Expert meeting on a model code of ethics for intangible cultural heritage

Valencia, Spain, 30 March to 1 April 2015

**Towards codes of ethics for intangible cultural heritage?**

1. This paper provides elements of information and reflection for the discussions to be held at the expert meeting on creating a model code of ethics for intangible cultural heritage. After articulating the core values of the Convention for the Safeguarding of the Intangible Cultural Heritage, the paper discusses the general scope of a code of ethics, detailing the elements of such a code as well as the various types of codes. It also addresses the differences between voluntary and compulsory codes and outlines the advantages and disadvantages of creating either a comprehensive code or a code directed at a specific sector, audience or group of addressees.
2. The paper proposes some of the ethical principles that could be included in an ICH code or codes, and how those principles might relate to codes of ethics for specific contexts or constituencies. Created to stimulate discussion and further conversation, this list of principles is suggestive rather than definitive. The standards of behaviour or conduct that might be applied in specific contexts are presented to show examples of how the model code(s) might be adapted by different groups or addressees.
3. Finally, the paper addresses the processes that might be followed to create one or more model code of ethics for intangible cultural heritage. It discusses the ways in which other model codes have been implemented or adapted and suggests steps that might be followed to ensure that a model code is disseminated and used by the broadest possible audience.
4. ****Core values of the Convention that should be reflected in codes of ethics
for intangible cultural heritage****
5. **What are the core values of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage that should underlie any code of ethics for intangible cultural heritage and that need to be reflected in such a code? Whether explicit or implicit in the Convention, several fundamental values or tenets provide a solid foundation to guide any actions that affect intangible cultural heritage. This includes both those actions undertaken with the specific intention of safeguarding intangible cultural heritage as well as those actions that may have other goals than safeguarding, but that may nevertheless affect the viability of intangible cultural heritage.**
6. **The first such value is that ‘communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and re-creation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity’ (Preamble).**[[1]](#footnote-1) **Indeed, only such communities, groups or individuals can recognize particular practices, representations, expressions, knowledge or skills as constituting their own intangible cultural heritage (Article 2.1). Without their act of recognition, intangible cultural heritage simply does not exist. And it is they, and only they, that can ensure that particular expressions continue to be practised and transmitted – in other words, that intangible cultural heritage maintains its viability.**
7. **The primacy of communities, groups or individuals with regard to safeguarding their own intangible cultural heritage is emphasized further in Article 15, which states that ‘Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.’ Although this obligation is strictly binding only on those States that have ratified the Convention (and more specifically, on agents and institutions of those States), it can be generalized into a fundamental value to guide all actors involved with intangible cultural heritage: that communities, groups and, in some cases, individuals should have the primary role in safeguarding and managing their own intangible cultural heritage.**
8. **A second set of core values is also found in Article 2.1: ‘For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.’**[[2]](#footnote-2) **That single sentence raises three ethical values. First is that any intangible cultural heritage that does not conform to international human rights instruments, whether present or future, cannot fall within the scope of the Convention or under its protection. Consequently, the Convention incorporates (without enumerating them) all the fundamental principles of human rights that have been recognized by the international community. Ethical codes for intangible cultural heritage must therefore necessarily respect those human rights principles, but might also follow the Convention’s example of referring to them in their totality rather than enumerating them in what will likely be an incomplete list.**
9. **The sentence continues by limiting the Convention’s scope to include only that intangible cultural heritage that is compatible with the requirements of mutual respect among communities, groups and individuals. This second value builds upon the premise formulated in the UNESCO Universal Declaration on Cultural Diversity of 2001 that ‘respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of international peace and security’.**[[3]](#footnote-3) **A ‘genuine dialogue among cultures’, as advocated in the Universal Declaration on Cultural Diversity, can only truly flourish when the principle of mutual respect prevails in interactions between communities, groups and individuals. The Convention reminds us in its Article 1 that such mutual respect should also be based not only upon respect for the persons involved, but also upon a respect for and mutual appreciation of their intangible cultural heritage.**
10. **The third value similarly limits the Convention’s scope and protection to such intangible cultural heritage as is compatible with the requirements of sustainable development. In its Preamble, the Convention acknowledges intangible cultural heritage as a guarantee of such development. As first defined in the 1987 Brundtland Report, ‘sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.’**[[4]](#footnote-4) **The core principle of sustainable development was also reiterated in the 1997 UNESCO Declaration on the Responsibilities of the Present Generations towards Future Generations, which states that ‘The present generations have the responsibility of ensuring that the needs and interests of present and future generations are fully safeguarded.’**[[5]](#footnote-5) **These principles of sustainability and of inter-generational responsibility thus need to guide ethical considerations of intangible cultural heritage.**
11. **The Convention also maintains that ‘intangible cultural heritage is a mainspring of cultural diversity’ (Preamble). As expressed in the Universal Declaration on Cultural Diversity, ‘The defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity.’ The Declaration continues that ‘all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.’ The Convention’s commitment to cultural diversity thus implies an absolute equality among different expressions of intangible cultural heritage (insofar as they conform to the definition in Article 2.1) and the impossibility of any kind of hierarchy among them. It is to each community, group or individual to recognize and value its own intangible cultural heritage, and any external judgements of its value or worth are anathema to the Convention.**
12. **Another core value refers to the necessity to balance, on the one hand, ‘the right of access to and enjoyment of cultural heritage’ (cf. Report of the independent expert in the field of cultural rights, Farida Shaheed, A/HRC/17/38),**[[6]](#footnote-6) **which finds its foundation in a number of international human rights instruments and is formulated in the Convention as the States Parties’ responsibility to ensure ‘access to the intangible cultural heritage’, with, on the other hand, the requirement to respect ‘customary practices governing access to specific aspects of such heritage’ (Article 13(d)(ii)). Consistent with the above-mentioned focus on communities, groups and individuals, this value gives primacy to their access to their own heritage, even if that sometimes implies limiting the access of others, yet all the while emphasizing their right to enjoy access to the heritage of other communities, groups or individuals.**
13. **A last fundamental value of the Convention is that there exists ‘the universal will and the common concern to safeguard’ the intangible cultural heritage of humanity (Preamble), but that specific practices, representations, expressions, knowledge and skills remain the possessions and the responsibilities of their respective communities, groups or individuals. The drafters of the 2003 Convention thus omitted the language of the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage that refers to ‘the world heritage of mankind as a whole’.**[[7]](#footnote-7) **Indeed, the drafters of the 2003 Convention also resolutely rejected the alternative formulation, ‘common heritage of humanity’.**[[8]](#footnote-8) **The Convention’s text therefore recognizes that ‘the safeguarding of intangible cultural heritage is of general interest to humanity’, and States Parties ‘undertake to cooperate at the bilateral, subregional, regional and international levels’ to that end (Article 19.2), but without ever alienating that heritage from the communities, groups or individuals concerned with it. This value thus circles back to the first value of the primacy of communities, groups or individuals in the practice, transmission and safeguarding of their own heritage.**
14. **These core values within the text of the Convention have been extended and amplified through the Operational Directives for the implementation of the Convention.**[[9]](#footnote-9) **For instance, paragraphs 1, 2 and 7 require that nominations to the Convention’s Lists must enjoy the free, prior and informed consent of the communities, groups or individuals concerned, and paragraph 101 encourages all parties involved in raising awareness about intangible cultural heritage to ensure that such consent has been given. Although the Convention text does not refer explicitly to ‘free, prior and informed consent’, this requirement derives logically – indeed, inevitably – from the Preamble, Article 2.1, Article 13(d)(ii) and Article 15. Similarly, Article 15’s requirement of the ‘widest possible participation of communities, groups and, where appropriate, individuals’ in safeguarding their own heritage is echoed in paragraphs 1, 2, 7, 88, 101, 157 and 162 of the Operational Directives.**
15. In the same manner, a model code or codes of ethics for intangible cultural heritage would begin from the core values enunciated in the Convention itself and derive from them a number of ethical principles. These could then potentially be elaborated into sets of standards for conduct addressed to specific contexts or constituencies (see part IV below).

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| **Questions for discussion by the expert meeting**To what extent do the tenets stated above constitute the core values of the 2003 Convention?Are there other core values embodied in the 2003 Convention that ought to be reflected in a code of ethics? If so, which?Should the core values be enumerated, at the risk of omitting some, or should the Convention be left to speak for itself?Etc. |

1. ****General scope of codes of ethics for intangible cultural heritage****
2. The discourse about codes of ethics is diverse and there is no definitive terminology. Some fields, most often public entities, employ the term *code of ethics* while others prefer *code of conduct*. In the academy, *principles of professional* *responsibility* or *principles of professional practice* may be **used** to describe an ethical code. In this paper, the phrase *code of ethics* will be used.
3. Similarly, the language used to describe the elements of a code of ethics varies. The broad general categories that are the foundation of each code may be referred to as *values, principles* or *tenets.* From **these** underlying elements, rules or standards are formulated. The first level of specificity would yield principles of behaviour that activate the fundamental values. From these principles, standards for conduct or behaviour (i.e. specific or concrete actions) could be derived.
4. A code of ethics, then, provides standards that serve to guide the behaviour of various actors. It defines the **values** that are important relative to a particular subject or realm of activity and identifies **ethical principles of behaviour** that uphold those values. It can also go further and define the **standards** that exemplify those principles of behaviour.
5. The ‘RESPECT Code of Practice,’ intended to be a voluntary code of practice that addresses the conduct of socio-economic research in Europe, has all three of these elements. It first articulates six values: Respect for research ethics, Respect for intellectual property, Respect for confidentiality, Respect for professional qualifications, Respect for professional standards and Respect for research users. The code then defines three principles of behaviour: 1) upholding scientific standards, 2) compliance with the law and 3) avoidance of social or personal harm; and finally it elaborates upon each in a discussion of standards of behaviour.[[10]](#footnote-10)
6. In another example, the ‘Guidelines for Ethical Research in Australian Indigenous Studies’ of the Australian Institute of Aboriginal and Torres Strait Islander Studies cluster the rights or values that inform its ethical principles into six groups: respect and recognition; negotiation, consultation, agreement and mutual understanding; participation, collaboration and partnership; benefits, outcomes and giving back; managing research: use, storage and access; reporting and compliance. The Guidelines then list fourteen principles relating to these rights and discuss how they should be applied.[[11]](#footnote-11)
7. Not all codes of ethics include values, ethical principles and standards. Some do not make the underlying values of the code explicit[[12]](#footnote-12) and others may include values and ethical principles but not standards. The National Union of Journalists, a trade union that sets the standards for journalists in the United Kingdom of Great Britain and Northern Ireland, simply lists twelve principles in its ‘Code of Conduct.’ The code states that a journalist:
* At all times upholds and defends the principle of media freedom, the right of freedom of expression and the right of the public to be informed.
* Strives to ensure that information disseminated is honestly conveyed, accurate and fair.
* Does her/his utmost to correct harmful inaccuracies.
* Differentiates between fact and opinion.
* Obtains material by honest, straightforward and open means, with the exception of investigations that are both overwhelmingly in the public interest and which involve evidence that cannot be obtained by straightforward means.
* Does nothing to intrude into anybody’s private life, grief or distress unless justified by overriding consideration of the public interest.
* Protects the identity of sources who supply information in confidence and material gathered in the course of her/his work.
* Resists threats or any other inducements to influence, distort or suppress information and takes no unfair personal advantage of information gained in the course of her/his duties before the information is public knowledge.
* Produces no material likely to lead to hatred or discrimination on the grounds of a person’s age, gender, race, colour, creed, legal status, disability, marital status, or sexual orientation.
* Does not by way of statement, voice or appearance endorse by advertisement any commercial product or service save for the promotion of her/his own work or of the medium by which she/he is employed.
* A journalist shall normally seek the consent of an appropriate adult when interviewing or photographing a child for a story about her/his welfare.
* Avoids plagiarism.[[13]](#footnote-13)
1. In a second example, the Entomological Society of America (ESA) lists eight principles of behaviour. Its code states the purpose of the Society (i.e. ‘to promote the science of entomology in all of its sub disciplines for the advancement of science and the benefit of society, to publish and encourage publications pertaining to entomology, and to assure cooperation in all measures leading to these ends’) and then encourages its members to act in accordance with that purpose and to: treat all people with civility, avoiding harassment and discrimination; uphold the highest standards of truthfulness and honesty in all scientific and professional endeavours; evaluate the work of colleagues fairly and with open-mindedness; recognize past and present contributors to science and not claim credit for accomplishments of others; disclose potential conflicts of interest; offer professional advice only on those subjects in which they are qualified; expose scientific and professional misconduct promptly; and comply with all laws and regulations that apply to our science and profession.[[14]](#footnote-14)
2. Some commentators suggest that a list of ethical principles without standards can be seen to be platitudinous. For example, knowing that one must disclose potential conflicts of interest (as in the ESA code above) is only useful if one understands the kinds of conflicts of interest entomologists could confront. Philosopher Judith Lichtenberg argues that a code that advocates a specific behaviour (e.g. disclosing a conflict of interest) and then describes standards that further clarify what that specific behaviour might entail can be more instructive and provide more guidance. A more detailed code would not just alert a user to the inappropriateness of permitting a conflict of interest to exist but would explain what constitutes this kind of misconduct.[[15]](#footnote-15)

**Types of codes of ethics**

1. Codes of ethics may be categorized according to the approach that they take to enumerating or defining principles and standards. In this paper, codes of ethics will be characterized as *aspirational* (a statement of ideals to which one aspires) or *prescriptive* (a statement of requirements of conduct; when such requirements are stated in the negative, they are often referred to as *proscriptive*). Many if not most codes contain elements of both characteristics: principles or standards of behaviour that are aspirational and others that are prescriptive and/or proscriptive.[[16]](#footnote-16)
2. Some authors characterize codes as *aspirational, educational* and *regulatory*;[[17]](#footnote-17) others use only two categories – *aspirational* and *regulatory*.[[18]](#footnote-18) Yet others use such terms as *deontological* (a code that simply lists duties without giving reasons for behaviour) and *teleological* (a code that highlights the consequences of actions).[[19]](#footnote-19) In fact, most codes of ethics combine elements of each of these types. It is less important to classify the code as one type or another than to understand the implications of each approach and the fact that a single code may include elements of each. As Frankel notes, ‘A decision about which type of code is appropriate…at a particular point in time will necessarily reflect a mixture of both pragmatic and normative considerations.’[[20]](#footnote-20)
3. The Korean Society for Molecular and Cellular Biology has an **aspirational** ‘Charter of Ethics for Life Science Researchers.’[[21]](#footnote-21) It provides a list of ten principles to which life science researchers should adhere in ideal circumstances. It is virtue-directed in that it lists desirable goals while acknowledging that in some circumstances one’s conduct might fall short of these goals.[[22]](#footnote-22) For instance, its first goal is ‘We, deeply recognizing the dignity of life, will avoid breaching this sanctity to our greatest ability.’[[23]](#footnote-23) The RESPECT Project (see above) also positions its ‘RESPECT Code of Practice’ as **aspirational**, noting that it is ‘intended as an aid to responsible and informed decision-making, not a substitute for it.’[[24]](#footnote-24)
4. **Prescriptive** codes of ethics state specific duties or standards for behaviour that embody the ethical principles outlined in the codes. They outline what one ought to do, how one should comport oneself as well as, in some cases, what one should aspire to.[[25]](#footnote-25) The Canadian Archaeological Association’s ‘Principles of Ethical Conduct’ and its ‘Statement of Principles for Ethical Conduct Pertaining to Aboriginal Peoples’ exemplify this kind of code.[[26]](#footnote-26)
5. Prescriptive codes will often have proscriptive elements, elements that focus upon the things that one should not do. Seldom is an entire code proscriptive; however, some can have a number of negatively stated elements. The UNESCO ‘International Code of Ethics for Dealers in Cultural Property,’ for instance, is largely proscriptive. The code acknowledges the ‘worldwide concern over the traffic in stolen…cultural property’ and then lists eight articles, six of which prohibit dealers in cultural property from engaging in certain kinds of activity. For example, Article 1 states: ‘Professional traders in cultural property will not import, export or transfer the ownership of this property when they have reasonable cause to believe it has been stolen, illegally alienated, clandestinely excavated or illegally exported.’[[27]](#footnote-27)
6. To provide more guidance and clarity for its ‘Declaration on Professional Ethics,’ the International Statistical Institute (ISI) has written a longer ‘Background Documentation and Bibliography’ that reflects the complexity and interrelationships of its ethical principles.[[28]](#footnote-28) The British Social Research Association’s (SRA) ‘Ethics Guidelines’ contain commentaries on the ‘conflicts and difficulties inherent in the operation of the core principles’[[29]](#footnote-29) as well as an extensive background section that includes practice advice for ethical research. Both the ISI and SRA documents, while prescriptive, are also educational in nature.
7. There is a tremendous variety in codes of ethics. As already stated, they can include aspirational as well as prescriptive and proscriptive elements and some might also contain **mandatory rules**,rules of behaviour that when breached could bring about sanctions; however, mandatory rules do not, in and of themselves, require sanctions. These are only appropriate when a mechanism for enforcing the mandatory rules is in place.[[30]](#footnote-30) The ‘Code of Ethics’ of the National Federation of Brazilian Journalists includes all of the above elements.[[31]](#footnote-31)

**Compliance**

1. Codes of ethics are most often developed to articulate values and standards and, for some organizations and professions, to demonstrate their ability to regulate themselves and/or their members. These codes can be voluntary or compulsory.
2. **Voluntary** codes of ethics articulate general principles of behaviour that often involve judgments about competing values, are used to express aspirational ideals, and can facilitate discourse about issues of importance to a particular subject, discipline or activity. Some organizations whose membership is voluntary consider their codes of ethics as educational documents and will not take the role of their enforcer. The Association of Social Anthropologists of the UK and Commonwealth (ASA), for example, has a ‘Statement on Ethics’ on its website, which says that the Association ‘does not and will not act as a tribunal for judging whether individuals have committed some infraction of our codes.’ Instead, ASA considers its ‘Ethical Guidelines for Good Research Practice’ as an opportunity ‘to encourage anthropologists to think about the ethical implications of their work in a broader, more profound and continuous way.’[[32]](#footnote-32) The ‘Ethical Guidelines’, it explains,

follow the educational model for professional codes, aiming to alert researchers to issues that raise ethical concerns or to potential problems and conflicts of interests that might arise in the research process. They are intended to provide a practical framework for Members to make informed decisions about their own behaviour and involvement, and to help them communicate their professional positions more clearly to the other parties involved in or affected by their research activities.[[33]](#footnote-33)

1. The Government of Canada in *Voluntary Codes: A Guide for their Development and Use* (1998) focuses upon the development of voluntary codes for businesses. It notes that, ‘While codes are voluntary – firms are not legislatively required to develop or adhere to them – “voluntary” is something of a misnomer. Voluntary codes are usually a response to the real or perceived threat of a new law, regulation or trade sanctions, competitive pressures or opportunities, or consumer and other market or public pressures.’[[34]](#footnote-34) Similar conditions often lead non-governmental organizations and non-profit organizations to create their own voluntary codes.
2. **Compulsory** codes of ethics are those for which compliance is necessary. Some organizations make compliance a condition of membership. The American Folklore Society (AFS) addresses its expectations of its members’ compliance in an epilogue to its ‘AFS Statement on Ethics: Principles of Professional Responsibility’:

Folklore research is a human undertaking for which the individual bears ethical as well as scientific responsibility. This statement provided guidelines to the accepted professional standards of research and the presentation of that research.[[35]](#footnote-35)

1. The Society also has a mechanism for enforcing compliance within its ethics statement:

When folklorists by their actions jeopardize peoples studied, professional colleagues, students or others, or if they otherwise betray their professional commitments, the American Folklore Society, through its State of the Profession Committee, may legitimately inquire into the propriety of those actions and take such measures as lie within its legitimate powers.[[36]](#footnote-36)

1. A compulsory code might include mandatory rules of behaviour (which should be sufficiently specific in order to be enforceable) and, in order to ensure its effectiveness, might also list sanctions for non-compliance. The imposition of sanctions usually implies the existence of an enforcement mechanism. As in the North American Association of Art Museum Director’s (AAMD) ‘Professional Practices in Art Museums,’ sanctions can vary in severity. It provides that ‘AAMD members who violate this code of ethics will be subject to discipline by reprimand, suspension or expulsion from the AAMD. Infractions by any art museum may expose that institution to censure and/or sanctions, as determined by the Board of Trustees of the AAMD, that may, in the case of sanctions, include, without limitation, suspension of loans and shared exhibitions between the sanctioned museum and museums of which the AAMD members are directors.’[[37]](#footnote-37)
2. Some codes of ethics include procedures for filing complaints regarding a breach of the code. The eighth article in UNESCO’s International Code of Ethics for Dealers in Cultural Property states ‘Violations of this Code of Ethics will be rigorously investigated by [a body to be nominated by participating dealers]. A person aggrieved by the failure of a trader to adhere to the principles of this Code of Ethics may lay a complaint before that body, which shall investigate that complaint. Results of the complaint and the principles applied will be made public.’[[38]](#footnote-38) In the case of the North American Association of Fundraising Professionals, enforcement procedures are clearly outlined and forms provided for complaints.[[39]](#footnote-39)

**Comprehensive model codes of ethics versus more specific codes**

1. Codes of ethics that apply to a broad spectrum of situations or organizations naturally tend to be more general in scope, providing a statement of guiding values as well as principles of behaviour rather than defining a detailed set of standards that exemplify the desired behaviour.
2. For example, the UNESCO ‘Code of Ethics for the Information Society Proposed by the Intergovernmental Council of the Information for All Programme (IFAP)’ is a comprehensive code that wishes to ensure an all-inclusive information society and is addressed to ‘all stakeholders of the information and knowledge societies and outlines a number of universal values and guiding principles’.[[40]](#footnote-40) Some of this code’s principles are addressed to Member States but most are formulated for all stakeholders.
3. ‘A Code of Ethics for Museums’ of the International Council of Museums (ICOM) is a comprehensive code for the museum field. Although it addresses ICOM’s diverse global membership, consisting of both individuals and museums of all types, it is a detailed code. It provides guidance to its member institutions and individuals, many of whom live in countries where laws and other regulations for museums are lacking and where ICOM’s Code of Ethics for Museums takes on a special relevance.[[41]](#footnote-41)
4. Ideally, a code of ethics would identify general principles while also articulating specific standards. Although a broad, general code might be more inclusive it might also run the risk of creating a gap between the rules or standards that it articulates and the specific circumstances of their application. In doing so, it would then fall short in providing the desired guidance to its addressees. Stating that one must ‘do no harm,’ for example, is only useful if the addressee understands the circumstances under which harm may be done. The American Anthropological Association’s Principles of Professional Responsibility discuss the implications of this ethical injunction:

It is imperative that, before any anthropological work be undertaken – in communities, with non-human primates or other animals, at archaeological and paleoanthropological sites – each researcher think through the possible ways that the research might cause harm. Among the most serious harms that anthropologists should seek to avoid are harm to dignity, and to bodily and material well-being, especially when research is conducted among vulnerable populations. Anthropologists should not only avoid causing direct and immediate harm but also should weigh carefully the potential consequences and inadvertent impacts of their work.[[42]](#footnote-42)

1. Too much specificity, however, can create many if not more problems than it solves. If a code becomes too specific, listing principles of behaviour that apply to limited situations or circumstances, it might have to be changed each time a new situation arises that creates a problem not covered in the code.

**Addressees**

1. Research suggests that knowing the addressees or audience for a code of ethics is important in determining the amount of detail necessary. Further, a code that highlights the consequences of behaviour can help the reader understand why the code should be followed.[[43]](#footnote-43)
2. One possible approach for the Convention for the Safeguarding of the Intangible Cultural Heritage could be to create a comprehensive code, providing general guidelines for safeguarding the intangible cultural heritage for all audiences or addressees. The universe of entities for which such a code would be applicable is very broad. It ranges from communities, groups and individuals who practice intangible cultural heritage to other individuals – e.g., journalists, tourists, researchers or students in the fields of anthropology, cultural studies, folklore, history, intellectual property, and oral history – as well as to institutions or professions – e.g., museums, libraries, archives or collecting institutions, tourism operators, the media – and to state agents and representatives of civil society and the private sector.
3. Because of the breadth and diversity of the possible addressees for a code of ethics on intangible cultural heritage, a general code could establish international standards and serve as a platform for dialogue about the ethics of safeguarding the intangible cultural heritage. For example, the Singapore Statement on Research Integrity is a document of principles and responsibilities about the conduct, management and use of scientific research. It was developed in 2010 as a global guide to the responsible conduct of research and as a first step to ‘encourage the development of unified policies, guidelines and codes of conduct, with the long-range goal of fostering greater integrity in research worldwide.’[[44]](#footnote-44) Just as the Singapore Statement signalled an advance in international cooperation on the responsible conduct of scientific research,[[45]](#footnote-45) a model code of ethics regarding ICH could be a critical step in furthering understanding, appreciating and safeguarding intangible cultural heritage worldwide.

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| **Questions for discussion by the expert meeting**What are the comparative advantages of a more aspirational versus a more prescriptive code, as far as intangible cultural heritage is concerned?What are the comparative advantages, as far as intangible cultural heritage is concerned, of a single more comprehensive code versus several more specific codes targeted to different audiences?To what extent are different types of codes (e.g. more aspirational vs more prescriptive, general vs specific) appropriate to particular audiences and sectors?A mandatory code with sanctions seems to be inconsistent with the nature of the 2003 Convention, but could one conceive of monitoring and/or mediation mechanisms? If so, what might they be?Etc. |

1. ****Specific ethical principles that should be included in codes of ethics for intangible cultural heritage****
2. **Section I above presents the core values of the Convention that should be reflected in any codes of ethics for intangible cultural heritage. From those core values, it is possible to derive a number of ethical principles to be integrated into such a code. The principles that follow are meant to be examples of principles that might be drawn from the Convention. This is not intended to be a definitive list, but instead to demonstrate how the Convention’s core values can be translated into statements of principle that could then serve as the foundation for more concrete standards and guidelines for behaviour.**
3. Participants in the expert meeting will be invited to consider the degree to which the following ethical principles constitute an adequate set**:**
4. **Communities, groups and individuals should have the primary role in safeguarding their own intangible cultural heritage, particularly as regards its identification, transmission and revitalization.**
5. **Mutual respect as well as a respect for and mutual appreciation of intangible cultural heritage should prevail in interactions between States and between communities, groups and individuals.**
6. **The right of communities, groups and individuals to continue the practices, representations, expressions, knowledge and skills necessary to ensure the viability of the intangible cultural heritage should be recognized and respected.**
7. **Access of communities, groups and individuals to the instruments, objects, artefacts, cultural and natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage should be ensured.**
8. **The communities, groups and individuals who create intangible cultural heritage should benefit from the protection of the moral and material interests resulting from such heritage, and particularly from its use or adaptation by others.**
9. **Customary practices governing access to intangible cultural heritage should be fully respected, even where these may limit broader public access.**
10. **All interactions with the communities, groups and individuals who safeguard, maintain and transmit intangible cultural heritage should be characterized by collaboration, dialogue, negotiation and consultation, and contingent upon their free, prior and informed consent.**
11. **Cultural diversity and the identities of communities, groups and individuals should be fully respected.**
12. **Each community, group or individual should assess the value of its own intangible cultural heritage and this intangible cultural heritage should not be subject to external judgements of value or worth.**
13. **The safeguarding of intangible cultural heritage is of general interest to humanity and should therefore be undertaken through cooperation among bilateral, sub regional, regional and international parties; nevertheless, communities, groups or individuals should never be alienated from their own intangible cultural heritage.**
14. **The list of general principles above is followed in the coming paragraphs by examples that demonstrate how several of them might be articulated differently for sector-specific or audience-specific codes.**

**Principles and Standards for Specific Contexts or Constituencies**

1. **Standards provide concrete guidelines for behaviour in accord with a code of ethics’ principles. They can be written for a broad, general audience or can be addressed to a particular sector or groups of addressees. Examples of standards of behaviour could be developed in concert with the above ethical principles. F**or example, the **first** principle could be elaborated differently in standards addressed to communities, groups and individuals or to States Parties as follows:

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| **Principle 1. **Communities, groups and individuals should have the primary role in safeguarding their own intangible cultural heritage, particularly as regards its identification, transmission and revitalization.**** |
| *Standards addressed to communities, groups and individuals:* | *Standards addressed to States Parties:* |
| a. Within each community or group, ensure the widest possible participation of diverse strata and segments in decision-making concerning its heritage. | a. Allow communities, groups and, in some cases, individuals to maintain control over the practice and transmission of their own ICH. |
| b. Ensure that diverse perspectives and opinions are included and respected in processes of identification and definition. | b. Ensure their widest possible participation in its safeguarding and management. |
| c. Respect traditional modes of practice and transmission while promoting processes of constant recreation. | c. Respect their wishes and aspirations concerning its revitalization or, should they so wish, its cessation. |
| d. Etc. | d. Etc. |

1. **Standards relating to Principle 3 could be addressed to private sector entities and researchers, for example, with some standards formulated differently and others similarly:**

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| ****Principle 3.** The right of communities, groups and individuals to continue the practices, **representations**, expressions, knowledge and skills necessary to ensure the viability of the intangible cultural heritage should be recognized and respected.** |
| *Standards addressed to private sector entities:* | *Standards addressed to researchers:* |
| a. Do not, intentionally or unintentionally, infringe or reduce the right of communities, groups and individuals to continue their ICH practices, representations, expressions, knowledge and skills. | a. Design and implement research activities with full recognition for and respect of the right of communities, groups and individuals to continue their ICH practices, representations, expressions, knowledge and skills. |
| b. Do not, intentionally or unintentionally, threaten the viability of the intangible cultural heritage. | b. Do not, intentionally or unintentionally, threaten the viability of the intangible cultural heritage. |
| c. Make every effort to ensure that reasonable accommodation is made to permit practitioners under your employ to practise their ICH to the fullest extent possible. | c. Take care to avoid imposing external judgements about the desirability or advantage of certain ICH practices, representations, expressions, knowledge or skills. |
| d. Etc. | d. Etc. |

1. **Principle 7 could be applied, for example, to researchers and tourism operators as follows:**

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| ****Principle 7. All interactions with the communities, groups and individuals who safeguard, maintain and transmit intangible cultural heritage should be characterized by collaboration, dialogue, negotiation and consultation, and contingent upon their free, prior and informed consent.**** |
| ***Standards addressed to researchers:*** | ***Standards addressed to tourism operators:*** |
| a. Undertake research on ICH only after securing the free, prior and informed consent of the communities, groups and individuals concerned, being certain to include diverse strata and segments of such communities and groups. | a. Provide timely, accurate and complete information concerning the possible benefits and risks of any tourism activities to communities, groups and individuals who safeguard, maintain and transmit intangible cultural heritage. |
| b. Recognize that securing free, prior and informed consent is the result of reaching a negotiated agreement to work collaboratively, rather than simply having a consent form signed. | b. Implement any tourism activities only after securing free, prior and informed consent of the communities, groups and individuals concerned, being certain to include diverse strata and segments of such communities and groups and recognizing that such consent is the result of negotiation rather than simply having a form signed. |
| c. Recognize that free, prior and informed consent may be revoked by the communities, groups or individuals concerned, and establish procedures through which information they provided will not be exploited following such revocation. | c. Ensure that tourists receive accurate and complete information about the communities, groups and individuals and about their intangible cultural heritage, prior to their visit. |
| d. Etc. | d. Etc. |

1. **Standards** might also be developed differently for tourists, for tourism operators or for ministries of tourism that often play both a promotional and a licensing role. Some of the literature on tourism ethics suggests that codes of ethics and conduct for tourists and tourism operators are not effective. They are not coordinated by one central body or organization and are not enforced or regularly evaluated.[[46]](#footnote-46) Nonetheless, such codes provide guidelines for people unfamiliar with the cultures they are visiting. For example, Principle 9 might be elaborated into standards of behaviour for tourists and for tourism ministries as follows.

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| **Principle 9. Each community, group or individual should assess the value of its own intangible cultural heritage and this intangible cultural heritage should not be subject to external judgements of value or worth.** |
| ***Standards addressed to tourists:*** | ***Standards addressed to tourism ministries:*** |
| a. Make an effort to learn about the cultures, history, languages and traditions of the communities, groups and individuals that you plan to visit before arriving at your destination. | **a. Ensure that tourism promotion materials provide timely, accurate and complete information about the communities, groups or individuals concerned.** |
| b.Endeavour to understand and appreciate the traditions and practices within their cultural context. | **b. Avoid imposing external value judgements or any hierarchies within intangible cultural heritage by using inappropriate terms such as ‘authentic’, ‘pure’, ‘unique’, ‘original’, ‘outstanding’, ‘universal’, etc.** |
| c. Avoid being judgemental about the communities, groups or individuals you visit and the ICH you observe. | **c. Monitor the conduct of tourism operators to ensure that in their activities they do not impose external judgements of value or worth on communities, groups or individuals.** |
| d. Etc. | **d. Etc.** |

1. The examples above are not intended to be definitive, but instead to illustrate how a set of general ethical principles could be elaborated, if so wished, into specific standards of conduct or behaviour addressed to specific audiences. Alternatively, each principle could give rise to standards of behaviour that are expressed in sufficient detail to cover a diversity of situations and audiences. For example, consider the following principle and its possible associated standards.

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| ****Principle 5. The communities, groups and individuals who create intangible cultural heritage should benefit from the protection of the moral and material interests resulting from such heritage, and particularly from its use or adaptation by others.**** |
| **Standards:** 1. **All actors should ensure that those who create intangible cultural heritage benefit from the protection of the moral and material interests resulting from their creation.**[[47]](#footnote-47)
2. **All actors should respect the human right to benefit from the protection of these moral and material interests by, inter alia, abstaining from infringing the right of communities, groups or individuals to be recognized as the creators of their intangible cultural heritage.**
3. **All actors should abstain from and object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the heritage of communities, groups or individuals that would be prejudicial to their honour or reputation.**
4. **States Parties should ensure the effective protection of the moral and material interests of communities, groups or individuals against infringement by third parties. In particular, States Parties should prevent third parties from infringing their rights, and from distorting, mutilating or otherwise modifying, or taking any derogatory action in relation to such intangible cultural heritage in a manner that would be prejudicial to the honour or reputation of those communities, groups or individuals.**
5. **States Parties should further provide administrative, judicial or other appropriate remedies in order to enable communities, groups or individuals to claim the moral and material interests resulting from their intangible cultural heritage and to seek and obtain effective redress in cases of violation of these interests.**
6. **Among such remedies, States Parties should consider the adoption of measures to recognize, register and protect the individual or collective authorship of communities, groups or individuals under national intellectual property rights regimes and should prevent the unauthorized use of their intangible cultural heritage by third parties. In implementing these protection measures, States Parties should respect the principle of free, prior and informed consent of the creators concerned and the oral or other customary forms of transmission of such heritage.**
7. **Where appropriate, States Parties should provide for the collective administration by communities or groups of the benefits derived from their intangible cultural heritage. Etc.**
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1. Participants in the expert meeting will be invited to consider the comparative advantages of different approaches, ranging from principles that are more general to those that are more specific, and from standards customized for different constituencies to standards applicable to all actors concerned.

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| **Questions for discussion by the expert meeting**To what extent do the general ethical principles stated above adequately reflect the core values of the 2003 Convention?Are there other general ethical principles that should be included in a code of ethics? If so, which?What are the comparative advantages of greater generality in the ethical principles versus greater specificity?Should the model code stop at the level of enunciating general ethical principles, or should it attempt to elaborate specific standards of behaviour or conduct addressed to specific audiences? If the latter, which audiences should be priorities?Would it be possible to elaborate general standards that could serve for most audiences and most contexts?Etc. |

1. ****Possible processes for developing one or more model codes for intangible cultural heritage and creating specific codes from the model code****
2. **A first step towards creating one or more model codes of ethics for intangible cultural heritage could be to identify a set of core values that can serve as foundation. As reflected in Section I (above), a discussion concerning core values for intangible cultural heritage would focus upon those that are unique to the Convention for Safeguarding the Intangible Cultural Heritage as well as those reflected in other normative instruments such as the Universal Declaration of Human Rights, the UNESCO Universal Declaration on Cultural Diversity of 2001, the International Covenant on Economic, Social and Cultural Rights and others. As posed above, the experts may also wish to consider whether such a set of core values should be made explicit – for instance, as part of the code or codes – or whether they should simply serve as internal background for those drafting the code.**
3. **After a consensus is reached about these values, a next step could be to formulate a set of ethical principles based upon those values (Section III, above). The model code may rest at the level of values and principles or it might elaborate the general principles into standards of behaviour or conduct that epitomise those principles; the standards could attempt to be transversal or could be sector-specific or context-specific.**
4. **After the model code is drafted, it should be distributed to interested groups and individuals for their feedback. In their ‘Voluntary Codes: A Guide for Their Development and Use,’ the Government of Canada recommends that consultation with people likely to be affected by the code be conducted at this stage in the process.[[48]](#footnote-48) Such consultation can provide input that might help circumvent problems later and can also serve to promote awareness of the model code building process.**
5. **A diversity of perspectives can only strengthen the final product, as the developers of The Independent Code of Governance for Non-Profit Organizations in South Africa acknowledge in the introduction to their Code of Governance,**

**This document is the product of extensive and comprehensive consultations with the civil society sector in South Africa. The contribution of the many organisational representatives, board members, donors and grantmakers, accountants, lawyers and individuals is acknowledged with the deepest gratitude and appreciation. The participation, input and support of all these stakeholders has added greatly to the depth, relevance and applicability of this Code to the non-profit sector in South Africa.**[[49]](#footnote-49)

1. **After the model code is developed, a communication plan can help ensure that as many individuals and organizations as possible that might be affected by or interested in the code become aware of it.[[50]](#footnote-50)**

**Moving from Model to Specific Codes**

1. Model codes of ethics can be adopted and/or adapted by a wide variety of **constituents**. The Canadian Code of Ethics for Psychologists of the Canadian Psychological Association, for example, is characterized as an *umbrella* code, a document to be used to develop more specific codes. It states,

For example, the Codecould be used as an ethical framework for the identification of behaviours that would be considered enforceable in a jurisdiction… In addition, the principles and values could be used to help specialty areas develop standards that are specific to those areas.[[51]](#footnote-51)

1. In another **example**, the Aviators Model Code of Conduct was created as an exemplary code that might be adapted by a wide range of aviation practitioners including ‘pilots, mechanics, **organizations** and the entire aviation community.’[[52]](#footnote-52)
2. The Nordic Fashion Association’s NICE initiative is an example of how a model code can be adapted to serve a specific sector. [[53]](#footnote-53) The Fashion Association developed the Nordic Initiative, **Clean** and Ethical (NICE) Code of Conduct from the UN Global Compact.[[54]](#footnote-54) The Association built their code’s sixteen principles upon the Global Compact’s ten. Their goal was to make the Nordic fashion industry more accountable for their practices relating to sustainability and to promote more responsible behaviour towards the environment, by adapting the UN Global Compact as well as developing educational tools (both consumer and professional guides).
3. Professional organizations with an institutional membership, such as associations for museums, libraries and archives, often create model codes of ethics that are then adopted by individual institutions. The associations’ codes set the standards for their field, at a national or even international level. Examples of these codes include those from the International Council on Archives (ICA)[[55]](#footnote-55) and the International Council of Museums (ICOM).[[56]](#footnote-56) While ICA does not require its members to adopt its code of ethics, the organization notes that it has been adapted or adopted by many of its members worldwide. ICOM, on the other hand, requires that all of its members, individuals or museums, comply with the code of ethics. Many of its national committees in fact identify promulgating the ‘Code of Ethics for Museums’ as their primary responsibility. The website of ICOM Finland, for example, declares that one of the objectives of the organization is ‘to ensure that national legislation is in accordance with ICOM’s Code of Ethics.’[[57]](#footnote-57) In another case, the ‘Code of Ethics & Professional Practice for Governing Bodies, Managers and Staff of Museums and Art Galleries in Aotearoa New Zealand’ draws upon the values from the ICOM ‘Code of Ethics for Museums,’ but also amends those as appropriate to the specific context of museums in New Zealand. As the New Zealand code explains, ‘While its tenets and suppositions flow from principles discussed and agreed in an international context, this code also seeks to summarise agreed good practices specific to Aotearoa New Zealand.’[[58]](#footnote-58)
4. Professional scholarly or research organizations whose members are individuals rather than institutions, such as the Latvian Council of Science,[[59]](#footnote-59) International Sociological Association[[60]](#footnote-60) or the Oral History Association of Australia,[[61]](#footnote-61) have codes of ethics or guidelines of ethical practice that are designed to guide the behaviour of individuals in their professional activities both inside and outside of the academy. Other professional organizations for occupations such as journalism and tourism also have codes of ethics. For example, the National Federation of Brazilian Journalists sets the norms for news professionals in Brazil[[62]](#footnote-62) and the Global Code of Ethics for Tourism was created to guide professionals in tourism development.[[63]](#footnote-63)
5. Codes of ethics are also developed for unaffiliated individuals, such as tourists, who pursue activities that could intersect with indigenous groups and communities that safeguard intangible cultural heritage. The Code of Ethics developed by CBT Vietnam, a training project for community-based sustainable tourism in two villages in North-Western Viet Nam exemplifies this kind of voluntary code.[[64]](#footnote-64)
6. There is no rule of thumb to know when a model code will be developed into specific codes. In the case of some professions such as the law, a national organization promulgates a code of ethics that, in effect, regulates the behaviour of members of the profession; local entities (states, regions, provinces, etc.) may then adopt or adapt the national code. The Canadian Bar Association (CBA), for example, has a Code of Professional Conduct that has been in place since 1920. (The latest revision was issued in 2009.) Its website demonstrates how the code has become an integral part of the legal profession in Canada:

Some Canadian jurisdictions have adopted the CBA Code, with occasional modifications, as their own. In other jurisdictions, law societies refer to the CBA Code when they interpret or amend their codes. Academics, law students and Canadian lawyers working outside Canada refer to the CBA Code when they need to know Canadian standards of conduct. In this era of globalized law practice and increased mobility between Canadian jurisdictions, it is important to have common conduct rules for all Canadian lawyers.[[65]](#footnote-65)

1. A model code of ethics for safeguarding the intangible cultural heritage should be a source of inspiration not only for the communities, groups and individuals who safeguard and perpetuate intangible cultural heritage but also the many professional groups that interact with these communities. To ensure that the code is adopted or adapted by as many organizations as possible, it will be critical to develop a communication plan to raise awareness of the code. The plan should indicate why the code is important, how it relates to various sectors and how adopting or adapting the code might help particular sectors advance their own goals. It might also include a series of consultative meetings with national and regional professional organizations of individuals and groups concerned with safeguarding intangible cultural heritage.

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| **Questions for discussion by the expert meeting**How should the Committee and Secretariat proceed to elaborate one or more model codes?What kind of consultative processes should be put in place to guide the elaboration of such a code or codes? Who should be consulted, and how?If multiple codes are to be elaborated, how might the Committee and Secretariat identify potential partners?What kind of educational programmes should be put in place at different stages? Who are potential partners in such efforts?Etc. |

1. ****Conclusion****
2. **This paper provides basic background information for the development of a model code of ethics for intangible cultural heritage, discussing various types of codes and their basic elements. Drawing upon core values enunciated in the Convention, it suggests both ethical principles and standards of conduct or behaviour that might be included in such a code. It also discusses how model codes are used and implemented by international, national and local organizations, either as educational tools or as regulatory instruments.**
3. **The work of implementing a model code does not end with its adoption. The scholarly literature on codes of ethics – whether for professional organizations and individuals, businesses and the public sector, or tourism organizations – suggests that in order for a code of ethics to be effective, constituents must be educated about the code and trained to use it. Examples of training programmes are diverse and range from single sessions to more extended courses. The International Council of Museums (ICOM), for example, is encouraging the development of ethics training programs to promote the use of its ‘Code of Ethics for Museums.’ In Switzerland, a PowerPoint presentation with hypothetical cases was created to facilitate training for museum professionals, and the national committee for ICOM in Sweden developed a training model for implementing the ICOM ethics code.**[[66]](#footnote-66) **The Global Ethics Training Initiative organizes courses for clinical research professionals,**[[67]](#footnote-67) **and the** African Malaria Network Trust in Dar es Salaam provides courses for professionals conducting health research.[[68]](#footnote-68) **Bar associations have ethics courses to ensure that their membership keeps abreast of ethical issues important to the law and, in some countries, attorneys are required to take ethics courses annually to maintain their certification.**
4. **Creating a code of ethics for the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage offers an opportunity to launch a broad educational effort to promulgate the code and encourage its adoption or adaptation by as many groups as possible. It could be integrated, for example, into the global capacity-building programme undertaken in recent years by the UNESCO Secretariat. It could also be integrated into tertiary education in the growing number of colleges and universities offering training in cultural heritage in general or intangible cultural heritage more specifically.**

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2. . Henceforth, any reference in this document to ‘intangible cultural heritage’ or ‘ICH’ should be understood to mean ‘intangible cultural heritage as defined in Article 2.1 of the 2003 Convention’, thereby excluding any expressions or practices that violate human rights or fail to respect the principles of mutual respect and the requirements of sustainable development. [↑](#footnote-ref-2)
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