

RESEARCH ARTICLES

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Building Bridges Between the 1972 and 2003 Conventions – Searching for an Integrated Protection of Cultural Heritage under UNESCO’s Cultural Conventions System

Abstract: The need for an integrated application of the Convention Concerning the Protection of World Cultural and Natural Heritage (1972) and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) illustrates a shift in approach concerning the axiological base of the UNESCO’s Cultural Conventions System. Adopting the 2003 Convention reflected the new ways of thinking about the role of cultural heritage, raising the question of creating an integrated management model of heritage sites that could ensure a holistic approach to heritage conservation. The full engagement of communities in the management processes must entail considering the intangible cultural heritage elements, of which they are bearers. Thus, building integrated management systems would be the result of a redefinition of the scope and significance of the UNESCO Cultural Conventions.

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Introduction

As the 21st century dawned, UNESCO faced the challenge of assuring the effectiveness of the existing legal instruments. The contemporary understanding of cultural heritage has been constantly broadening its horizons, mainly due to the contribution of entire communities included in the system.¹ This has resulted in a redefinition of the scope and significance of the UNESCO Cultural Conventions. An essential part of this process is a search for synergy between the respective conventions, which should be understood as a way towards their integrated application.

However, this shift in approach concerns not only the interpretation and application of individual conventions, but also the activities of UNESCO itself, which seeks to make changes in this regard, as exemplified by the setting up of the Cultural Convention Liaison Group (CCLG) in 2012, comprising of the heads of the Convention Secretariat – the body established to increase the coordination among the conventions.

The aforementioned process of change particularly affects the interpretation and application of the Convention Concerning the Protection of World Cultural and Natural Heritage (“the 1972 Convention”)² and the Convention for the Safeguarding of the Intangible Cultural Heritage (“the 2003 Convention”),³ which constitutes the main subject of this article. The need to take notice of the possibilities for their integrated application, in view of the changes occurring in the UNESCO treaty system, requires a change of approach vis-à-vis their interpretation. Thus, the aim of this work is to point out the boundaries and factors that affect this change in approach with respect to the interpretation and implementation of said Conventions, which stems from the strong interconnection in the field and scope of their safeguarding, namely, cultural heritage. One of the most crucial consequences of the systemic character of the UNESCO order is the fact that it requires mechanisms that regulate the relations between its counterparts, and between the

¹ See: M. Munyaradzi, *Intangible Cultural Heritage and the Empowerment of Local Communities: Manyanga (Ntaba Zi Ka Mambo) Revised*, A paper presented at the ICOMOS 14th General Assembly and Scientific Symposium, under the theme “Place – Memory – Meaning: Preserving Intangible Values in Monuments and Sites”, Victoria Fall, Zimbabwe – 27-31 October 2003, http://openarchive.icomos.org/521/1/C3-5_-_Munyaradzi.pdf [accessed: 21.09.2017].

² 16 November 1972, 1037 UNTS 151.

³ 17 October 2003, 2368 UNTS 1.

counterparts and the whole. Therefore, this article will address the problems related to the interrelationship between safeguarding tangible and intangible heritage. Moreover, it will also deal with the ontological problems connected with describing the issue in practice.

UNESCO Conventions as a System – Contemporary Changes in the Approach to Cultural Heritage Safeguarding

The assertion that the UNESCO Conventions, along with other standard-setting documents, constitute a system has far-reaching consequences. It assumes the existence of interconnections between the elements of this system (bridges), and that they perform a certain supreme function as a whole. While its superior function – safeguarding of cultural heritage – is not difficult to distinguish, the demonstration of the interrelationships requires a change of approach to the interpretation of the content of its individual elements.

In legal terms, interpretation is defined as a rational activity that gives meaning to a legal text.⁴ The rules of interpretation, whether of national or international law, which take into account the methods of its realization, can be divided into:

- a) linguistic interpretation – based on the rules of meaning and structure of language;
- b) systemic interpretation – made in relation to the localization of provisions in a given legislative act or the location of this act in the whole branch of law, with respect to the principles of the system of law or the rules of a particular branch of law;
- c) functional interpretation – made in a way that takes into account the circumstances under which the standard is to operate;
- d) teleological interpretation – taking into account the purpose of the rule to be implemented; the interpretation should, therefore, be made in conjunction with the purpose declared by the law maker by introducing such a provision into the legal system, taking into account the purpose of the legal provision, the purpose of the legal institution created by the legal provision, and the purpose of the entire legal system.

Article 31 of the Vienna Convention on the Law of Treaties (1969)⁵ establishes the general rule of interpretation: “A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose”. Based on this rule the discussions about the meaning of the treaties adopted under the auspices of UNESCO are open to all the abovementioned methods of interpretation. This is why building bridges

⁴ A. Barak, *Purposive Interpretation in Law*, Princeton University Press, Princeton 2005, p. 3.

⁵ 22 May 1969, 1155 UNTS 331.

between the 1972 and 2003 Conventions requires a change in the approach to the interpretation of their provisions; abandoning the linguistic interpretation in favour of the schematic and teleological ones.⁶ Consequently, the terms contained in the 1972 and 2003 Conventions should not be understood solely in their ordinary meaning, but also as harmoniously complementing one another. At the same time, this interpretation should remain dynamic, which means that over time the meaning of the regulations should be adapted to the changing situation by adopting a meaning that is consistent with their context.

In addition, the creation of the basis for an integrated approach and of the outline of the interrelationships between the 1972 and 2003 Conventions relies on two basic groups of factors that affect the functioning of the UNESCO Convention system: systemic and non-systemic. The former are generated within the system itself, and the latter are outcomes of independent external factors. The systemic factors include axiological factors, which change over time (a specific value system changing over time); organizational factors (for example, the way of organizing and the makeup of the administrative staff structure); normative factors (adopting new Conventions that extend the scope of safeguarding); economic factors (for example, the economic environment is always a necessary reference point in the process of formulating the bases of judicial solutions and the goals of activities). The non-systemic factors, which cause independent change, include political and cultural factors. The sum of all of these elements, which work at various levels of intensity, affects the changes in the interpretation of the elements of the system themselves.

In light of the topic of this article, it is worthwhile focusing attention on the significance of the normative factors that are tied to the functioning of the UNESCO system, in particular to those situations in which the acceptance of one legally binding act forces a change in the approach to other, earlier instruments.

This was particularly the case with the very definition of intangible heritage adopted in the 2003 Convention. Hanna Schreiber argues that it:

has created an unprecedented new paradigm of understanding cultural heritage [...]. As a result of the definition of ICH, a new way of understanding heritage has replaced the previous, 'archival' narrative of cultural monuments in favor of current, anthropological narratives of cultural practices, and furthermore has de-legitimized the exclusiveness of expert discourse in this area in favor of a discourse that includes the heritage bearers themselves: individuals, groups and communities.⁷

⁶ A. Szpak, *O wykładni międzynarodowego prawa traktatowego i zwyczajowego (z uwzględnieniem międzynarodowego prawa humanitarnego)* [On the interpretation of international treaty law and customary law (with respect to international humanitarian law)], "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2008, Vol. 1, pp. 74-75.

⁷ H. Schreiber, *Intangible Cultural Heritage and Soft Power: Exploring the Relationship*, "International Journal of Intangible Heritage" 2017, Vol. 12, p. 46.

The way in which an object is identified as worthy of safeguarding naturally determines the successive elements of the safeguarding system. In the case of world heritage, its “Universal Outstanding Value” is the central concept, whereas the 2003 Convention stresses the equality of all the elements of intangible heritage. The common element of both orders is the international listing system – in the case of the 1972 Convention this is the World Heritage List; whereas in the case of the 2003 Convention it is the Representative List of the Intangible Cultural Heritage of Humanity.⁸ What differs, however, is the very essence of the entry. In the 2003 Convention it is based on the role of individuals, groups, and communities⁹ – considered as those that can ensure the transfer of intangible heritage to future generations; while the safeguarding of World Heritage Sites is based on legal regulations that create the right management system framework. Of course, over the years, there has been a change in attitude towards the role of communities outlined in the 1972 Convention as well. The turning point was the Nara Document of Authenticity (1994),¹⁰ which declared the idea that the authenticity of heritage should be determined within the cultural contexts to which the heritage belongs. In recent years, the World Heritage Committee also revised its Strategic Objectives, adopting the “four C” strategy. New Zealand’s proposal of adding the “fifth C” (Community) was based on the argument that heritage protection without community involvement and commitment is an invitation to failure.¹¹ It was thus recognized by the Committee that communities are also crucial for safeguarding world heritage. Thus, the adoption of the 2003 Convention, as well as the fact that the World Heritage Committee revised its Strategic Objectives, proves that the contemporary understanding of cultural heritage is broadening its horizons.¹²

⁸ See: R. Smeets, H. Deacon, *The Examination of Nomination Files Under the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage*, in: P. Davis, M.L. Stefano (eds.), *The Routledge Companion to Intangible Cultural Heritage*, Routledge, London 2017, pp. 22-39.

⁹ See: J. Blake, *UNESCO's 2003 Convention on Intangible Cultural Heritage. The Implications of Community Involvement in “Safeguarding”*, in: L. Smith, N. Akagawa (eds.), *Intangible Heritage*, Routledge, London – New York 2009, pp. 45-73.

¹⁰ 21 November 1994, UNESCO Doc. WHC-94/CONF.003/INF.008.

¹¹ See UNESCO Doc. WHC-07/31.COM/13B, p. 2. The New Zealand proposal also directed “that relevant communities be actively involved in the identification, management and conservation of all World Heritage sites. The identification of communities who have a particular interest is a matter that will require States to develop an explicit methodology. New Zealand believes that the interests of local/traditional/indigenous people and communities should always be taken into account. Community interests should not ‘trump’ other strategic goals, but rather, should be used in a complementary manner. New Zealand is of the view that linking communities to heritage protection is a ‘win-win’ scenario”.

¹² Also see: A. Sidorenko, *Implementation of “the 5Cs” Strategic Objectives with Support of WH Thematic Programmes and Initiatives: Focus on CESEE*, 2013, whc.unesco.org/document/125624 [accessed: 18.01.2018].

Thus, it follows that the change of systemic and non-systemic factors directly influences the effectivity and interpretation of certain Conventions. When applying the systemic approach to the output of the UNESCO Conventions in the area of culture, while taking the aforementioned changes of factors into consideration, we need to note the potential of deepening and expanding the integrated approach to their application. In particular, this should relate to the 1972 and 2003 Conventions. The justification of the search for the interconnections between these Conventions lies in the relationship between the tangible and intangible elements of cultural heritage, as we must bear in mind that in many cases tangible cultural heritage is a necessary condition for ensuring the sustainability of intangible heritage (for example, a specific place tied to a particular custom, or a cultural landscape tied to natural elements linked with a given ritual). Moreover, the significance of places and objects stems from their social meaning, which is also connected to elements of intangible heritage. However, the need to define the possibilities of integrated application of the 1972 and 2003 Conventions cannot go against Article 3 of the 2003 Convention, which sets out the general rule that “[N]othing in this Convention may be interpreted as: (a) altering the status or diminishing the level of protection under the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage of World Heritage properties with which an item of the intangible cultural heritage is directly associated”. The integrated application of the 2003 Conventions described in this paper refers to a much broader context and to an intensive interpretation of the 1972 Convention and its Operational Guidelines, specifically in the field of creating an integrated management model of heritage sites that would ensure a holistic approach to heritage conservation.

By following the reasoning of Ahmed Skounti, who states that “the separation made between tangible and intangible heritage is, everyone would agree, perfectly methodological,”¹³ one should, therefore, indicate a common field that applies to both Conventions. At the same time, when bridging the Conventions and altering the approach to interpreting their provisions we should assume that the acts of UNESCO in the field of culture are a system that was shaped in stages. In other words, the factual fragmentation of legislation is not a reflection of UNESCO’s policy in terms of integration, but is rather due to the accumulation of the UNESCO *acquis* in this area as a certain process.

Moreover, comparing these two international law instruments as normative frameworks reveals obvious differences between them, which include key areas of their significance, namely: the definitions of the subject of safeguarding,

¹³ A. Skounti, *The Lost Ring: UNESCO’s World Heritage and Intangible Cultural Heritage*, “Milli Folklor” 2011, Vol. 23(89), <http://www.millifolklor.com/PdfViewer.aspx?Sayi=89&Sayfa=25> [accessed: 21.09.2017].

the concept of safeguarding itself, and the previously discussed instruments of such protection.¹⁴

It is worth bearing in mind that, for the purposes of the 1972 Convention, the following shall be considered as “cultural heritage”:

- monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings, and combinations of features which are of outstanding universal value from the point of view of history, art, or science;
- groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity, or their place in the landscape, are of outstanding universal value from the point of view of history, art, or science;
- sites: works of man or the combined works of nature and of man, and areas, including archaeological sites, which are of outstanding universal value from the historical, aesthetic, ethnological, or anthropological points of view.

The most recognizable element of the 1972 Convention is the World Heritage List, which contains the objects and areas of outstanding universal value. The inscriptions on the List are made according to accepted and defined criteria. For the purpose of this article, it is worthwhile concentrating on the World Heritage Sites inscribed under Criterion (vi), which refers to sites that are “directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal value”.¹⁵ The concept of cultural heritage under the 1972 Convention has been continually broadened over the years, leading to “identification of intangible elements to be associated with physical heritage, in order to bring out the fullest expression of its spiritual, cultural and artistic values”.¹⁶

Safeguarding of the world heritage and intangible cultural heritage (ICH) must face the threats identified by the international community, especially where spiritual heritage is concerned,¹⁷ namely globalization, urbanization, and industrialization processes; intergenerational communication problems; and excessive tourist traffic. It is the nature of these hazards, often very diverse, that

¹⁴ See: L. Smith, N. Akagawa (eds.), *Intangible Heritage*, Routledge, New York 2009; H.J. Deacon, R. Smeets, *Authenticity, Value and Community Involvement in Heritage Management Under the World Heritage and Intangible Heritage Conventions*, “Heritage and Society” 2013, Vol. 6(2), pp. 129-143; A. Skounti, op. cit.

¹⁵ There are 240 World Heritage Sites in 100 countries listed under Criterion (vi).

¹⁶ J.-L. Luxen, *The Intangible Dimension of Monuments and Sites with Reference to the UNESCO World Heritage List*, A paper presented at the ICOMOS 14th General Assembly and Scientific Symposium, under the theme “Place – Memory – Meaning: Preserving Intangible Values in Monuments and Sites”, Victoria Falls, Zimbabwe – 27-31 October 2003, http://www.international.icomos.org/victoriafalls2003/luxen_eng.htm [accessed: 21.09.2017].

¹⁷ See S. Hoghooghifard, *Destructive Threats in the Protection of Intangible Cultural Heritage with Emphasis on National and International Conventions*, “The International Journal of Review in Life” 2015, Vol. 5(3), pp. 67-71.

constitutes one of the obvious elements that justifies the different forms of safeguarding. It should be noted, however, that the emerging challenges related to safeguarding world heritage, including intangible cultural heritage, require constant optimization both in terms of approach and the shaping of heritage management mechanisms.

With the above considerations in mind, the differences between the 1972 and 2003 Conventions are not merely a result of the nature of the subjects of the regulation themselves but, as with any legislative process, are related to the game of national interests. Thus, the final shape of each normative instrument ultimately expresses a compromise between the participating States. Already during the negotiations preceding the adoption of the 1972 Convention, there were voices suggesting that its scope was too narrow and it also should cover intangible elements¹⁸. However, the holistic perception of culture – which was the key factor for adopting the 2003 Convention – nowadays forces a redefinition of the 1972 Convention. Therefore, the time between adopting the two Conventions is not solely a period that allowed for the evaluation of the effectiveness of the 1972 Convention, but also a change in the basis of UNESCO's axiological functioning. These shifts in the hierarchy and the catalogue of values on which UNESCO was founded have become the basis for the changes in the approach to heritage safeguarding over the years, as reflected in subsequent normative acts.¹⁹

Before outlining the field on which the integrated approach to cultural heritage can be realized in compliance with both the 1972 and 2003 Conventions' frameworks, attention also needs to be drawn to a number of issues connected to definitions. Searching for the forms of the integrated approach to tangible and intangible heritage should not be seen as equal to the issues pertaining to the safeguarding of the intangible values of tangible objects.²⁰ One may agree that intangible heritage forms an important part of the significance of heritage sites, nevertheless the intangible values that have an influence on the significance of these places constitute an entirely separate cultural component. This problem was addressed by John H. Merryman, who pointed out that the sources of public interest in preserving a site of cultural significance include, among others, the expressive value of cultural property (truth and certainty, morality, memory, survival, pathos,

¹⁸ See F. Lenzerini, *Intangible Cultural Heritage: The Living Culture of Peoples*, "The European Journal of International Law" 2011, Vol. 22(1).

¹⁹ J. Blake, *Development of UNESCO's 2003 Convention. Creating a New Heritage Protection Paradigm?*, in: P. Davis, M.L. Stefano (eds.), *The Routledge Companion to Intangible Cultural Heritage*, Routledge, London 2017, pp. 11-21.

²⁰ See C. Pocock, D. Collett, L. Baulch, *Assessing Stories Before Sites: Identifying the Tangible from the Intangible*, "International Journal of Heritage Studies" 2015, Vol. 21(10), pp. 962-963 (despite the interesting title, this article is an example of those solutions which use the terms intangible heritage and intangible values interchangeably).

identity, and community).²¹ Cultural objects and sites nourish the sense of community and become the basis for social ties. Thus, although the site's intangible values, which are tied to the presence of intangible heritage elements, are obvious and acknowledged, if we are to conduct a substantive consideration of the UNESCO Conventions it is necessary to adhere to their definitions, including the definition of intangible heritage accepted in 2003. It is here where the problem with Criterion (vi) lies: although it points literally to intangible heritage, its interpretation tends to gravitate towards intangible values.

The highlighted problem with the definition is clearly visible against the background of the 1972 Convention and the interpretation of Criterion (vi), which requires that the site needs to be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. The analysis of the World Heritage Sites inscribed over recent years shows that while we can talk about intangible values connected with many of these sites, they are not, however, the same as intangible heritage in the meaning outlined by the 2003 Convention; and this meaning is also suggested by a literal interpretation of Criterion (vi). However, the shift to the systemic interpretation and the consideration of the changes in the axiological basis of the 1972 Convention continually expands the understanding of Criterion (vi). Moreover, there are sites that are strongly tied to the presence of elements of intangible heritage in their area but which have not been inscribed on the basis of Criterion (vi).

Management of World Heritage Sites – Opportunity for Creating a Joint Reflection

One of the key elements of the world heritage system is the management of the sites. This is also an important field in which it is desirable to build a bridge between the 1972 and 2003 Conventions.

The beginning of this dynamic process, common to both acts, is the entry on the List. This opens the discussion about the importance of individual participants and communities in the management system and creates an opportunity for building a joint reflection about safeguarding cultural heritage.²² However, the aforementioned number of barriers in realizing the vision of greater community involvement in heritage management under these two Conventions²³ has to be considered.

²¹ J.H. Merryman, *The Public Interest in Cultural Property*, "California Law Review" 1989, Vol. 77 (March), pp. 345-349.

²² The management of the site, being an essential field to create better understanding of the 1972 and 2003 Conventions, was the main issue discussed during the seminar "Building Bridges Between the 1972 and 2003 Conventions: Challenges for the Future", held on 10 July 2017, an event accompanying the 41st World Heritage Committee session in Kraków (Poland).

²³ H. Deacon, R. Smeets, *op. cit.*

Each nominated property, according to the Operational Guidelines for the Implementation of the World Heritage Convention (“Operational Guidelines”),²⁴ should have an appropriate management plan or other documented management system. Its purpose is to ensure the effective protection of the nominated property for present and future generations (Paragraph 109).

An effective management system depends on the type, characteristics, and needs of the nominated property and its cultural and natural context. Management systems should, in particular, account for ICH in the case of entries made on the basis of Criterion (vi). An important element here is the proper understanding of the condition of authenticity. Paragraph 82 of the Operational Guidelines states that

[d]epending on the type of cultural heritage, and its cultural context, properties may be understood to meet the conditions of authenticity if their cultural values (as recognized in the nomination criteria proposed) are truthfully and credibly expressed through a variety of attributes, including form and design; materials and substance; use and function; traditions, techniques and management systems; location and setting; language, and other forms of intangible heritage; spirit and feeling; and other internal and external factors.

However, Paragraph 83 states that “[a]ttributes such as spirit and feeling do not lend themselves easily to practical applications of the conditions of authenticity, but nevertheless are important indicators of character and sense of place, for example, in communities maintaining tradition and cultural continuity”. This creates a challenge for management systems. On the one hand, they must provide the simultaneous maintenance of significance and fabric. On the other hand, it should be noted that the conservation of fabric is not always sufficient for the conservation of an intangible heritage site.²⁵ Therefore, as described by Mounir Bouchenaki, it is necessary “to develop a threefold approach which will (i) put tangible heritage into its wider context, (ii) translate intangible heritage into *materiality* and (iii) support practitioners and the transmission of knowledge and skills”.²⁶

As mentioned above, if UNESCO’s goal is to ensure the effective safeguarding of all cultural heritage this requires a holistic approach, not only in relation to the subject of such protection but also to the overall perception of the various elements of the system of normative acts of UNESCO, by changing the method of their interpretation. This means that the process of de-concentration of

²⁴ Last revised on 12 July 2017, UNESCO Doc. WHC.17/01.

²⁵ See H. Deacon, *Intangible Heritage in Conservation Management Planning: The Case of Robben Island*, “International Journal of Heritage Studies” 2004, Vol. 10(3), https://www.accu.or.jp/ich/en/pdf/c2006_Expert_DEACON_2.pdf [accessed: 21.09.2017].

²⁶ M. Bouchenaki, *A Major Advance towards a Holistic Approach to Heritage Conservation. The 2003 Intangible Heritage Convention*, “International Journal of Intangible Heritage” 2007, Vol. 2, p. 107.

individual safeguarding mechanisms should be halted. Counteracting the consolidation of sectorality should, however, focus primarily on organizational and expert fragmentation, and thus on creating the basis for interoperability and an exchange of experiences within integrated management systems. This challenge does not apply only to communities and individual managers of World Heritage Sites, but also to UNESCO employees and experts who guard “their” cultural heritage elements. These entities will need to implement joint projects and undertake joint actions, which will provide the first steps toward ensuring a systemic interpretation of the individual Conventions and the concept of integrated protection. UNESCO, like any other administration, is a man-made structure that decisively influences the course of individual processes.

Moving the discussion to the field of heritage management may fulfil the postulates expressed by the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage (held in Baku, 2013) in its Decision 8.COM 5.c.1, where the Committee recognized “the need to create opportunities for joint thinking, exchange of experiences, cooperation and synergies between UNESCO’s culture heritage Conventions of 1972, 2003 and 2005”.²⁷ The first step toward a broader cooperation was the World Heritage Site Managers’ Forum, an event accompanying the 41st World Heritage Committee session, which took place from 30 June to 6 July 2017 in Kraków (Poland). The participants of the Forum, in its final Statement,²⁸ expressed the need to create a mechanism for a holistic approach to integrate nature, culture, and people linkages, calling for a departure from the previous, somewhat Western, attitude toward heritage management, and creating monitoring managing mechanisms for intangible heritage as a part of the management plan, especially of the sites listed under Criterion (vi) on the World Heritage List.²⁹

Conclusions

The adoption of the 2003 Convention reflected the new ways of thinking about the role of cultural heritage, and opened the discussion about possible changes in the approach to the interpretation of other cultural conventions based on schematic, teleological, and linguistic interpretations. The abovementioned approach could not only soften the fragmentation of the regimes of international safeguarding of cultural heritage, but also create a common ground, where the 2003

²⁷ UNESCO Doc. ITH/13/8.COM/5.c.

²⁸ https://41whckrakow2017.pl/files/UserFiles/Nowy_folder/Heritage_Site_Managers'_Forum.pdf [accessed: 21.09.2017].

²⁹ See P. Segadika, *Managing Intangible Heritage at Tsodilo*, “Museum International” 2010, Vol. 58(1-2), pp. 31-40.

and 1972 Conventions could meet, thus forming a new management system. Building a management model for the integrated approach would be an important step towards a holistic approach to heritage conservation. However, it requires UNESCO and world heritage managers to work together with ICH specialists.

As mentioned above, the adoption of 2003 Convention and revision of the Strategic Objectives of the World Heritage Committee has fundamentally changed UNESCO's approach to the protection of World Heritage Sites. It should be now followed by a revised systemic interpretation of the 1972 Convention and adjusted Operational Guidelines to this treaty. Thus, in practice the elaboration of an integrated approach to the 1972 and 2003 Conventions means the construction of a new model of managing cultural heritage, one that takes into consideration the holistic approach to cultural heritage. The full engagement of communities in the management processes must entail a consideration of the intangible cultural heritage elements, of which they are bearers. Therefore, this is a natural consequence of community involvement in heritage management. The negotiation and elaboration of a new management model should subsequently be reflected in the Operational Guidelines for both Conventions.

References

- Barak A., *Purposive Interpretation in Law*, Princeton University Press, Princeton 2005.
- Blake J., *Development of UNESCO's 2003 Convention. Creating a New Heritage Protection Paradigm?*, in: P. Davis, M.L. Stefano (eds.), *The Routledge Companion to Intangible Cultural Heritage*, Routledge, London 2017.
- Blake J., *UNESCO's 2003 Convention on Intangible Cultural Heritage. The Implications of Community Involvement in "Safeguarding"*, in: L. Smith, N. Akagawa (eds.), *Intangible Heritage*, Routledge, London – New York 2009.
- Bouchenaki M., *A Major Advance towards a Holistic Approach to Heritage Conservation. The 2003 Intangible Heritage Convention*, "International Journal of Intangible Heritage" 2007, Vol. 2.
- Convention Concerning the Protection of the World Cultural and Natural Heritage, 16 November 1972, 1037 UNTS 151.
- Convention for the Safeguarding of the Intangible Cultural Heritage, 17 October 2003, 2368 UNTS 1.
- Deacon H., *Intangible Heritage in Conservation Management Planning: The Case of Robben Island*, "International Journal of Heritage Studies" 2004, Vol. 10(3), https://www.accur.jp/ich/en/pdf/c2006Expert_DEACON_2.pdf [accessed: 21.09.2017].
- Deacon H.J., Smeets R., *Authenticity, Value and Community Involvement in Heritage Management Under the World Heritage and Intangible Heritage Conventions*, "Heritage and Society" 2013, Vol. 6(2).
- Hoghooghifard S., *Destructive Threats in the Protection of Intangible Cultural Heritage with Emphasis on National and International Conventions*, "The International Journal of Review in Life" 2015, Vol. 5(3).

- Lenzerini F., *Intangible Cultural Heritage: The Living Culture of Peoples*, "The European Journal of International Law" 2011, Vol. 22(1).
- Luxen J.-L., *The Intangible Dimension of Monuments and Sites with Reference to the UNESCO World Heritage List*, A paper presented at the ICOMOS 14th General Assembly and Scientific Symposium, under the theme "Place – Memory – Meaning: Preserving Intangible Values in Monuments and Sites", Victoria Falls, Zimbabwe – 27-31 October 2003, http://www.international.icomos.org/victoriafalls2003/luxen_eng.htm [accessed: 21.09.2017].
- Merryman J.H., *The Public Interest in Cultural Property*, "California Law Review" 1989, Vol. 77(March).
- Munyaradzi M., *Intangible Cultural Heritage and the Empowerment of Local Communities: Manyanza (Ntaba Zi Ka Mambo) Revised*, A paper presented at the ICOMOS 14th General Assembly and Scientific Symposium, under the theme "Place – Memory – Meaning: Preserving Intangible Values in Monuments and Sites", Victoria Falls, Zimbabwe – 27-31 October 2003, http://openarchive.icomos.org/521/1/C3-5_-_Munyaradzi.pdf [accessed: 21.09.2017].
- Nara Document of Authenticity, 21 November 1994, UNESCO Doc. WHC-94/CONF.003/INF.008.
- Pocock C., Collett D., Baulch L., *Assessing Stories Before Sites: Identifying the Tangible from the Intangible*, "International Journal of Heritage Studies" 2015, Vol. 21(10).
- Schreiber H., *Intangible Cultural Heritage and Soft Power: Exploring the Relationship*, "International Journal of Intangible Heritage" 2017, Vol. 12.
- Segadika P., *Managing Intangible Heritage at Tsodilo*, "Museum International" 2010, Vol. 58(1-2).
- Sidorenko A., *Implementation of "the 5Cs" Strategic Objectives with Support of WH Thematic Programmes and Initiatives: Focus on CESEE*, 2013, whc.unesco.org/document/125624 [accessed: 18.01.2018].
- Skounti A., *The Lost Ring: UNESCO's World Heritage and Intangible Cultural Heritage*, "Milli Folklor" 2011, Vol. 23(89), <http://www.millifolklor.com/PdfViewer.aspx?Sayi=89&Sayfa=25> [accessed: 21.09.2017].
- Smeets R., Deacon H., *The Examination of Nomination Files Under the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage*, in: P. Davis, M.L. Stefano (eds.), *The Routledge Companion to Intangible Cultural Heritage*, Routledge – London 2017.
- Smith L., Akagawa N. (eds.), *Intangible Heritage*, Routledge, New York 2009.
- Statement of the World Heritage Site Managers' Forum*, the 41. Session of World Heritage Committee in Kraków, 30 June – 6 July 2017, [https://41whckrakow2017.pl/files/UserFiles/Nowy folder/Heritage Site Managers' Forum.pdf](https://41whckrakow2017.pl/files/UserFiles/Nowy%20folder/Heritage%20Site%20Managers'%20Forum.pdf) [accessed: 21.09.2017].
- Szpak A., *O wykładni międzynarodowego prawa traktatowego i zwyczajowego (z uwzględnieniem międzynarodowego prawa humanitarnego)* [On the interpretation of international treaty law and customary law (with the consideration of the international humanitarian law)], "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2008, Vol. 1.
- The Budapest Declaration on World Heritage*, 28 June 2002, <http://whc.unesco.org/en/budapestdeclaration> [accessed: 21.09.2017].

RESEARCH ARTICLES

Katarzyna Zalaszińska

UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, Eighth session, Baku, Azerbaijan, 2-7 December 2013, *Item 5.c of the Provisional Agenda: Report on the evaluation by the Internal Oversight Service of UNESCO's standard-setting work of the Culture Sector and the related audit of the working methods of Cultural Conventions*, 31 October 2013, UNESCO Doc. ITH/13/8.COM/5.c.

UNESCO, *Operational Guidelines for the Implementation of the World Heritage Convention*, 12 July 2017, UNESCO Doc. WHC.17/01.

Vienna Convention on the Law of Treaties, 22 May 1969, 1155 UNTS 331.