

Definitional Anxieties

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The adoption of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural and Artistic Expressions in October and its earlier counterpart, the 2003 Convention on the Safeguarding of the Intangible Cultural Heritage, reflect increasing international anxiety about globalization and its effect on cultural diversity. Cultural policymakers have been restless in discussing the preservation of “traditional” ways of life and expressions, understood as threatened by an encroaching Western culture, and the West’s appropriation and deconstruction of “traditional” cultural forms within the emergence of global genres, such as “fusion” cuisine and “world” music, popular with the consumer market.

As these anxieties grow and spur new regulatory instruments and regimes, it is important to ask whether cultural groups should control the flow of cultural expressions. And is it possible to ever really do so anyhow?

As an anthropologist, I have my doubts about the wisdom of developing policy around essentialized notions of “culture” and its specific expressions, however “traditional” they may be. An anthropological view of culture as fluid, multivalent and continually re-enacted by its constituent and evolving social groups is difficult to reconcile with the fixed and bounded notion commonly required for executing law and policy. The recent cultural diversity convention’s attempt to define cultural content for regulation and protection in fact embodies the very tension and worries at the heart of regulatory regimes aimed at controlling cultural flow. While there may be strategic reasons for using fixed notions to assert cultural rights, there is an underlying concern that delimiting culture in this way will inevitably commodify or fossilize it.

From Property to Heritage

Over the past 35 years, UNESCO has responded to issues of cultural exploitation and destruction with an impressive series of conventions, declarations and recommendations, which, though different in terms of law, have had similar effects in practice, primarily to call attention to a global problem and shape the prac-

tices of those who might make a difference. The clearest example of just such an effect accompanied the enactment of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, an effort to stem the looting of archaeological sites caused in large measure by a rapidly expanding global marketplace for cultural items. At the time of the convention, several important university museums, including the University of Pennsylvania Museum and the Harvard University Art Museums, conformed to the new ethical standard by agreeing not to buy antiquities without a clear and documented history of ownership.

The overemphasis on cultural “tangibles” like artifacts and monuments and Western meanings of alienability and ownership embedded in the term “cultural property” soon raised concern. As a result, debate about cultural productions shifted, and “cultural heritage” became the preferred term. At the same time, intellectual property (IP) law was increasingly seen as unable to sufficiently secure the rights of groups seeking to protect their traditional knowledge and cultural expressions from exploitation and appropriation. It was pointed out that things like copyrights and patents in IP were designed to protect original works of individual creators rather than communally-practiced “traditional” expressions. Furthermore, IP only grants rights to persons for a limited time, with the ultimate purpose of enriching the public domain, the opposite goal of groups seeking to protect their traditional knowledge. In many people’s eyes, IP regimes, which treat knowledge and creative expressions as alienable commodities—and regard “folk” traditions as being in the public domain already—actually served corporations in appropriating and commodifying traditional knowledge against the interests of its practitioners.

In response to the expanding scope of such cultural preservation problems, the term “cultural heritage” was thought to better acknowledge “intangible” traditions such as music, folklore and dance. Deeming these traditions, considered more common in non-Industrialized countries, as worthy of protection too provided them with their fair share of the benefits resulting from UNESCO designations and other

structures of the heritage industry. Moreover, the new term served to highlight the beliefs, practices and values of cultural content that give meaning to both tangibles and intangibles in the lived experience of individuals and communities.

Counting Meaning

But while the move from “cultural property” to “cultural heritage” seemed to be an attempt to construe meaningful cultural content more broadly, there remained the problem of dealing with it in a regulatory way. The 2003 convention requires that states draw up lists enumerating precisely what their important intangible heritage is, and develop management programs for their preservation. Along the way, this often means deciding who can and cannot claim to be cultural practitioners, and which particular variation of a practice will be codified as the “authentic” one. Thus these newest UNESCO instruments present a paradox in that they require defining and documenting cultural expressions and products by adopting the very frameworks of objectification and commodification these international efforts supposedly have been developed to oppose.

The institutional angst over how to define and thus regulate cultural content in the convention on cultural diversity is palpable and obvious: included among the definitions enumerated in Article 4 are separate entries for “cultural content” (defined as “the symbolic meaning, artistic dimension and cultural values that originate from or express cultural identities”), “cultural expressions” (which “result from the creativity of individuals, groups and societies and that have cultural content”), “cultural activities, goods and services” (which “embody cultural expressions”), and “cultural industries” (those which “produce cultural goods and services”). That such definitional murkiness (not to mention circularity) is tolerated reveals that the cultural domain itself remains ill-defined in the intergovernmental regulatory sphere.

Conspicuously absent from this list of terms is “cultural heritage.” This could be because the convention is considered a complement to the 2003 convention on intangible heritage. But it may also be an intentional move away from the obvious political overtones of heritage discourse with strategically deployed language about equitably regulating

the flow of cultural content that is, on the surface at least, value-free.



Securing Market Share

It is true that the multiple entries enumerated in Article 4 include fluid concepts such as “cultural content” and “cultural expressions” that seem to open the space for the interests and practices of “traditional,” minority and other intra- and transnational communities, but in practice, these groups are largely cut out of the convention’s framework. Article 14, aimed at sustainable development in developing countries, encourages support only for formalized cultural industries, thus encouraging some degree of appropriation and commodification of cultural expressions, even if only on the level of state-based industries.

Moreover, by institutionalizing the “cultural exception” assertion that there is something more than the market, this convention both secures market share for specific cultural expressions and promotes a definition of cultural content as a mobile, extractable resource, at once alienable, appropriable, mimetic and commodifiable. Lurking all the while behind such claims are both national interests discovering the economic opportunities offered by local cultural expressions and the private and corporate interests of cultural industries in controlling the expansion of, and access to, IP rights and the public domain. Thus, offered as an alternative to IP regimes, these recent efforts replicate many of the same problems most advocates for securing the rights of cultural groups to their “traditional knowledge” had identified in IP.

How anthropologists can positively engage in these discussions is not at all clear. That said, a positive first step might be to simply show up for them, since dealing and arguing over definitions of culture is the crux of what we do. We can point out to policymakers that preserving culture also means safeguarding its fluidity, dynamism and creativity, and that despite (or perhaps because of) all the discursive strategizing over cultural content of all kinds, international frameworks may have a difficult time escaping the contradictions inherent in regulating that which they are anxious, yet loath, to define. ■

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