Unit 21

Ethics in community-based inventorying

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lesson plan

Duration:

1.5 hours

Objective(s):

This unit builds participants’ knowledge about key ethical issues that may arise in community-based inventorying as well as the connection between ethical and legal considerations. It aims to strengthen participants’ ability to create ethical guidelines for community-based inventorying.

Description:

This unit provides an overview of the issues and obligations related to ethics that inventorying teams are likely to face while carrying out community-based inventorying. It clarifies and illustrates that community-based inventorying involves people both within and outside the community, and discusses how this can give rise to a number of ethical issues. It then turns to the risks, in terms of credibility and effectiveness, if an inventorying team behaves unethically. Participants learn how inventorying teams can establish their own ethical guidelines, which are considered essential to realizing the potential and benefits of community-based inventorying.

Proposed sequence:

* Clarifying terminology
* Ethical principles for safeguarding intangible cultural heritage
* Identifying the roles of different actors and the different ethical issues they need to consider, including a mini exercise on listing such roles and issues
* Exercise 1: Ethical challenges and queries in community-based inventorying
* Going through key ethical issues
* Practical tips for an ethical approach to community-based inventorying
* Exercise 2 (optional): Conflict situations in community-based inventorying (role-play)

Supporting documents:

* PowerPoint presentation Unit 21
* The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS): Guidelines for Ethical Research in Australian Indigenous Studies. These guidelines describe 14 principles for respectful collaboration between community and non-community members in the context of research in indigenous communities and can inspire the elaboration of guidelines for ethical behavior in community-based inventorying. <http://aiatsis.gov.au/research/ethical-research/guidelines-ethical-research-australian-indigenous-studies>
* ‘Ethical principles for Safeguarding Intangible Cultural Heritage’ (Annex of document ITH/15/10.COM/15.a http://www.unesco.org/culture/ich/doc/src/ITH-15-10.COM-15.a\_EN.docx)

Additional resources:

* *FAO’s ’Sharing our Resources’*. This participatory website explores the concept of participation and its application. A library, a collection of ‘field tools’, links to useful websites and other resources are available at this address: [www.fao.org/participation/](http://www.fao.org/participation/)
* *The Community Tool Box*. This online resource is the world’s largest repository of free information on skills for building healthier communities: <http://ctb.ku.edu/en>
* *Training kit on participatory spatial information and communication*. This online toolkit contains useful information and practical exercises, including on ethics, to ensure that indigenous and marginalized communities participate in documenting, representing and communicating their spatial knowledge and land-related issues, while taking control over the processes involved: http://pgis-tk-en.cta.int/

Notes and suggestions

This session presents the major provisions and mechanisms of the Convention.

The facilitator will already have spoken in Unit 1 about the general concept of ICH and its domains. This and other important concepts used in the Convention will be discussed in Unit 3, but if necessary they may be covered in this session instead.

Identification and inventorying will be discussed more fully in Unit 6. More information on the Lists, the Register of Best Safeguarding Practices and international cooperation and assistance will be given in Units 11 and 12, so the discussion here is brief.

Unit 21

Ethics in community-based inventorying

Facilitator’s narrative

Introduction

This unit covers key issues related to ethics and examines the attitudes and responsibilities of the various parties involved in inventorying ICH. Ethics applies to all parties concerned both within and outside the community. Community members working on inventories and those participating in the process should understand their obligations and responsibilities, and have a sense of what to expect in terms of ethical behaviour from others.

Laws and customary practice vary significantly from country to country and culture to culture. As such, it is not possible to provide a single one-size-fits-all model for ethics. However, the slides provided here can be used as a point of departure for discussions.

###### SLIDE 1.

Ethics in community-based inventorying of intangible cultural heritage

###### SLIDE 2.

In this presentation …

###### SLIDE 3.

Ethics: what does it mean?

Ethics refers to norms for conduct regarding acceptable and unacceptable behaviours within a society or community – not necessarily from a legal perspective, but from a human or cultural perspective. Working in inventorying requires sensitivity and respect for local cultural norms, whether you are from the community or not. Unethical behaviour could be of a moral nature such as failing to give credit, acknowledgment or authorship (exploitation); or of a legal nature such as failing to respect legal frameworks (ownership or copyright). Unethical behaviour is often linked to commercial aspects such as commercial exploitation, which would include the commercial use of data or recordings without permission, and/or not providing rights and finances.

###### SLIDE 4.

Related terms

This diagram illustrates various terms related to ethics, which overlap in certain ways. These could be expanded on in discussion or participants could be asked to contribute terms.

###### SLIDES 5. to 8.

Ethical principles for safeguarding ICH

Due to the growing awareness among State Parties of the need to provide guidelines on ethical approaches to the safeguarding of ICH at its seventh session in 2012, the Intergovernmental Committee requested that the UNESCO Secretariat start working on a model code of ethics (Decision 7.COM 6).

An expert meeting was therefore organized in 2015 in Valencia, Spain. The meeting constituted the first important step in the global discussion around the relevance, content and modalities of elaboration of a potential model code of ethics for ICH. It came up with a set of twelve overarching aspirational principles, which are widely accepted as constituting good practices for governments, organizations and individuals and which could serve as a basis for the development of specific codes of ethics adapted to local and sectoral conditions (see ITH/15/10.COM/15.a.). The ‘Ethical Principles for Safeguarding ICH’ are focusing on safeguarding, but many of them are fully applicable in community-based inventorying.

For more information, see:

- http://www.unesco.org/culture/ich/index.php?lg=en&pg=00015

- ITH/15/EXP/2 at http://www.unesco.org/culture/ich/doc/src/30195-EN.docx

- ITH/15/10.COM/15.a

###### SLIDE 9.

Key aspects of ethics in community-based inventorying

The issue of ethics is deeply rooted in culture. What may be highly acceptable in one culture may be unacceptable in another. Respect for customary practices is a basic principle in community-based inventorying, as is respect for the diversity of perspectives that might exist within a community.

Much of the discussion and literature on ethics of community research relates to situations where non-community members carrying out ethnographic research or data collection encounter problematic issues relating to disrespect, exploitation or misrepresentations arising from their work. In response, various professional societies have produced statements or guidelines for ethics in research. Among the most relevant in the context of community-based inventorying are those devised by the Society of Ethnomusicology, the International Association of Sound and Audiovisual Archives, the American Anthropology Association and the Association of Social Anthropology. One example produced by the Australian Institute of Aboriginal and Torres Strait Islanders (AIATSIS) is available online (http://aiatsis.gov.au/research/ethical-research/guidelines-ethical-research-australian-indigenous-studies). It is recommended that participants research the various societies and guidelines online as sources of inspiration; however, the AIATSIS example has a strong focus on community consent, which is highly relevant for community-based inventorying.

If possible, go through the AIATSIS guidelines with the participants. Have them read a few principles out loud.

Most of the ethical issues in these guidelines concern the relationship between ‘insiders’ and ‘outsiders’. This relationship is not clear-cut and varies according to the situation. A person from a neighbouring village is an outsider, but both are considered insiders compared to someone from another region. Outsiders will be involved in various capacities of community-based inventorying as the workshop attempts to develop an inventorying approach, where the community eventually does the inventorying itself. In this regard it is useful to reflect on the roles of all stakeholders, while ensuring that primary authority and ownership remains with the community.

Ethical concerns are, however, not restricted to the role of outsiders and concern all involved in the inventorying process.

**Questions for participants**

* What kind of issues can arise from interaction between insiders and outsiders during inventorying?
* What ethical issues are you (the participants) likely to face in the fieldwork practicum (or pilot activities) and what should you be mindful of?

###### SLIDE 10.

Ethics concernsall involved

This slide lists the possible types of people who might be involved in community-based inventorying. Each would have different and yet overlapping ethical issues to consider, depending on their role in the inventorying exercise.

**Mini exercise**: Ask participants to talk about the roles and ethical issues of the different actors, encouraging them to add new categories of actors.

###### SLIDE 11.

Different types of community participants

When referring to the ICH of a certain community it is not always evident who is being referred to. Many individuals and groups are involved in the practice and transmission of ICH, as has been mentioned in the materials on community involvement and participation. The list of those concerned and who therefore need to be involved and consulted depends on the nature of the ICH (see, for example, the short list given on the slide). Practitioners might indicate that a teacher represents the tradition and is the authority to be consulted and approached for permissions. A specific person may have cultural ownership in some traditions. The issue of individuals who are composers or lyricists within a tradition also needs to be considered. If social practices are concerned, the question of a ‘leader’ is again different and could vary from one practice to another. In the case of traditional repertoire the community is typically the ‘owner’.

###### SLIDE 12.

Inclusion: a key principle

It is essential for cultural workers and community leaders in charge of inventorying to include all parts of the community or communities concerned. There is always a risk of excluding those who may be considered ‘outsiders’. Thus, special attention should be paid to all who are marginalized in a society to ensure that their ICH is included.

Women are often the bearers of ICH, whether rituals, crafts, specific knowledge about nature, cultural practices related to education, conflict resolution etc. However, women are not always on an equal footing and ICH restricted to women practitioners may be at a risk of being ignored. It is therefore important to include women in the planning of ICH inventorying.

For some ICH such as games, rhymes and songs children are the primary practitioners. It is important that these too are considered in inventories.

###### SLIDE 13.

Core values of community-based inventorying

In light of the above, a core value of participatory and community processes is diversity (e.g. diversity of income, ethnicity, religion, age, background, gender and so on). Participatory processes value diversity.

Valuing diversity means valuing everyone. Each person needs to know that he or she will be included and is important. This means recognizing and prioritizing local and traditional knowledge. Most importantly, it means valuing divergent and different opinions on the basis that there is no single truth, only identification with ICH and opinion. Variability is fundamental to the nature of ICH.

Transparency and trust are two interlinked values of participatory and community processes. Valuing transparency means creating honesty and openness to build trust among all participants. Transparency encourages participants to work towards compromise and consensus rather than protect their individual interests. Attention should, however, be paid, to whether and why trust is sometimes lacking in a group or ways in which transparency might jeopardize a minority group.

Another important community-based inventorying value is flexibility. Valuing flexibility means being open to other ideas and perspectives, particularly if they are difficult to understand or contradictory to what one believes. It means setting aside one’s own ideas and perspectives and striving to be as neutral as possible in the participatory process. It also means being adaptable in diverse situations and settings.

**Questions for participants**

* Does anyone have personal experiences working in groups or communities where they had to be especially flexible?
* What happened?

###### SLIDE 14.

Permission is required for data collection

Permission is required for many basic areas of data collection. Even if the community leadership signed a consent form, it is courteous and necessary to request and obtain permission before taking a photograph or making a recording. Such permissions can also be recorded when starting an interview. Participating in an activity or process is a useful way to learn, document and build relationships, but also requires permission.

Making arrangements for copies to be given to those who are being photographed or recorded is highly recommended, and should be incorporated into plans and budgets.

###### SLIDE 15.

Permission is required for future use

Once photographs are taken and recordings made, they are likely to be used as part of the safeguarding process (e.g. awareness-raising, revitalization and strengthening viability). The data and information generated for the inventory may therefore be disseminated via different media including publication, broadcasting or uploading to the internet. If the materials are to be deposited in an archive, which is very desirable, they will be accessed. All of the above requires permission (see also the unit on documentation).

This is not an exhaustive list, but those carrying out the inventory should prepare to discuss the issue and include appropriate points in the forms to request free, prior and informed consent and/or other permission forms. Not all permissions may be anticipated at the outset; therefore a list of possible uses is very useful and can be updated as needed.

###### SLIDE 16.

Ethics regarding adequate representation

A major challenge in inventorying, even if you belong to the community, is to ensure accurate representation of ICH, including names, processes, underlying reasons for traditions and performances, and meaning and significance to name but a few. Representation is critical and should be in line with the views of the practitioner. Being from the community where an ICH is practised does not automatically make a person a legitimate source of information about specific ICH. Even if a person is familiar with and part of the cultural context, the descriptions should eventually be provided by those who form part of the practice. This careful involvement of all concerned is crucial to respect the diversity within communities and to generate all information required for effective safeguarding.

###### SLIDE 17.

Rights and respect

Copyright, patents and intellectual property regimes highlight issues of royalties, payments, sharing profits and so on, all of which focus on the financial consequences of ethical or unethical behaviour. However, the issues that cause hurt, injury and misunderstandings are not always financial. People become upset when they discover that their culture is not being represented correctly or when artefacts or traditions are treated inappropriately and not accorded the respect they deserve. Recorded cases of such abuse include the misnaming of native American ceremonies as ‘pow wows’; the use of filmed footage of trance and possession, which is sacred and private, in a discotheque; lack of acknowledgement of individual performers; failure to attribute authorship and so on. Practitioners are also often deeply offended when the artistic integrity of their tradition or creativity is not maintained. Often such occurrences are oversights and the result of thoughtlessness rather than deliberate transgressions.

Participants may add other examples to this list.

###### SLIDE 18.

Creating an environment of trust

Although the issue of ethical obligations of community representatives has been alluded to above, some specific points merit further discussion (see list on the slide). Transparency and openness are important for all. Only if all community members, practitioners and representatives feel committed to creating an ethical environment of trust, can the inventory process be successful. Experience has shown that different challenging issues arise (e.g. community members feel misrepresented, inaccurate information is given, unnecessary secrecy is created around issues, etc.). This has to be avoided.

Everyone involved needs to be willing to go beyond their own perceptions and knowledge, and acknowledge the views of others. If the diversity of perceptions is captured in an inventory it provides a sound basis to subsequently identify effective safeguarding measures.

In the case of community-based inventorying, community members can find themselves in a conflicting situation being facilitators for the project versus being members of the community. The roles can be very complementary and useful or may cause conflicts.

**Questions for participants**

* Ask participants to list possible conflicting roles.

###### SLIDE 19.

Ethical and legal issues

Overlap between ethics and the law is not uncommon with reliance on ethics when laws do not satisfactorily cover situations. In recent times, many issues considered to be ethical have attained legal status. Moral rights, such as the principle of free, prior and informed consent (for more details, see Unit 22) or performers right are examples of ethical norms that have become part of rights in various countries.

Ethical issues also include customary law and practice. The 2003 Convention makes specific mention of the customary law and practices of a community, especially in the case of dissemination and also in inventorying. Many communities may have ICH elements that are restricted in terms of access. Some rituals are secret and not meant to be shared outside the clan or moiety. Thus, it is important to ensure that customary laws or regulations are not violated in the process of inventorying at all levels.

There are also instances where an action is legally correct but ethically wrong. For example, it would be ethically wrong for someone to request permission of a producer of an album to use a song for an advertisement or to remix it, but to neglect to inform or request permission of the singer.

In certain countries, customary restrictions may conflict with copyright conventions (e.g. where copyright is automatically given to the person recording). In others, they may conflict with the law (e.g. countries where all traditional rights are held by national government).

However, States Parties to the UNESCO 2003 Convention would be obliged to follow the spirit of the Convention in considering community ownership.

###### SLIDE 20.

ICH ownership

What do we mean when we talk of community rights or ownership of ICH? Communities are composed of groups and subgroups and of individuals who may hold specific rights and privileges. It is hard to distinguish where the rights of an individual overlap with that of a community representative with no individual rights. An individual who belongs to a community can have rights based on creativity, originality or traditional roles that are specific to the particular individual and not shared by the whole community. Perceptions within the community also may vary as to who has the right to represent the interests of the community or a certain ICH element.

Furthermore, it is not uncommon for ‘ownership’ or even composition of songs and poems, rituals and so on to be attributed to a deity or spirit. Accepting and acknowledging these beliefs is an ethical issue, although it has no basis in legal representation.

The question of ownership and therefore the question of specific claims is not easy to answer in the context of ICH due to its evolving and shared nature, as well as to the fact that it is often owned collectively. Indeed, protecting a specific manifestation like the performance of a dance, the recorded interpretation of a song or the patented use of a medicinal plant may lead to freezing this intangible cultural heritage and hinder its viablity. Moreover, as the communities are the ones who create, maintain and transmit ICH, it is difficult to determine the collective owner of such heritage. Applying intellectual property rights with the current legislative framework is therefore not satisfactory when dealing with ICH.

###### SLIDE 21.

Individual and community rights

This diagram attempts to juxtapose the issue of the individual and the community. The conflict here is that copyright law deals with an individual and not with communities. Other instruments, such as WIPO’s Draft Provisions/Articles of the protection of Traditional Cultural Expressions, and Intellectual Property & Genetic Resources (http://www.wipo.int/tk/en/igc/draft\_provisions.html), compensate by attempting to create protection and rights for communities, but do not deal with the individual.

One law that deals with the individual in regard to traditional cultural expressions is the Performer Right found in the Indian Copyright Law. Here, the individual has rights over his/her performance and all its representations such as recordings. Thus, the performed material is not under copyright because of its traditional nature, but the performer owns the recording regardless of the form it takes (e.g. lecture, music, dance, street performance, ritual, etc.).

###### **SLIDE 22.**

Fair use and fair dealing

Most countries have some provision for fair use or fair dealing. Legally, this means that some kinds of use are allowed by law and are not seen as violating the rights of the owner. Educational or classroom use, research and so on are permitted in many cases. In countries such as the United States, fair dealing allows for use that is for the greater good of society, even if it does not follow norms of copyright or other rights. Some arguments make the case that citizens have the right to access information especially if such data is state funded.

This issue should be discussed to ensure that the notion of fair use is not misunderstood as justifying the use of inventoried materials without permission, and also to encourage community representatives to consider what might constitute fair use. Permissions should not be aimed at overly restricting access.

There is also a false notion that non-commercial or non-profit use does not violate the right of an individual or community. As we have seen, there are many instances where such use would go against ethical considerations, even if no profit is made. Today’s technology enables the free sharing and subsequent proliferation of material over the internet with no regard for permissions. Such sharing may include material that the person or community does not want to be publicly viewed or is not appropriate for public viewing. In other cases, free access may affect the livelihood of the performer. This reduces potential earnings for musicians and can make a critical difference to those for whom it constitutes a livelihood.

###### SLIDE 23.

Some tips …

This final slide is a checklist of records to be maintained with regard to issues discussed in this unit. It draws the session back to the practical aspects of the field practicum and inventorying.

Unit 21

Exercise 1: Ethical challenges and queries in community-based inventorying

#### Objective:

This is an optional exercise for the middle of the presentation. It is designed to make participants engage with the idea of ethics and come up with issues themselves. The list they produce can then provide facilitators with examples to be used in the presentation.

#### Time:

10–15 minutes

#### Materials:

None

#### Procedure:

This exercise can be performed as group work or as individuals.

The facilitator asks participants to, list at least five issues that can result in ethical problems from their own experience. These might be related to the practice of documentation and inventorying, dissemination activities through the internet or publishing, practice of ICH and so on. The examples may be taken from issues arising when outsiders work with communities or from possible situations within communities.

Community representatives can take a lead here. Use this exercise to raise any queries about ethical behaviour and practice that you may have.

If performed as group work, each group can discuss ethical issues separately and draw up a list. The lists from all groups can then be collated and shared. You can then explore how these issues connect with issues discussed in the course of this presentation.

Unit 21

Exercise 2: Conflict situations in community-based inventorying (role-play)

#### Objective:

This role-play is meant to draw out issues related to ethics, based on the views that people may have about certain groups or issues. It is designed to increase understanding of how ethics can vary depending on your point of view. It can also provide a way for community participants to work with others in the workshop in fictitious scenarios, thus integrating themselves and providing participants with an insight into issues from the perspective of the community. Role-playing also brings energy to the workshop and can draw out issues spontaneously that may not emerge in discussion.

#### Time:

90 minutes

#### Materials:

None

#### Procedure:

This exercise should be prepared and performed as a small play or skit.

Divide into groups. Each group should adopt roles of people likely to be involved in an inventorying project (e.g. practitioners of various ICH elements, a village committee that represents community interests, government servants or officials, a team of researchers, an NGO, etc). You need to be imaginative and improvise roles. Community representatives can also take an active role in suggesting such roles. If you like, you can also create roles for individuals within a group.

Imagine a scenario in which one group believes it is treated in a way that is unethical. For example, performers and the village committee may have problems with each other. Performers may feel that the village committee does not represent their interests properly. Certain occupational groups may feel that their ICH is not being included in the inventory.

You can structure the role-play as a debate or a skit, where each group makes accusations and defends their own positions.

The exercise is an opportunity to use your imagination and acting skills.