article16), (ii) the List of Cultural Heritage in Need of Urgent Safeguarding (Article17), and (iii) national, sub-regional and regional programmes, projects and activities for the safeguarding of intangible cultural heritage. The Parties thus agree on the common denominators of their collective action, the financing of which is provided by the Intangible Cultural Heritage Fund for the benefit of both developed and developing countries.

In the case of the 2005 Convention, its implementation at international level is essentially based on the promotion of international cooperation (Article12), whereby "Parties shall endeavour to strengthen their bilateral, regional and international cooperation for the creation of conditions conducive to the promotion of the diversity of cultural expressions, taking particular account of situations of serious threat to cultural expressions, with special attention to developing countries". Implementation of the 2005 Convention at international level is also based on cooperation for development (Article14), under which "the Parties shall endeavour to support cooperation for development and poverty reduction particularly with regard to the specific needs of developing countries, with a view to fostering the emergence of a dynamic cultural sector". Lastly, it is based on Article 16, which states that "developed countries shall facilitate cultural exchanges with developing countries by granting, through appropriate institutional and legal frameworks, preferential treatment to their artists and other cultural professionals and practitioners, as well as their cultural goods and services". Thus, when the Convention was being drawn up, international cooperation was seen as being primarily directed towards developing countries. These various international cooperation mechanisms are financed by the International Fund for Cultural Diversity, but not exclusively.

The second approach concerns differentiated responses to situations where cultural diversity is under threat.

The 2005 Convention calls on States Parties in its Articles 17 and 8 call on States Parties to cooperate "to provide mutual assistance, especially to developing countries", in special situations where cultural expressions are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding. States Parties are encouraged to report to the Intergovernmental Committee on all measures taken to meet the demands of the situation. So, while the Convention mainly provides broad principles and operational guidelines that offer a global framework within which to intervene, it does not offer specific operational arrangements for the States Parties to deal with these emergency situations.

The 2003 Convention, for its part, has a much more operational arsenal with its mechanism of lists obliging States to cooperate and take action in particular on elements requiring urgent safeguarding. In addition, the Operational Directives of this Convention

explicitly stipulate that the Intangible Cultural Heritage Fund may provide technical and financial assistance to support safeguarding activities in emergency contexts. It was in this context that the Convention's governing bodies adopted the Principles and Operational Modalities for the Safeguarding of Intangible Cultural Heritage in 2020.

Here are some of the conceptual and operational limitations I wanted to outline.

Complementarities

Nevertheless, consideration of the synergies and limits of a cross-cutting approach to both concepts and the international instruments referring to them, as we have just done, ultimately leads us to recognise their complementarity in the preservation of cultural diversity.

We can (and must) reaffirm that cultural expression and cultural heritage are inseparable. Intangible cultural heritage is the source of the diversity of cultural expressions. And if intangible cultural heritage is a source of inspiration for contemporary artistic creativity, it is entirely conceivable that this creativity will be intangible heritage in the future.

It is also worth highlighting the recognition of the contribution of culture to development by the 2005 Convention, which is the first binding international cultural instrument to do so: "The Parties shall endeavour to integrate culture into their development policies, at all levels, with a view to creating conditions conducive to sustainable development".⁴⁸ By referring to culture in its entirety, the 2005 Convention establishes an undeniable link with all the other cultural conventions, including the 2003 Convention and intangible cultural heritage.

In this sense, and following the appeal launched by Member States at the UNESCO World Conference on Cultural Policies and Sustainable Development - MONDIACULT 2022, the implementation of these two conventions in a complementary manner is more necessary than ever in order to meet the new challenges facing cultural diversity, such as technological advances, climate change, conflicts and pandemics, to name but a few.

In conclusion, I would like to quote the MONDIACULT Declaration adopted unanimously by the Member States last September in Mexico City:

We, the Ministers of Culture of the Member States of UNESCO, [...] reiterate the individual and collective responsibility, on behalf of future generations, to ensure the conservation, safeguarding and promotion of the entire cultural sector, both tangible and intangible, as an ethical imperative, with a view to ensuring greater equity, better geographical balance and better representativeness of the heritage in all regions, as well as the promotion of cultural and creative industries, as fundamental dimensions in supporting cultural diversity and pluralism, respect for which constitutes, today more than ever, a ferment of peace and a force for creativity and innovation in building a more sustainable world.

48 Article 13 of the 2005 Convention.