Unit 38

Ethics for safeguarding intangible cultural heritage

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lesson plan

Duration:

4 hours

Objective(s):

This unit introduces and develops participants’ understanding of the ethical principles for safeguarding intangible cultural heritage endorsed by Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage (see Decision 10.COM 15.a), and how they relate to the ethical issues encountered in their work. The unit also develops an understanding of how to adapt existing tools and codes of ethics to specific issues and contexts.

Description:

The unit introduces the topic of ethics in safeguarding intangible cultural heritage within the framework of the ethical principles for safeguarding adopted by the Convention’s Intergovernmental Committee (see Decision 10.COM 15.a). It includes case studies and exercises for participants to explore the opportunities and challenges of applying the ethical principles to different contexts of safeguarding.

Proposed sequence:

* Introduction to the unit, and outline of the unit plan
* A warm-up discussion on why we need ethics for safeguarding and who ethics protects, where participants share some of their experiences and thoughts on the topic. Following the discussion, the facilitator introduces the definition of ethics and clarifies some of the related concepts (eg: fairness, balanced access etc.);
* To facilitate a group discussion using a real life case study from the participants’ context that illustrates a situation where ethical issues in safeguarding intangible cultural heritage are at stake. If a context-specific case study is too sensitive, facilitators may wish to consider a case study from elsewhere or a hypothetical case illustrating conflicting perspectives on a particular issue that occurs in the context of safeguarding ICH.
* Introduce briefly the topic of ethics in the Convention; what are ethical principles; a practical exercise using an example of a code of ethics is conducted to get participants to examine and identify how it has been adapted to specific contexts; introducing the 12 ethical principles as per the decision of the Intergovernmental Committee and how they relate to the core values and the spirit of the Convention and the different international policy frameworks from which they are derived;
* Raise some common ethical issues to the participants, as well as possible approaches to address these to ensure ethical safeguarding of ICH;
* Case study exercise: Facilitators can use any two of the three case studies provided to further strengthen the participants’ critical thinking on ethics and their ability to identify and avoid potential ethical issues when they do occur. Each case study examines different ethical issues ranging from community involvement and consent to the ethics around selecting an ICH element for nomination. Facilitators are advised to pick one or two case studies with ethical issues which would have strong relevance to the local context.
* Role play exercise: A group exercise using role play, followed by a discussion, in particular about what happens when codes and agreements are breached and a reflection on how stakeholders can resolve these conflicts through means of negotiation and mediation. Facilitators may use the same case study from the first exercise to further explore ethical considerations with regard to the relations between different stakeholders (i.e. government, NGOs, community members) in processes of decision- making, delegation of authority and resources, etc.

Supporting documents

* Case studies 46, 56, 59 (Facilitator to select two most relevant ones)
* Unit 21: Ethics in Inventorying
* UNESCO web-link: <http://www.unesco.org/culture/ich/en/background-of-the-ethical-principles-00867> (Background of the ethical principles for safeguarding intangible cultural heritage)
* 2003 Convention sections, particularly relevant Articles
* 10. COM Annex (Ethical Principles for Safeguarding Intangible Cultural Heritage)
* *Towards codes of ethics for intangible cultural heritage* paper that was used in the Expert meeting on a model code of ethics for intangible cultural heritage in Valencia, Spain, 30 March to 1 April 2015: (<https://ich.unesco.org/doc/src/30195-EN.docx> )

Additional resources:

* Peter Singer, One World. The Ethics of Globalisation, Yale, Yale University Press, 2002
* Julian Baggini & Peter S. Fosl, The Ethics Toolkit. A Compendium of Ethical Concepts and Methods, Oxford, Blackwell Publishing, 2007
* Marc Jacobs, The Spirit of the Convention: Interlocking Principles and Ethics for Safeguarding Intangible Cultural Heritage, in: International Journal of Intangible Heritage. 11, 2016, pp. 71-87, available in English and Korean (<http://www.ijih.org/fileDown.down?filePath=11/dtl/73f5b3cf-ed6a-4e37-9e20-76ae126d5d35&fileName=vol+11_vp4_Marc+Jacobs.pdf&contentType=volumeDtl&downFileId=608&fileType=PDF&type=pdf> )

Notes and suggestions

The unit forms part of the core content of the capacity-building curriculum and can be integrated into different workshop modules, notably the workshops on implementing the Convention at the national level or on community-based inventorying, where participants have not previously benefitted from the new materials.

It is addressed to a mixed stakeholder group bringing together national government officials, community members, academia, civil society and non-governmental organizations.

Facilitators may wish to reflect and identify a possible suitable local case study for use in the role play exercise.

This Unit requires prior knowledge of the key concepts of the Convention (Unit 3).

Unit 38

Ethics for safeguarding intangible cultural heritage

Facilitator’s narrative

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(Role play exercise)

I. Introduction

###### **SLIDE 1.**

Introduction to the unit

This unit aims to introduce and develop the participants’ understanding of the ethical principles for safeguarding ICH, and how they relate to the ethical issues encountered in their work. The Convention places communities at its heart, and acknowledges the need for a general code of ethics in relation to safeguarding ICH

(See the 2015 Expert meeting on a model code of ethics for intangible cultural heritage: https://ich.unesco.org/en/events/expert-meeting-on-a-model-code-of-ethics-for-intangible-cultural-heritage-00463).

Some “simple questions” to keep in mind while going through this unit are: Are there behavioural rights or wrongs in safeguarding ICH? Is good and what is bad behaviour? Should there or can there be clear rules and/or procedures for safeguarding of ICH and if so, according to who? Possible answers to these questions are not evident.

Some say that dealing with ethics is like walking on a tightrope. To help us understand this image, we can for example look at the inscription of traditional Korean performing art of Jultagi inscribed on the Representative List of ICH in 2011. It is characterised by a dialogue between the tightrope walker and an earthbound clown. The image can help to understand that an ethical approach always involves consideration of different perspectives of the communities, groups and individuals involved in the ICH at stake and of those supporting a specific safeguarding activity.

Concepts of “ethics” and “ethical” have been discussed by thinkers and practitioners, religious figures, legal scholars and political thinkers across time and age. After the Second World War, not only were the United Nations and UNESCO created, but we saw the development and formulations of standards of ethics for respecting and dealing with human beings and other forms of life (including the notion of prior and informed consent, after the Nuremberg Trials against cruel practices and experiments of doctors in the Nazi-era on living human beings).

As time progresses, new issues relating to ethics come on the agenda, such as sustainable development or bioethics (which we will explore later). Ethics are relevant in all fields, including cultural heritage work, and especially for safeguarding intangible cultural heritage, as they concern and impact upon viability, communities, groups- living human beings, life. Therefore the Intergovernmental Committee made a request for the elaboration of ethical principles in safeguarding and to endorse a set of 12 principles which will be the subject of this unit.

Please note that more practical advice and case studies on ethical approaches to community-based inventorying are contained in Unit 21. Facilitators may wish to also recommend to the participants to take this unit, if relevant.

###### **SLIDE 2 & 3.**

Outline

In this unit …

The unit begins by introducing the concept of ethics to the participants. Ethics as a subject matter usually cover questions relating to acceptable and unacceptable behaviors in a society or a community. Ethics are deeply rooted in culture: what some may consider as acceptable behavior in a particular context may be unacceptable for 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. This section will sensitize the participants to the issue of ethics through group-based discussions and explore why ethics are critical to consider in activities aimed at safeguarding ICH.

The second part of this unit focuses on the elaboration of ethics in the framework of the Convention. In 2015, the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage (the Committee) endorsed 12 Ethical Principles for safeguarding ICH. They provide guidance to a range of actors on ethical approaches to safeguard ICH. Participants will develop a good understanding of how the ethical principles articulate with the core values of the Convention and how they can strengthen efforts for its effective implementation.

The third part of this unit explores possible approaches and tools that participants can use to address and mediate ethical issues relating to ICH safeguarding. These may occur, for instance, in relation to collaboration and partnerships, community representation, and the dissemination and sharing of information. Through fictive and real-life case studies, participants will be invited to identify key ethical challenges, relate the ethical principles to them and reflect on possible ways to address some of the ethical challenges exposed in the case studies. Facilitators can choose from the examples provided or use particular cases from their own experience.

The unit ends with a role play exercise that allows participants to explore ethical considerations in the relations between different stakeholders, and consider how to mitigate and maximize beneficial outcomes from the interactions (both positive and negative) between different stakeholders in the implementation of the Convention.

II. What are ethics

###### **SLIDE 4.**

What do ethics mean to you?

**Informal discussion**

**15 minutes**

The aim of this warm up discussion is to initiate the participants’ thinking on the topic of ethics, and to encourage them to voice their understanding and assumptions of ethics. Participants may be asked to share ideas that come immediately to their mind when they think of the topic.

###### **SLIDE 5.**

What are ethics? Who are ethics for? How do we apply ethics?

As the warm-up exercise may illustrate, while everybody may be familiar with the term, its exact meaning may be difficult to pin down. A common response may be to think about ethics in terms of a perceived contrast between opposites: good vs. bad; right vs. wrong. Another approach may be to invoke different rules for behaviour, such as the Golden Rule (“Do unto others as you would have them do to you”) that is acknowledged by all major religions in the world or professional codes of conduct like the Hippocratic oath in medicine (“First of all, do not harm”), or a religious creed like the Ten Commandments (“Thou Shalt not kill…”).

Ethical norms are so ubiquitous that they may, at times, appear as common sense, while at the same time they are deeply rooted in culture. While people may recognize some common ethical norms, they may interpret, apply and balance them differently in line with their distinctive personal values and experience.

There are many approaches to the study of ethics, but for the purposes of the unit, ethics refer to norms of conduct regarding acceptable and unacceptable behaviours within a society or community specific to the safeguarding of ICH– not necessarily from a legal perspective, but from a human or cultural perspective. The facilitators may ask participants to do a draft list of possible stakeholders/actors in ICH safeguarding who might be affected by ethics or are expected to comply with ethical principles. A suggested (but not exhaustive) list is as follows:

* Community based organisations
* Groups, individuals
* National government (national commission)
* National / state agencies
* Non-governmental organisations
* International organisations

Participants may wish to talk about the roles and ethical issues of the different actors that may arise.

Ethical standards and requirements are often set out in documents called ‘guidelines’, ‘protocols’ or ‘codes.’ An ethical guideline, like a guiding principle, helps to establish baseline expectations for respectful and responsible behaviour.

Many different disciplines, institutions and professions have different standards for behavior that suit their particular aims and goals. Participants may be aware of existing codes of ethics or ethical standards of behavior that exist in other fields or sectors, such as medicine, law, engineering, business or sports.

Codes of ethics may be categorized according to the approach that they take to defining principles and standards. There are codes of ethics which can be characterized as aspirational (a statement of ideals to which one aspires[[1]](#footnote-2)) or prescriptive (a statement of requirements of conduct; when such requirements are stated in the negative, they are often referred to as proscriptive[[2]](#footnote-3)). 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.

EXAMPLE:

An example from outside the field of heritage is the UNESCO Bioethics Programme, which explores ethical concerns that arise in the field of human life and health care (see <http://www.unesco.org/new/en/social-and-human-sciences/themes/bioethics/>). In 2005, the General Conference of UNESCO adopted the Universal Declaration on Bioethics and Human Rights, embodying a set of bioethical principles that provide a common global platform to strengthen bioethics within each Member State. This principled approach invokes underlying principles such as consent, autonomy and individual responsibility and justice in relation to contentious issues such as definitions of end of life. One of the core areas of the programme is in education and awareness in the field of bioethics and there are a number of useful resources available on the website <http://unesdoc.unesco.org/images/0016/001636/163613e.pdf>.

###### **SLIDE 6, 7, 8.**

Why are ethics important in the safeguarding of ICH?

It is critical to take into account the ethical considerations when working with communities to safeguard ICH. The development, promotion and implementation of ethical principles for safeguarding ICH can contribute to achieving stronger sensitivity to cultural norms, honesty, transparency and appropriate behaviour. Acting unethically can have a detrimental effect on the viability of ICH and the communities, groups and individuals concerned. Ethical guidelines can help prevent forms of disrespect and moral, legal or commercial misappropriation of ICH. In short, ethical guidelines can help strengthen the safeguarding efforts of the communities, groups and individuals concerned and promote respect for ICH in related fields such as cultural heritage, museums, anthropology, tourism, and the media, as well as other fields where ICH safeguarding takes place such as health, agriculture, etc.

Slide 7 lists (but is not limited to) some possible unethical approaches which may arise in the safeguarding of ICH. The Facilitator may wish to get participants to brainstorm more issues very briefly among themselves.

EXERCISE 1

Group discussion (20 mins)

This exercise aims to get the participants to engage actively with the issue of ethics and to raise ethical issues from their own reflections and/or experiences.

Ask participants to think of an example, from their own experience or an example they know about, where an ethical conflict or dilemma arose related to the safeguarding of ICH in their country (see Unit 21 Exercise 1). Each group should have one round of internal discussion sharing examples.

At the end of the example-sharing exercise they should select one example per group to be used later in the training workshop for a hands-on exercise on how to address and mediate ethical issues and dilemmas.

NB! Facilitators should note, especially if there are community representatives in the workshop, that there may be some sensitivity in this exercise, depending on the country’s context. Facilitators should be aware of such sensitivities and are encouraged to find examples from other countries if the country context is considered too sensitive. Some possible tensions may include disrespect, exploitation or appropriation, misrepresentation, claims of ownership, copyrights etc. that may be longstanding and unresolved. Some back up case studies (including the optional ones presented later in the unit) might be used here as a substitute in such a situation for the exercise to get participants to identify the ethical issues themselves.

Ethics in the Convention

###### **SLIDE 9 & 10.**

History of the ethical principles for safeguarding ICH

In 2015, at its tenth session in Windhoek, Namibia, the Committee endorsed the 12 Ethical Principles for safeguarding intangible cultural heritage ([Decision 10.COM 15.A](http://www.unesco.org/culture/ich/en/decisions/10.COM/15.A)) that are now included in the Basic Texts of the Convention. The following summary highlights the key steps that led to the adoption of the decision:

* In 2012, the Committee invited the Secretariat ‘to initiate work on a model code of ethics and to report on it to a next session of the Committee’ (Decision 7.COM 6).
* In early 2015, the Secretariat organised an expert meeting in Valencia, Spain, to discuss the relevance, content and modalities of elaborating a potential model code of ethics for ICH (see elaboration below).
* At the end of 2015, the Committee endorsed the Ethical Principles ([Decision 10.COM 15.A](http://www.unesco.org/culture/ich/en/decisions/10.COM/15.A)).
* The decision encourages States Parties and other national and local organizations to develop a national or sector-specific code of ethics based on these principles through a participatory process (Decision 10.COM 15.A.8). It furthermore recognises that ethical codes can only be implemented if adapted to the particular political, economic, social and legal context and/or a sector.

###### **SLIDE 11.**

Why ethical principles?

The 2015 Valencia experts meeting constituted the first important step in the global discussion on the relevance, content and modalities of elaboration of a potential model code of ethics for intangible cultural heritage, and brought together experts from a wide range of expertise (anthropology, communications, development, heritage, intellectual property, law, among others), and sectors (government, academia, NGO, think-tanks).

Stemming from the realization that it would not be possible to develop a ‘ready-made’ code of ethics model to be applicable to all groups and individuals who directly or indirectly affect the viability of intangible cultural heritage, the experts recommended the use of a participatory approach in the development of codes of ethics to facilitate the contribution of diverse groups of stakeholders and the efficient mobilization of expertise from governments and civil society. The experts agreed that a wide range of stakeholders needed a code of ethics specifically targeting each sector and that general principles needed to be developed as a first practical step and foundation on which future codes of ethics could be devised.

A set of twelve overarching aspirational principles were then developed by the experts at this meeting that are widely accepted as constituting good practices for governments, organizations and individuals working in the field of ICH. 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.

The development, promotion and implementation of ethical principles for safeguarding intangible cultural heritage can contribute to achieving enhanced sensitivity to cultural norms, honesty, transparency and appropriate behaviour, prevent any forms of disrespect and moral, legal or commercial misappropriation of intangible cultural heritage and thus, considerably strengthen the safeguarding efforts of the communities, groups and individuals concerned. Such principles would also guide safeguarding efforts and promote respect for intangible cultural heritage in related fields such as cultural heritage, museums, anthropology, folklore, tourism, the media and intellectual property.

In preparation for the Valencia meeting, the Secretariat prepared a reference document ([Document ITH-15-EXP-2](http://www.unesco.org/culture/ich/doc/src/30195-EN.docx)) that provides useful background on the topic of ethics and ICH. The report on the meeting can also be found here (<https://ich.unesco.org/doc/src/ITH-15-10.COM-15.a_EN.docx>).

###### **SLIDE 12.**

What is an ethical principle?

An ‘ethical principle’ is a general standard or norm that helps establish baseline expectations for respectful and responsible behaviour. A principle does not tell us how to act in each situation, and is broad in scope and needs interpreting in the light of particular circumstances. Ethical principles cannot offer simple solutions to the inevitable issues and challenges that may arise in ICH safeguarding projects; but they do offer guidance or strategies for how to deal with them.

The Ethical Principles are intended to serve as a basis for the development of specific codes of ethics and tools adapted to local and sectoral conditions.

The Secretariat has provided some relevant examples of codes of ethics and professional codes of conduct in the culture sector on its website:

<http://www.unesco.org/culture/ich/en/examples-of-codes-of-ethics-00868>

###### **SLIDE 13.**

Exercise 2

Examining and adapting a code of ethics (15 minutes)

The facilitator may take one example and examine how it has been adapted to the particular aims and goals of an organisation or discipline. Alternatively, the facilitator may wish to take an existing code of ethics from the country where the workshop is being held and examine how it has been adapted to the particular context.

For 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 list fourteen principles relating to these rights and discuss how they should be applied. The guidelines’ first intention is to be informative and descriptive rather than authoritarian or rigidly prescriptive. They are designed to be applicable, as much as possible, to different areas of methodology and application.

Using one example of a code of ethics, some thinking questions to ask participants:

i) Can you identify some of the core values that guide this code of ethics?

ii) What is the tone and language used?

iii) Are there important or risk areas that this code of conduct does not cover?

iv) Who were some of the likely groups of people consulted for the drafting of this code of ethics?

<https://ich.unesco.org/doc/src/Example-code_of_ethics-Australian_Institute_of_Aboriginal_and_Torres_Strait_Islander_Studies.pdf>

###### **SLIDE 14**

What does the Convention say about ethics

Basic Texts

Neither the Convention nor the Operational Directives (ODs) provide specific ethical guidelines or norms of conduct for stakeholders working in the field of ICH. However, ethical considerations are present in some chapters of the ODs (see, for example, paragraph 93 and 103). Ethical considerations are also included in Chapter VI on Safeguarding ICH and sustainable development. Notably, Paragraph 171(c) stipulates that ‘Insofar as their development plans, policies and programmes involve intangible cultural heritage or may potentially affect its viability, States Parties shall endeavour to ensure that such plans, policies and programmes respect ethical considerations and do not negatively affect the viability of the intangible cultural heritage concerned, or decontextualize or denaturalize that heritage.’

The inclusion of ethical considerations in the ODs reflects a growing awareness among Member States of its importance to planning effective safeguarding activities and programmes, and to provide guidance to different actors whose activities related to ICH affect its viability.

See also 178(b) on food security and 184 regarding inclusive economic development.

###### **SLIDE 15, 16**

The core values the 12 Ethical principles for safeguarding ICH are founded on

The Ethical Principles are founded on the fundamental principles embodied in the Convention: the primacy of communities, groups and individuals concerned, transparent collaboration and informed consent, respect for human rights, accessibility and cultural diversity. To sensitize participants to the Ethical Principles, facilitators should examine the Ethical Principles in terms of the core values of the Convention.

Exploring the 12 Ethical Principles according to the following three value groupings can help participants better understand them:

* Rights, respect, recognition: recognizing and respecting the rights and diversity of communities, groups and, where applicable, individuals, and the dynamic and living nature of the ICH
* Consent, access, collaboration: important ethical basis for all interactions to ensure meaningful collaboration and cooperation given the general interest to humanity to safeguard ICH for mankind
* Benefits, impact: communities, groups and individuals should benefit positively from their intangible cultural heritage, and to determine threats to their intangible cultural heritage and how to prevent and mitigate such threats.

###### **Slide 17-19**

Categorizing the 12 Ethical principles for safeguarding ICH

The 12 ethical principles can be grouped into the following 3 values:

1. Rights, respect, recognition

Communities, groups and individuals

*1. Communities, groups and, where applicable, individuals should have* ***the primary role*** *in safeguarding their own intangible cultural heritage.*

*2. The* ***right of communities, groups and, where applicable, 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.*

The central role of communities, and recognising the diversity of individuals and groups within communities, is a central value of the Convention as reflected in the Preamble and Article 15 which recognises that “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.” While this obligation is strictly binding only on those States that have ratified the Convention, it can be generalized as a more fundamental value to guide all actors involved with ICH.

Mutual respect

*3.* ***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, where applicable, individuals.*

*11.* ***Cultural diversity*** *and the identities of communities, groups and individuals should be fully respected. In the respect of values recognised by communities, groups and individuals and sensitivity to cultural norms, specific attention to* ***gender*** *equality,* ***youth*** *involvement and* ***respect for ethnic identities*** *should be included in the design and implementation of safeguarding measures.*

The Convention only recognizes ICH that is compatible with the requirements of mutual respect among communities, groups and individuals[[3]](#footnote-4). Mutual respect includes accepting that there are diverse perspectives on a given issue and being prepared to listen to the voices of others. The Convention furthermore reminds us in Article 1, that such mutual respect should be based not only upon respect for the persons involved recognising their diversity in languages, cultures, histories, and perspectives, but also upon a respect for and mutual appreciation of their ICH.

Dynamic and Living Nature of ICH

*8. The* ***dynamic and living nature*** *of the intangible cultural heritage should be continuously respected. Authenticity and exclusivity should not constitute concerns and obstacles in the safeguarding of intangible cultural heritage.*

Acknowledging and respecting the dynamic and living nature of ICH is also at the heart of the Convention, as it can be seen in the very definition itself of ICH in Article 2 of the Convention, recognising the dynamic and living nature through its transmission “from generation to generation, and is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history.”

1. Consent, access, collaboration

Transparent collaboration and informed consent

*4. All interactions with the communities, groups and, where applicable, individuals who create, safeguard, maintain and transmit intangible cultural heritage should be characterized by* ***transparent*** *collaboration, dialogue, negotiation and consultation, and contingent upon their* ***free, prior, sustained and informed consent****.*

All collaborations between actors involved in safeguarding activities should be characterised by free, prior, sustained and informed consent. Nominations to the Lists of the Convention are contingent upon the free, prior and informed consent of the communities, groups and individuals concerned (see para 1, 2 and 7). Moreover, in raising awareness about ICH all parties should ensure that consent has been given (para 101). The Ethical Principles also add the notion of ‘sustained’, emphasising that consent is an ongoing process with the communities concerned. Similarly, collaboration needs to be recognised as a two-way process, and mutual understanding, honesty, and trust should be the foundation of these interactions.

-> For more detailed information on the concept of free, prior and informed consent see Unit 22.

Access

*5.* ***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, including in situations of armed conflict. Customary practices governing access to intangible cultural heritage should be fully respected, even where these may limit broader public access.*

The right of everyone, without discrimination, to take part in cultural life is the foundation of many international human rights instruments. This right is twofold – through protecting the conditions for people to have access, to participate in and contribute to culture life in a continuously developing manner. It can also be considered as protecting access to cultural heritage and resources that allow such identification and development processes to take place. This can be identified to the ‘customary practices’ as stated which may be attributed to community protocols around secret or ceremonial knowledge.

-> See Unit 46 on Scenarios and games for developing safeguarding plans

Collaboration and Cooperation

*12. The safeguarding of intangible cultural heritage is of* ***general interest to humanity*** *and should therefore be undertaken through cooperation among bilateral, subregional, regional and international parties; nevertheless, communities, groups and, where applicable, individuals should never be alienated from their own intangible cultural heritage.*

The spirit of cooperation is an overarching value of the Convention, given the general interest of ICH to humanity in terms of building peaceful inter-cultural relations, dialogue and tolerance. That said, communities, groups and individuals are also the holders of their heritage, and, as it is also reflected in Para 171 of the ODs, ensuring their widest possible participation, is key, as is involving them actively in the elaboration and implementation of such plans, policies and programmes.

1. Benefit, impact

Benefit

*6. 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****.*

*7. 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, research, documentation, promotion or adaptation by members of the communities or others.*

Impact

*9. Communities, groups, local, national and transnational organisations and individuals should carefully assess the direct and indirect, short-term and long-term, potential and definitive* ***impact*** *of any action that may affect the viability of intangible cultural heritage or the communities who practice it.*

*10. Communities, groups, and where applicable, individuals should play a significant role in determining what constitutes* ***threats to their intangible cultural heritage*** *including the decontextualization, commodification and misrepresentation of it and deciding how to prevent and mitigate such threats.*

All interactions, collaborations and activities should benefit and have positive impact for the community, group or individual in question, at all levels. Communities, groups or individuals who contribute their traditional knowledge, practices and innovations, cultural expressions and intellectual property, skills, know-how, cultural products and expressions, and biological and genetic resources, should receive fair and equal benefits. They should also be involved in assessing and mitigating any threats to their intangible cultural heritage.

Addressing ethical issues in ICH safeguarding

###### **SLIDE 20 – 23**

This section provides an opportunity to discuss in more detail ways to address some possible ethical issues if and when they do arise in when working in the field of ICH safeguarding.

**(i) Acknowledgement of the ethical issue**

The first step to addressing any ethical issues is identifying and recognising that there is one and describing it. Only then can one work towards resolving it. This may be very challenging and may require some time. Sometimes it may be possible to find a solution and sometimes the acknowledgement of the ethical issue may be the best option at that point in time.

**(ii)** **In collaboration and partnership**

The Convention is centred around communities, but safeguarding often involves collaboration between multiple stakeholders, including community members, researchers, government representatives, cultural workers, practitioners and so on. Tensions may arise between these different stakeholders, especially when there are different assumptions, perceptions, expectations and conflicting agendas involved. For instance, there may be a mismatch of expectations between communities and government officials regarding the kind of support to be provided from outside the community for the safeguarding of the community’s ICH.

Conflicts may also occur when there are power differences between those involved in the project. Often, stakeholders will have different skillsets and backgrounds. For instance, some members of the group may not have strong levels of literacy and could feel excluded as a result if project documents use complicated or use difficult language.

->> for more examples see Unit 7 Involving the communities concerned, such as the case study of nominating the Cantu in Paghjella, a male polyphonic singing tradition (France), and the case study of the annual festival of Patum of Berga (Spain).

**(iii)** **In determining community representation**

Challenges may arise in terms of determining who should be represented or speak for the community. This may be particularly challenging in situations where communities are divided or when working across multiple communities, such as when collaborating on a multinational file.

**(iv) In ownership and dissemination of data**

Key challenges may arise around defining data ownership and publication rights. These issues are dealt with in more detail in Unit 55 that explores issues of relating to intellectual cultural property.

->> See Unit 55 Workshop on policy development for intangible cultural heritage policy as well as Unit 33 on organizing and storing information.

###### **SLIDE 24.**

Collaborative approaches to ethical safeguarding

The participatory and collaborative approach of the development of codes of ethics is intended to facilitate the contribution of diverse groups of stakeholders and the efficient mobilization of expertise from governments and civil society. This reiterates the central role of communities to the Convention, and recognises the diversity of individuals and groups within communities. Here are some collaborative approaches that can be suggested to participants towards ethical safeguarding practices of ICH:

Community stewardship

* Respect that communities, groups and individuals are the primary stakeholder in projects that concern the future of their ICH.
* Collaborate with communities, groups and where applicable, individuals from the start of a specific project that might concern their ICH and during all its stages
* Seek the relevant stakeholders’ approval on all decisions and engage in shared decision-making
* Establish appropriate and meaningful partnerships with communities
* Hold regular community meetings to keep them apprised of developments
* Recognize community needs and support community interests

Prioritize transparency

* Demonstrate open, honest and frequent communication, which may involve regular meetings attended by all partners and multiple channels of communication and feedback mechanisms (suggestion sheets, community bulletins, meeting notes)
* In some cases, it may be useful to establish formalized research guidelines and data sharing protocols that cover the expectations of the researcher, and cover ownership of data, dissemination and confidentiality

Community advisory boards

* Establish community advisory boards or steering committees to build connections with the community, ensure that the project is sensitive to the community and culturally competent, address partner concerns and challenges, allow projects to seek community advice or approval on research decisions, enable the development of research protocols, help researchers ascertain the needs and wishes of partners and build trust

Capacity building

* Promote ethical development and ethical approaches to safeguarding with diverse stakeholders

Ethical monitoring

* Integrate ethics into monitoring mechanisms for effective implementation

###### **SLIDE 25 – 28.**

Case studies

By discussing the following case studies, the aim is to strengthen the participants’ critical thinking on ethics and their ability to identify, avoid potential ethical issues, or overcome them if they may occur. Facilitators may also wish to draw on examples from their own fieldwork or invite participants to share their experiences and use these for the basis of the discussion around these themes.

Facilitators may wish to limit the discussion to two case studies. By the end of this discussion, participants should be able to:

* Identify the stakeholders/actors, and the relationships between them;
* Assess and identify which interactions between these stakeholders were ethically unsound;
* Identify at least three ethical principles which have been breached or protected in each of these interactions;
* Propose some ideas for mediation or negotiation in relation to some of the potential ethical issues.

Case study 56 (Optional)

This case study concerns a bioprospecting project in Chiapas, Mexico, and is useful to discussions regarding **community representation and consent** in ICH safeguarding projects. It is an example of a project that was intended to contribute to community development, but ultimately failed because of disputes over who constituted community consent for the project to proceed.

Case study 46 (Optional)

This case study describes a fictional case where a secret tapestry belonging to an indigenous community is made available to the general public online. Unit 55 Facilitator’s notes 4 provides further detailed discussion on the case **study in terms of the relationship between ethics and law**.

Questions for discussion:

1. What ethical guidelines might the museum have violated in making the digitized tapestry available online?
2. Now the tapestry has been made public, what can be done?
3. What can the community and/or museum do to prevent such a situation from happening again?

Case study 59 (Optional)

The Canning Stock Route Project involved a comprehensive consent process, which involve **close collaboration with the communities** from the beginning to the end of the project. It is a good example of how transparent collaboration and informed access guided the interactions and the process of the project.

Role play exercise

###### **SLIDE 29, 30**

Role play exercise (1 hour)

Using the example raised by participants in exercise 2 earlier, facilitate a role play session on the issue raised to draw out issues related to ethics, based on the different views that people may have about certain groups or issues. The exercise is designed to increase the understanding of how ethics can vary depending on one’s point of view, and possible techniques that could be used to maximise beneficial outcomes from interaction between different stakeholders in addressing ethical conflicts when they do arise. It can also provide a way for community participants to work with others in the workshop to integrate themselves into the situation and providing them 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 discussions (see Unit 21 role play exercise).

The facilitators will need to get the groups to decide and choose which ethical issue raised in Exercise 1 all participants will use for this exercise. Thereafter, split the participants up into the key groups of stakeholders in the issue and assign roles (preferable to swap and should be different from real life roles). Participants are given time to prepare for a meeting convened by the national administration to discuss the ethical issue in safeguarding the ICH element, and the ethical issues and issue with regard to the ICH safeguarding project, and to utilise the strategies and approaches in this unit to mediate and negotiate an amicable solution for all parties involved. Each participant, for their respective role, should develop a few reasons for supporting or objecting (depending on their role) the events or actions that have unfolded to put forth ‘a case’. This needs to be done before the ‘start’ of the role play exercise. The meeting should be chaired by the facilitator, who plays the role of the director of the administration department responsible for culture and heritage. Some rules which should be upheld by the facilitator are:

* Stay in character throughout the game, acting and speaking from that position;
* Defend your convictions and choices vis-à-vis others, find allies; but, also be willing to compromise and keep the general interest in mind; and
* Follow the guidance provided by the chair/facilitator (in or out of role).

After the role play, participants (guided by the facilitators) should evaluate the meeting and discuss what they have learned from the exercise, evaluating the positions of each role and the mediation and negotiation approaches employed to address the ethical conflict.

Key questions for discussion

* Have the rights of the communities affected been respected and recognised?
* Are there mechanisms in place for appropriate consent and collaboration?
* Have risks / threats to intangible heritage been identified with communities, groups concerned?
* Are communities, groups or individuals fairly compensated if need be, and are any potential risks / threats to their intangible heritage identified with community participation, and mitigated?

Alternative exercise:

In the event that there is insufficient time for the above role play exercise, a shorter exercise can be substituted by the Facilitator.

Instructions to participants:

1. In your own words and from your own experience, what are three ethical principles you find most important and why?
2. What are the key ethical considerations for the work you are doing in the field of safeguarding ICH in your country and how can they be best applied?

1. . Korean Society for Molecular and Cellular Biology, ‘Charter of Ethics for Life Science Researchers’, <http://www.ksmcb.or.kr/eng/data/Charter%20of%20Ethics%20for%20Life%20Science%20Researchers.pdf>. Accessed 4 February 2015. [↑](#footnote-ref-2)
2. . Canadian Archaeological Association, ‘Principles of Ethical Conduct,’ <http://canadianarchaeology.com/caa/about/ethics/principles-ethical-conduct>; ‘Statement of Principles for Ethical Conduct Pertaining to Aboriginal Peoples,’ <http://canadianarchaeology.com/caa/statement-principles-ethical-conduct-pertaining-aboriginal-peoples>. Also in French. Accessed 4 February 2015 [↑](#footnote-ref-3)
3. . This is in line with the UNESCO 2001 Universal Declaration on Cultural Diversity which advocates that the ‘respect for the diversity of cultures… are among the best guarantees for international peace and security.’ <http://portal.unesco.org/en/ev.php-URL_ID=13179&URL_DO=DO_TOPIC&URL_SECTION=201.html>. Accessed 4 February 2015. [↑](#footnote-ref-4)