

The role of international law in enhancing national protection of intangible cultural heritage in Algeria

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Abstract:

International law plays a vital role in strengthening the national protection of the intangible cultural heritage in Algeria, by providing a comprehensive legal framework and mechanisms for international support and cooperation. This role is multifaceted and contributes significantly to preserving and valuing this rich cultural heritage for future generations.

the most prominent pillar of this role is the **UNESCO** Convention for the Safeguarding of the Intangible Cultural Heritage of 2003. With Algeria's ratification of this convention, the state committed to implementing its provisions at the national level. These obligations also include establishing national inventories of intangible heritage elements and taking the necessary safeguarding measures to ensure their survival. In addition to enhance awareness and education of its importance, the agreement also facilitates international cooperation in this field, allowing Algeria to exchange experiences and information.

Keywords: the Intangible Cultural Heritage; Algeria; International law; protection national.

1. INTRODUCTION

Cultural heritage includes a set of customs, traditions, knowledge and practices that are passed down from generation to generation and distinguish each society from others. Cultural heritage includes tangible elements such as architecture, plastic arts and traditional tools, and intangible elements such as language, myths, stories and beliefs. Countries and institutions preserve cultural heritage to preserve its identity and history. Preserving cultural heritage is important for preserving the cultural diversity and unique expression of each society.

Intangible or intangible cultural heritage represents living treasures embodied in practices, knowledge, skills, oral traditions, performing arts, rituals, ceremonies, knowledge and practices related to nature and the universe, in addition to skills related to traditional crafts. It is the living pulse of the culture of societies, the collective memory that is transmitted across generations and identity. What distinguishes every human group is this heritage, unlike material monuments, and is characterized by its dynamism and ability to develop and adapt to different temporal and spatial contexts. It is constantly shaped and renewed through social interaction and the daily practice of community members.

The importance of intangible cultural heritage lies in multiple aspects. It contributes to enhancing the sense of identity and belonging among individuals and groups and enhances social cohesion and cultural interaction. It also plays an important role in transferring traditional knowledge and skills and preserving cultural diversity and human creativity. In addition, intangible heritage can contribute to achieving sustainable development by promoting responsible cultural tourism and exploiting traditional knowledge in areas such as traditional medicine and environmental conservation.

However, this living heritage faces increasing challenges in our contemporary world. Globalization, rapid modernization, social, economic, and cultural changes can lead to the marginalization or disappearance of many intangible practices, traditions, and knowledge. Other factors such as armed conflicts, natural disasters, and migration can also threaten the continuity and transmission of this heritage to future generations.

In this context, there is an urgent need to provide effective legal protection for intangible cultural heritage, and the law, with its tools and mechanisms, can play a decisive role in preserving this heritage and ensuring its sustainability by setting clear definitions of the elements of intangible heritage and defining mechanisms

to protect it, record it, and enhance it in the event of infringement. On it, the law can contribute to preserving this important cultural asset for current and future generations.

Many countries have begun to enact national legislation aimed at protecting their intangible cultural heritage. These legislations also differ in scope and content, but they share the general goal of providing a legal framework to protect this heritage and ensure its continuity. This legislation often includes mechanisms to identify and record elements of intangible heritage located on state lands and put in place measures to protect them from various threats, and to promote their transmission to future generations.

However, the legal protection of intangible cultural heritage poses unique challenges. The dynamic and intangible nature of this heritage makes it difficult to subject it to traditional legal frameworks designed to protect tangible property, achieving a balance between protecting heritage and promoting its natural development represents a legal dilemma that must be carefully addressed, in addition, ensuring Effective participation of local communities in protection and decision-making processes requires innovative and comprehensive legal approaches.

This study aims to explore the current legal framework for the protection of intangible cultural heritage at the international and national levels, you will analyze relevant international agreements and national legislation, and identify their strengths and weaknesses, the study will also address the legal challenges facing the protection of this heritage, and will propose some recommendations to enhance the effectiveness of existing legal frameworks, and develop new frameworks that are more appropriate to the nature and specificities of intangible cultural heritage.

Protecting intangible cultural heritage is not just a legal and technical issue, but rather a moral and cultural responsibility of the entire international community by providing an effective and comprehensive legal framework, we can ensure the preservation of this living human treasure for future generations and enable communities to continue to practice and transmit their traditions knowledge and skills that form an integral part of their identity, and memory investing in protecting intangible cultural heritage is an investment in our future and our ability to understand and appreciate the rich cultural diversity that enriches our world.

From this proposal, we propose the following problem: How did law international and algerian law regulate the protection of intangible cultural heritage?

To answer this plan, we proposed two axes:

The first axis: the concept of intangible cultural heritage.

The second axis: Mechanisms for protecting intangible cultural heritage .

2-The concept of intangible cultural heritage

2.1-First: Linguistic definition of cultural heritage:

What is meant by heritage is that it is a source from the word "inherit," which is what a man leaves behind for his heir. He says "inherited," "inherited," "heir," "inheritance," and "inheritance," meaning one, and he left its origin as "inheritance," so the "ta" was replaced from the "waw," which is what the deceased leaves behind in terms of money, so he inherits from him, and it is said

that he inherited knowledge, righteousness, and the like, meaning he realized it, attained it, and settled for it¹.

2.2-Second: The terminological definition of cultural heritage

Heritage is defined as a set of values with cultural and civilization dimensions including scientific and industrial monuments which constitute an integral part of the nation's present and its starting point for its future, if we look at the meaning of the word "heritage," we find that it symbolizes the inheritance from the past to the future, everything we inherit from Our ancestors, and we keep them to present to future generations are an integral part of heritage, he also be defined as the science that classifies and arranges the material remains of human populations based on their functions, history, and the framework of their civilization².

It can be said that this definition highlights the importance of studying heritage as a science that contributes to understanding human history by classifying and arranging the material remains of human gatherings, which helps in deducing their functions and the framework of their civilization ,this approach reflects interest in the cultural and historical heritage of peoples, and its role in documenting civilizations and their histories.

2.3-Third: The jurisprudential definition of cultural heritage

It is a broad meaning that gives a valuable dimension to human production whether its nature is artistic, literary, scientific, historical, or religious in the past and present, it is not limited to a specific period of time but rather expresses all that is valuable from the artistic, literary, scientific, and historical aspects, and about practices and the actions that prevail in every country in the world that distinguish this or that country from other countries It is also known that inherited civilization, with its composition and all its material and cultural resources, in addition to the productions of the present, and therefore means transmitted

cultural heritage, and its concept does not differ much from what it was in the past, as those interested agree that heritage is what the ancestors left behind, and it is a summary of knowledge, feelings, and experiences that Everything is passed on to subsequent generations³.

It can be said that this definition emphasizes the importance of preserving cultural heritage as an integral part of the identity of peoples and societies, and also contributes to enhancing cultural awareness and communication between different generations ,it also emphasizes the role of heritage in promoting peace and cultural understanding between different peoples and cultures ,while others consider heritage to be only the active part of what ancestors left behind, this effective concept of heritage appears as a valid part of heritage that must be preserved and respected.

It can be said that this definition emphasizes that active heritage is the vital and continuous part of cultural heritage that reflects its influence and the

influence of previous generations on the present ,it explains that preserving active heritage assets enhances the continuity of values and knowledge that have been inherited across generations, as the current generation can analyze and appreciate active heritage and absorb its values And its impact on building the future, It also confirms that active heritage represents the vital aspect that embodies the development of culture and social legacies over time.

We can also conclude from these definitions that heritage is not just a set of laws and ethics, but rather an embodiment of the root values that distinguish a particular culture and link it to its history and identity, it is also a set of constants that it carries that reflect the development of societies over time, and form an integral part of their history and identity in addition to It is the promotion of cultural identity, communication between generations and building cultural awareness.

The ability of heritage to remain stable through changes and transformations shows its power in transmitting values and knowledge across generations.

2.4-Fourth: The legal definition of cultural heritage

In accordance with Law No.98-04, issued on June 15, 1998, relating to the protection of cultural heritage in Algeria, the Algerian legislator specifies in articles one and two of this law objectives and frameworks for protecting preserving and appreciating the nation's cultural heritage, and stipulates that the nation's cultural heritage includes all Real estate cultural property located on national property lands, including those owned by natural or legal persons affiliated with private law, It also includes aquifers, internal and regional national waters, and intangible elements that arose as a result of social interactions and the creativity of individuals and groups throughout the ages, and which continue to express themselves from ancient times until the present day (Law No98-04) ⁴.

It can be said that this Algerian law, which relates to the protection of cultural heritage, highlights the importance of preserving and appreciating the nation's.

cultural wealth as an essential part of the national identity, and highlights the concept of cultural heritage in its comprehensiveness to include real and non-real estate elements, which reflects the diversity and richness of cultural heritage in the country. This law reflects the government's commitment Algeria to protect and preserve the nation's cultural heritage in its various aspects, whether real estate or non-real estate It reflects interest in the intangible elements that constitute an important part of cultural heritage, this approach reflects the determination of the Algerian authorities to preserve the national identity and cultural history of the country, and to enhance awareness of the importance of culture and heritage as a basis for comprehensive development and progress.

2.5-Fifth: Definition of intangible cultural heritage

According to the 2003 UNESCO convention in Paris, intangible cultural heritage is defined as "a body of practices that includes perceptions, forms of expression, knowledge and skills, as well as cultural tools, objects, products, and

places that are reproduced and revived by communities, groups and members of society as part of their cultural heritage, this cultural heritage is transmitted." Intangible continuously from generation to generation through communities and groups in their traditional environment and interaction with nature and history, this intangible cultural heritage also provides a sense of identity and continuity, which contributes to enhancing respect for cultural diversity and enriching human interaction⁵.

It can be said that the UNESCO definition of intangible cultural heritage indicates the deep comprehensiveness of this heritage, as it is not limited to silent material effects but rather extends to include the living pulse of culture: diverse methods of expression such as songs, stories, ceremonial performances, and knowledge rooted in an understanding of nature, the universe, and daily life, as well as traditional craft skills that It has been passed down through generations, and the definition does not neglect to point out the cultural tools, products, and places that embrace these practices and knowledge and give them a material context.

He also emphasized the dynamic nature of this heritage, as it is not a static inheritance, but rather a living, breathing organism, and is constantly reproduced and revived by communities, groups, and members of society as an integral part of their cultural identity, this continuous transmission from generation to generation through living interaction within the traditional environment and with history with all its implications. Transformations, which ensures the survival of this heritage and its profound impact.

As the profound impact of this intangible heritage on collective and individual identity shows us, It gives a sense of belonging and connection with the past and enhances the sense of continuity over time, which strengthens social and cultural ties within one society, in addition to the global importance of this heritage by embodying the rich cultural diversity of humanity, it contributes to enhancing

mutual respect between different cultures and enriches human interaction stressing that this non-material dimension Culture is a treasure that must be preserved and appreciated as it is an integral part of the common human fabric.

The Algerian legislator defined it in article 67 of Law No.98-04, that intangible cultural heritage is a set of knowledge, social perceptions skills competencies and techniques that depend on tradition in various fields of cultural heritage, and these elements represent the true tributaries of the connection to the cultural identity carried by an individual or group of individuals, These elements include many cultural manifestations such as traditional music, folk songs, chants, melodies, theatre, dance arts, movement rhythms, religious ceremonies, culinary arts, oral expression, historical stories, tales, legends, riddles, proverbs, aphorisms, sermons and traditional games ⁶

It can be said that the Algerian legislator's definition of intangible cultural heritage in Article 67 of Law No.98-04 as a comprehensive legal framework emphasizes the set of knowledge, social perceptions, skills, competencies and techniques passed down through generations, emphasizing their essential role as true tributaries of the connection to the cultural identity carried by individuals and groups in Algeria, this heritage is evident in diverse and rich cultural manifestations that include traditional music, folk songs, chants and melodies, the arts of theatre, dance, movement rhythms and religious celebrations that consolidate values and beliefs, the arts of cooking that reflect food heritage, and forms of oral expression such as historical stories, tales, legends, riddles, proverbs, sayings and sermons that carry wisdom and popularity, all the way to traditional games that represent part of the entertainment and social heritage, this detailed census reflects the richness and depth of Algerian cultural traditions, and emphasizes the importance of preserving these living practices and knowledge that constitute the essence and distinction of national identity, this definition is also consistent with international trends that give increasing attention to intangible cultural heritage as an essential component of cultural and human diversity and thus establishes the legal basis for protecting this heritage and ensuring its continuity for future generations in Algeria.

It becomes clear to us, through reviewing the definition of intangible cultural heritage by UNESCO and Algerian law, that there is a fundamental consensus that confirms that this heritage includes practices, forms of expression, knowledge and skills that are transmitted across generations and constitute a basic building block in the identity of societies, with both parties emphasizing the dynamic nature and continuity of this living heritage and the role of groups and individuals in preserving and transmitting it. While the "UNESCO" definition provides a general theoretical framework that emphasizes the universality of this heritage and its importance in promoting cultural and human diversity, Algerian law is also distinguished by providing a precise breakdown of cultural manifestations in the national context with a comprehensive enumeration of specific examples that

reflect the richness of Algerian traditions and, most importantly, providing a legal basis for protecting this heritage and ensuring its continuity for future generations which reflects a common awareness of the importance of this intangible dimension of culture and the necessity of preserving, and appreciating it as an integral part of both collective and human identity.

3-mechanisms for protecting intangible heritage

3.1-First: International protection of intangible heritage

Article 13 of the universal declaration of human rights enshrines the right of peoples to preserve their tangible cultural heritage, traditional knowledge and traditional cultural expressions, and stresses the need to protect them. It also includes the International Labor Organization Convention on indigenous and

tribal Peoples, which stresses the need for governments to consult indigenous peoples and ensure their effective participation in decision-making. Which directly affects them, including political, legislative and administrative aspects and cultural development is considered vital. It includes conducting studies to evaluate the impact of development activities on indigenous peoples, including cultural impact. UNESCO also supports these principles through international recommendations and resolutions, including the 2003 Convention for the preservation of the intangible cultural Heritage⁷.

culture and cultural heritage cannot be deleted from the tangible material aspects as they reflect life and cultural heritage, culture is considered deep and continuous in its development, and possesses material manifestations that reflect life and cultural heritage, culture also represents the essence of life and practices that peoples transmit throughout the ages, and is considered an essential part of the diversity of human societies, which enhances cultural solidarity, interaction and exchange between societies and highlights the uniqueness, and diversity between them. In addition, the preservation of cultural heritage must respect and value privacy, and the Convention also includes mechanisms for heritage protection, inventories, management, accreditation and financial aspects in its activities to manage intangible cultural heritage⁸.

Intangible cultural heritage, with all its practices, expressions, knowledge and skills, represents a living fabric of the cultural identity of societies around the world and an awareness of its increasing importance and fragility in the face of social and economic changes and globalization, the international community also adopts an integrated legal framework to protect it. At the forefront of it is the 2003 convention for the Safeguarding of the Intangible Cultural Heritage of the United Nations Educational, Scientific and Cultural Organization (UNESCO), this convention is not just a legal document, but rather a global vision aimed at ensuring the continuity of this rich and diverse heritage for future generations, and promoting its widespread respect and appreciation.

The 2003 Convention stems from the recognition that intangible cultural heritage constitutes a living expression of cultural diversity and human creativity and that it is essential to the cultural identity of communities and individuals.

It stresses the importance of the participation of concerned communities groups and individuals in identifying, protecting and managing this heritage despite the successes achieved by the 2003 convention in enhancing awareness of the importance of intangible heritage and providing a framework for its protection, challenges still remain among these challenges are ensuring the effective participation of concerned groups in all stages of conservation and achieving a balance between the preservation of living traditions, and their natural development, as well as confronting threats resulting from globalization and social and economic changes, and providing adequate resources to implement

conservation programs on a large scale, however, the 2003 convention remains a powerful and flexible tool capable of adapting to emerging challenges, the future of international protection of intangible heritage depends on the commitment of states Parties to effectively implement the provisions of the convention, enhance international cooperation, truly involve local communities in conservation efforts and innovate in developing new mechanisms and tools to ensure the continuity of this living heritage for future generations.

preserving intangible cultural heritage is not just a cultural duty but an investment in human diversity, peace, and sustainable development.

3.2-Second: National protection of intangible heritage

Algerian cultural heritage is considered an important part of the world cultural and natural heritage, as the Algerian legislator has established important legislation related to various forms of cultural heritage, whether tangible or intangible. Law No.98-04 was adopted on June 15, 1989, which includes 9 chapters and 108 articles covering all relevant provisions, with cultural heritage, this law also aims to protect, and preserve cultural heritage by providing the necessary protection and enhancing it. Algeria approved the UNESCO Convention on the intangible cultural Heritage in 2005, and this led to the issuance of several decrees and decisions regulating the collection documentation, and storage of intangible cultural heritage, in addition a set of executive decisions and decrees were organized that specify the conditions for granting the status of a holder of cultural property, intangible cultural heritage has been employed in many productive sectors with the aim of promoting development and ensuring its sustainability this is done by activating available resources in a way that ensures general well-being without prejudice to the rights of future generations, this strategy depends on activating the human element in implementing this path, in accordance with Principle 22 of the Rio Declaration in 1992⁹.

It can be said that the Algerian legislator pays great attention to cultural heritage in all its forms tangible and intangible as an integral part of world heritage, This interest has been embodied in the enactment of important legislation

most notably Law No.98-04 of June 15, 1989, which represents the comprehensive national

legal framework to protect, preserve and promote cultural heritage, this law includes 108 articles distributed into nine chapters covering various aspects related to cultural heritage.

This legal framework was strengthened by Algeria's accession to the UNESCO convention for the Safeguarding of the Intangible Cultural Heritage in 2005, and this ratification had a direct impact on the issuance of a series of decrees and decisions aimed at regulating the collection, documentation and storage of elements of intangible cultural heritage in Algeria, implementing decisions and decrees have also been drawn up establishing the conditions and criteria for

granting the status of "holder" of intangible cultural property, thereby contributing to the identification of those responsible for the conservation and transmission of such heritage.

In addition to the protectionist aspect, Algeria adopts a strategic vision aimed at employing intangible cultural heritage in the service of sustainable development. The state seeks to activate available resources in a way that ensures the achievement of current public well-being without prejudice to the rights of future generations, which is in line with Principle 22 of the Rio Declaration of 1992, which emphasizes the vital role of the human element in Achieving sustainable development. This strategy depends on involving the human element as a primary driver in the path of investing in intangible heritage in various fields Productive sectors that contribute to creating sustainable economic and social opportunities.

In short, it can be said that Algeria has established a solid national legal framework for the protection of intangible cultural heritage in line with international standards stipulated in the UNESCO convention. It also adopts an ambitious strategy aimed at integrating this living heritage into the path of sustainable development, with a focus on the role of the human element in achieving this goal, which reflects a deep awareness of the value of this heritage and its importance in building a prosperous and sustainable future for current and future generations.

4-conclusion:

Intangible cultural heritage, with all its vivid expressions, knowledge and skills represents a vital fabric that links the past to the present and shapes the features of the future.

Its intrinsic value is not limited to its historical or aesthetic importance, but extends beyond it to include its role in enhancing the cultural identity of societies, developing creativity transferring traditional knowledge, and achieving sustainable development in light of the contemporary challenges represented by globalization, rapid modernization and environmental threats, there is an urgent need to provide effective legal protection for this heritage, precious to ensure its continuity and transmission to future generations.

The last two decades have witnessed a remarkable development in awareness of the importance of intangible cultural heritage at the international and national levels as this was embodied in the adoption of important international agreements such as the UNESCO convention for the safeguarding of the intangible cultural heritage of 2003, which established an international conceptual and legal framework for the protection of this heritage. many countries have also begun to enacting national legislation aimed at identifying elements of intangible cultural heritage present on their territories and developing mechanisms to protect and enhance them.

However, there is still a long way to go to achieve comprehensive and effective legal protection of intangible cultural heritage. the challenges facing this

endeavor are numerous, starting from the difficulty of accurately defining, and defining the elements of intangible heritage, through the necessity of achieving a balance between protecting and promoting the natural development of this heritage, all the way to ensuring the effective participation of local communities in protection processes, and decision making.

Therefore, the legal protection of intangible cultural heritage is not just a legal duty but rather an investment in cultural identity and human diversity by adopting comprehensive and dynamic legal approach that gives priority to the participation of local communities and enhances cooperation between the various stakeholders, we can ensure the continuity of this precious heritage, and its transmission to future generations as a source of inspiration knowledge, and social cohesion building a sustainable and effective legal framework to protect intangible cultural heritage is a shared responsibility that requires concerted efforts and continued commitment by analyzing the legal efforts made at the international and national levels to protect intangible cultural heritage, the following main conclusions can be drawn:

1- Increasing awareness and legal importance: there is increasing recognition at the international and national levels of the importance of intangible cultural heritage and the necessity of providing legal protection for it, this was embodied in the adoption of international agreements and national legislation aimed at preserving this heritage.

2- Challenges in definition and identification: defining and identifying elements of intangible cultural heritage represents a legal challenge due to its dynamic and intangible nature. Legislation requires precision and flexibility at the same time to avoid freezing heritage or excluding some of its expressions.

3- The necessity of achieving a balance between protection and development: Legal protection must aim to ensure the continuity of intangible cultural heritage without hindering its natural development and adaptation to societal and cultural changes this requires a flexible legal approach that takes into account the dynamics of this heritage.

4-The importance of local community participation: the participation of local communities incubating intangible cultural heritage is considered an essential element in the success of any legal protection strategy. Legislation must ensure effective mechanisms to involve these communities in heritage identification, protection and management.

5-The need for effective enforcement mechanisms: It is not enough to have laws to protect intangible cultural heritage. Rather, there must be effective enforcement mechanisms to ensure the application of these laws and combat any actions that threaten this heritage, this includes providing legal remedies and determining responsibilities.

6- Coordination and cooperation between concerned parties: protecting intangible cultural heritage requires effective coordination and cooperation between various concerned parties at the governmental, non-governmental, local and international levels. Mechanisms must be put in place to exchange information and experiences and unify efforts.

7- The role of education and awareness: legal protection is not limited to legal texts and executive procedures, but also includes the role of education and awareness in promoting respect and appreciation of intangible cultural heritage among all segments of society.

based on the above-mentioned results, the following recommendations can be made to strengthen the legal protection of intangible cultural heritage:

1- Developing flexible and comprehensive legal definitions: work must be done to develop legal definitions of intangible cultural heritage that take into account its dynamic and intangible nature, and allow the identification of its various forms and expressions.

2- Enacting integrated national legislation: countries that have not yet done so should enact comprehensive national legislation to protect intangible cultural heritage, including mechanisms to identify, register, protect, and promote elements.

3- Ensuring the participation of local communities: legal mechanisms must be included to ensure the effective participation of local communities in all stages of protecting intangible cultural heritage, from identification and registration to management and preservation.

4-Establishing effective enforcement mechanisms: effective legal enforcement mechanisms must be established to ensure the application of laws protecting intangible cultural heritage, including providing legal remedies and determining appropriate penalties for violators.

5- Strengthening cooperation and coordination: cooperation and coordination must be strengthened between various concerned parties at the national and international levels to exchange experiences and information and unify efforts in the field of protecting intangible cultural heritage.

6-Integrating the protection of intangible heritage into public policies: The protection of intangible cultural heritage should be integrated into various public policies related to culture, education, sustainable development and tourism.

7- Investing in education and awareness: education and awareness programs must be invested in to enhance awareness of the importance and value of intangible cultural heritage among all segments of society.

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