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SPECIAL COMMITTEE OF TECHNICAL AND LEGAL EXPERTS  
ON THE SAFEGUARDING OF FOLKLORE

(Unesco House, 1-5 June 1987)

CONSIDERATION OF THE SOLUTIONS TO THE PROBLEMS RAISED  
BY THE SAFEGUARDING OF FOLKLORE IN THE LIGHT OF THE STUDIES  
SUBMITTED BY MR P. SAMMY-MACFOY AND PROFESSOR L. HONKO

**18 MAI 1987**

(CPY-87/CONF.208/COL.4)

1. The Executive Board decided at its 121st session to place on the provisional agenda of the twenty-third session of the General Conference the question of the 'desirability of adopting a general international instrument on the safeguarding of folklore'.
2. It should be noted that the two committees of governmental experts provided for in the work plan relating to 21 C/Resolution 5/03 met from 22 to 26 February 1982 and from 28 June to 2 July 1982 at the Headquarters of Unesco and WIPO respectively. At those meetings the various aspects involved in the safeguarding of folklore were considered with a view to determining the content of a possible international instrument on the subject.
3. In accordance with the work plan relating to 22 C/Resolution 15.1, a meeting of a Group of Experts on the international protection of expressions of folklore by intellectual property was convened at Unesco Headquarters by the Organization jointly with WIPO from 10 to 14 December 1984.
4. In addition, a Second Committee of Governmental Experts responsible for carrying out a thorough study on the possible range and scope of general regulations concerning the safeguarding of folklore met at Unesco Headquarters from 14 to 18 January 1985.
5. The report of Commission I (Part II) which, at the twenty-third session of the General Conference (Sofia, 1985) considered the 'desirability of adopting a general international instrument on the safeguarding of folklore' states that 'In general, the delegates speaking on this item were unanimous in emphasizing the need for action to safeguard folklore and expressed their agreement with this project's objectives. The great majority of them approved the plan for standard-setting action, preferably not mandatory, at the international level'.
6. At the end of its discussions on this question, 'the Commission, considering that it was not yet possible to move on to the preparation of a draft international instrument, recommended that the General Conference should adopt a draft resolution'.
7. The Commission's proposal having been approved, resolution 15.3 was adopted by the General Conference at its twenty-third session, couched in the following terms:

'The General Conference,

Having regard to Articles 2 and 3 of the Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the terms of Article IV, paragraph 4, of the Constitution,

Having examined the report and preliminary study contained in document 23 C/32,

1. Decides that the question of the safeguarding of folklore could be the subject of an international instrument in the form of a recommendation to Member States;
2. Invites the Director-General to convene a special committee of governmental experts to examine the question and invites him to report on this matter to the next session of the General Conference in 1987'.

8. In pursuance of this resolution, two studies have been prepared for the meeting of the Special Committee of Technical and Legal Experts on the Safeguarding of Folklore, one, by Mr Pierre Sammy-Macfoy, on the 'Social, economic and political implications of the safeguarding of folklore in developing countries', and the other, by Professor Lauri Honko, on the 'Possibilities of international co-operation and regulation on the safeguarding of folklore'. These two studies could stimulate reflection on the need to safeguard folklore and lead to consideration of solutions to the problems raised by the safeguarding of folklore, as proposed in the conclusions of the Second Committee of Governmental Experts on the Safeguarding of Folklore meeting in 1985, which are annexed hereto.

ANNEX

CONCLUSIONS OF THE SECOND COMMITTEE OF GOVERNMENTAL EXPERTS  
(Paris, 14-18 January 1985)

The Committee of Governmental Experts feels it desirable that Member States should be invited to safeguard folklore using what follows as a basis:

A. Definition of folklore

Folklore could be defined as follows:

'Folklore (in a broader sense, traditional and popular folk culture) is a group-oriented and tradition-based creation of groups or individuals reflecting the expectations of the community as an adequate expression of its cultural and social identity; its standards and values are transmitted orally, by imitation or by other means. Its forms include, among others, language, literature, music, dance, games, mythology, rituals, customs, handicrafts, architecture and other arts'.

B. Identification of folklore

Folklore as intellectual property must be safeguarded by and for the group (familial, occupational, national, regional, religious, ethnic, etc.) whose identity it expresses. To this end, it would be advisable:

1. to make a register of institutions concerned with folklore;
2. to set up identification and recording systems (collection, transcription, cataloguing) or to develop those that already exist;
3. to establish a standard typology of folklore;
4. to co-ordinate the classification systems used by different institutions.

C. Conservation of folklore

Conservation is concerned with documentation regarding folk traditions and its object is, in the event of the non-utilization or development of such traditions, to give researchers and tradition-bearers access to data enabling them to understand the process through which tradition evolves and changes. While living folklore, owing to its evolving character, cannot always be directly protected, folklore that has been fixed in a tangible form should be effectively protected. To this end, it would be advisable:

1. to establish a network of archives where the information and documents collected would be stored;
2. to create museums where folklore will be exhibited, to develop museums of folklore or the folklore sections in the multidisciplinary museums and to establish data or archives centres;
3. to standardize archiving methods;

4. to establish an index of all institutions and persons holding items of folklore;
5. to train collectors, archivists, documentalists and other specialists in the conservation of folklore.

D. Preservation of folklore

Preservation is concerned with protection of folk traditions, having regard to the fact that the people have a right to their own culture and that their belief in that culture is often eroded by the impact of the industrialized culture purveyed by the mass media. Measures must be taken to guarantee the status of and economic support for folk traditions both in the communities which produce them and beyond. To this end, it would be advisable:

1. to introduce into educational curricula, at all levels, the study of folklore in appropriate manner;
2. to take into account not only popular and rural cultures but also those created in urban areas;
3. to make available to local institutions copies of documents stored in central archives concerning a particular community or region;
4. to guarantee the right of the various ethnic groups and national communities to their own folklore;
5. to set up on an interdisciplinary basis a National Folklore Council or similar bodies where various interest groups would be represented.

E. Dissemination of folklore

The attention of people should be drawn to the importance of folklore as an ingredient of cultural identity. It is essential for the items that make up this cultural heritage to be widely disseminated so that the value of folklore and the need to preserve it can be recognized. However, any caricature or distortion during dissemination should be avoided so that the integrity of the traditions can be safeguarded. To this end, it would be advisable:

1. to encourage the organization of national, regional and international folklore events such as fairs, festivals, films, exhibitions, seminars, symposia, workshops, training courses, congresses and so on and to disseminate them;
2. to publish information in bulletins and periodicals;
3. to familiarize the mass media with all folklore events;
4. to establish institutes, documentation centres and libraries specializing in folklore;
5. to facilitate meetings and exchanges between individuals, groups and institutions concerned with folklore.

F. Use of folklore

In so far as folklore constitutes manifestations of intellectual creativity it deserves to be protected in a manner inspired by the protection provided for intellectual productions. Such a protection of folklore has become indispensable as a means of promoting further development, maintenance and dissemination of those expressions, both within and outside the country, without prejudice to related legitimate interests.

Leaving aside the 'intellectual property aspects' of the protection of expressions of folklore, there are various categories of rights which are already protected and should be protected also in the future at the folklore documentation centres and archives. With this in view, it would be useful:

(a) regarding the 'intellectual property' aspects

1. to point out to the relevant authorities that the 'intellectual property' aspects of the protection of folklore do not cover all the questions involved in the preservation of folklore and that they only represent one aspect of such preservation which can be implemented separately from its other aspects;
2. to call the attention of the relevant authorities to the Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions, adopted by a Committee of Governmental Experts that met in Geneva from 28 June to 2 July 1982 under the joint auspices of Unesco and the World Intellectual Property Organization (WIPO);

(b) regarding the other rights involved

3. to protect the informant as the transmitter of tradition;
4. to ensure that the materials gathered are conserved in archives in good condition and in a methodical manner,
5. to adopt the necessary measures to safeguard the materials gathered, against misuse, whether intentional or due to negligence on the part of the collector, the research worker or the archives;
6. to recognize the right of archives to monitor the use made of the materials gathered. There should be co-ordination with the authorities empowered to issue authorizations in connection with uses relating to the 'intellectual property' aspects of the safeguarding of folklore.

G. International co-operation

In view of the need to intensify cultural co-operation and exchanges, in particular through the pooling of human and material resources, in order to carry out folklore development and revitalization programmes, Member States should be invited:

1. to co-operate with international and regional associations, institutions and organizations concerned with folklore;
2. to co-operate in the field of knowledge, dissemination and protection of folklore, in particular through exchanges of information of every kind, exchanges of scientific and technical publications, the training of specialists, the award of travel grants, the sending of scientific and

technical personnel and equipment, the organization of meetings between specialists, of study courses and of working groups on particular subjects, especially on the classifying and cataloguing of folklore data and expressions;

3. to co-operate closely so as to ensure internationally that the various interested parties (community, or natural or legal persons) enjoy the economic, moral and so-called neighbouring rights resulting from the investigation, creation, composition, performance, recording and/or dissemination of folklore.