

Traditional Culture: How Does it Work?*

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Preface

As a visiting fellow of the Interdisciplinary Research Group on Cultural Property in August 2010, I found myself in a familiar routine: complaining about the conceptualization of traditional culture embedded in current intergovernmental protection and propertization initiatives, notably UNESCO's Convention on Intangible Cultural Heritage and the World Intellectual Property Organization's Intergovernmental Committee on Traditional Knowledge, Genetic Resources [sic!], and Traditional Cultural Expressions/Expressions of Folklore. One afternoon I sat down and wrote out the principal points of irritation, trying to imagine what a general alternative statement might look like so that it could be made available to policymakers and local actors engaged on various sides of cultural propertization initiatives.

This is a risky venture, for those of us in the ethnographic fields have grown leery of generalization: we remember the ethnocentric exercises in classification for which folklorists were known before 1968. We know the risks of reducing complex and diverse situations into inflexible formulae. Yet if we refuse to put forward ideal-typical accounts of how vernacular cultural practices operate, we abandon the field to bad theory. Well-meaning actors will continue to construct policy on the basis of a series of outmoded and often dangerous assumptions about community, traditionality, and culture.

Here then is a first attempt at a more useful set of rules of thumb.¹

Introduction

The rhetoric of UNESCO and WIPO—community, identity, heritage, property, etc.—is often taken at its word because it coincides with that used by many indigenous groups and local actors. Agencies, states, and local actors may adopt such language opportunistically or may take it seriously. Groups that have suffered discrimination and indignity naturally seek to valorize their own experience in normative terms and to give familiar labels to what they feel are genuinely positive and distinctive aspects of that experience. Furthermore, subaltern actors tend to invoke

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their cultural identities when seeking recognition or political opportunities because other idioms of valorization, such as citizenship or professional qualifications, may not be available. Marked by culture, they must make culture the lever to pull themselves upward. Whether they emphasize their sameness or their difference, adopting the prevailing rhetoric becomes a means of getting a seat at the table.

But if you listen to what local actors are doing and saying in less direct ways, you see that the public rhetoric is wholly disconnected from the workings of traditional culture (that is, *all culture*) in practice.² This is a major cause of the perverse effects of many protection efforts. Terms like “community” and “identity” draw on modern Western conceptions of both individuals and polities as bounded entities, which in different ways have shaped the intellectual property law promoted by WIPO, the romantic ideology of community informing UNESCO, and the modern order of nation-states which regulates the operations of both intergovernmental organizations. In formalizing these ideologies, institutions fail to capture the actual social organization of cultural invention.

What follows is a list of six of the most egregious misunderstandings that are widespread in current protection initiatives and in discussions of folklore more generally. In each case I present a generalization that is too simple, then offer the outlines of a more sophisticated conceptualization of traditional culture, with some of the implications for policy and institutional design.

Misunderstanding 1

Too simple: *Folklore is created and owned by a community (a group). It is thus different in kind from author-creation or networked scientific and technological innovation. A community is a natural group, bounded and homogeneous. Once the tradition is created it is generally stable unless there is outside interference.*

All of these assumptions dominate the current debate: WIPO, for example, proposes local “development” as a counter to “appropriation” from outside. A range of dangerous consequences have ensued: the freezing of living traditions into their “authentic forms,” the re-racialization of culture as based in descent, and the co-option of local practices by self-proclaimed community representatives, including the state. For example, Korean “Living National Treasures” have been prevented from adapting traditional musical genres to new presentational formats that might retain a contemporary audience. Dark-skinned children in coastal Peru have been singled out from their lighter-skinned classmates and even siblings to study “Afro- Peruvian” music in school. And as an extreme example of dispossession, in 2005, Ghana passed a law requiring traditional musicians and kente cloth weavers to pay royalties to the government on anything they earn by practicing their craft, now nationalized as cultural property.

In fact the assignation of a tradition to an ethnic group, a municipality, or other seemingly objective community may seem natural, but the community is usually both too large and too small to capture the real social universe of the tradition. It is too large because it brings in new “stakeholders” who may have nothing to do with the actual practice of the tradition: local

businesspeople and politicians, elites who do not perform an art that may be appreciated but socially stigmatized, men who do not perform a women's art, and so on. It is too small because it draws a territorial, ethnic, or other boundary that artificially severs the empirical communicative networks in which traditions take shape.

Better: *Folklore is created and continually recreated in social networks in a process of competitive mutual observation.*

This holds true even among indigenous peoples. Epic songs are shared across ethnic boundaries in the Balkans, new flute tunes circulate from tribe to tribe in the Amazon, and rival festivals seek to outdo one another in neighboring towns throughout the Catholic world. At a broader level, the narrative pattern known to the West as "Cinderella" can be traced between China and Ireland, in court ballets and oral tales and reality television, moving with travelers and taking situated shape in what Carl Wilhelm von Sydow called ecotypes. At the immediate level, performers in a common milieu seek to outdo one another and build reputations for their particular kind of excellence.

Traditional creation can be thought of as slow open-source. Like open-source software development it typically has a core of intensely engaged key participants and a large periphery of occasional contributors and well-informed onlookers. What we call tradition, however, arises in milieux of greater constraint and scarcity than the contemporary inventions of liberal capitalist societies; it is less specialized in function and precise in execution than most technological innovation. It is designed, as it were, for continual recycling and repurposing as well as for ease of transmission. But, like today's emergent forms of cultural and technological invention, tradition is likewise dependent on a mix of voluntarism and social control, likewise negotiated and contested, and likewise ongoing, even after the arrival of modernity. Folklore does not stop just because print, mass media, and digital media arrive. Practitioners adapt to new communicative environments while often continuing to make strategic use of the older ones.

Misunderstanding 2

Too simple: *Using folklore is a right.*

Much of the prevailing language suggests that folklore is simply there to be taken up, an available resource vulnerable to exploitation. Certainly cultural forms are susceptible to copying (that is, after all, what form is for!), and this can lead to abuses: taken out of context, their meaning is changed, and they may indeed be exploited for the profits of actors who have had nothing to do with their development. With ever-increasing modes of transmission and commodification and a booming market for "roots" or "world" culture on which local actors are naturally eager to capitalize, there is certainly a need to create appropriate mechanisms for the distribution of benefits. Nonetheless, the prevailing conceptualizations of tradition as valued property to be consumed and of access as a privilege are foreign to the experience of most practitioners of most art forms. They fail to capture the basic requirements for *maintaining* a tradition, the primary justification of heritage interventions.

Better: *Practicing folklore is a responsibility, from which rights are derived.*

Most of what makes folklore meaningful is not susceptible to straight copying: folklore has to be recreated, and that depends on a social context as well as on key performers. You cannot just “use” most kinds of folklore: you have to invest time and effort and you have to learn from somebody who is willing to teach you, typically in a collective situation. Most traditional practices demand constant, sometimes hard and often boring labor for little or no direct economic gain; many, indeed, demand expenditure of money as well as time. The resources that must be devoted are typically far out of proportion to any income or objective rewards generated.

Traditions continue to exist only insofar as they are continually practiced and transmitted interpersonally, because artisanal and performance knowledge cannot be fully captured by codification or recording. Use rights may come from descent or other formal entitlements, but in most cases they are earned through doing the work: showing up and lending a hand. Practitioners look above all for successors who will do the work and do it well.

The social and cultural value assigned to the tradition creates one set of incentives to do the work of maintaining it: its practitioners derive personal honor as well as a sense of obligation to keep it going. If you do not have to earn the honor associated with the tradition but receive it automatically by virtue of group membership, and if the practice is “protected” by some supervising authority, there are strong incentives for individuals to practice what economists call “free riding” (i.e., assuming that the authorities or others in the group will take care of it). The tradition loses a critical mass of dedicated performers and thus loses complexity and meaning.

Another incentive has historically been that traditional arts offer an intellectual and aesthetic outlet in a climate of scarce options—in Albert O. Hirschman's terms, a world of no exit and subordinated voice. If the tradition is frozen as heritage, this creative outlet is lost. To be sure, with globalization and an abundance of cultural and political options (desirable or not), this outlet becomes less necessary. In consequence, both the sense of an obligation to maintain the tradition and the possibility of creativity within it become more important as incentives to practice. Thus regimes organized around a notion of stewardship may offer possibilities for certain individually based, labor intensive and specialized kinds of tradition if they are not linked (as the UNESCO ICH regime and the east Asian Living National Treasure systems have been in practice) with the freezing of forms. Just as state funded opera houses and universities came to replace elite patronage of artists and scholars (though that tide has now turned), programs that free artists from the demand of adapting a practice to market conditions or making a living by other means might allow a tradition to sustain itself.

Misunderstanding 3

Too simple: *The principal use of traditional culture is to affirm and maintain group identity.*

Better: *Traditional culture serves all the same varied purposes served by codified forms of practice, even in the contemporary world.*

Folklore may serve as entertainment, sport, religion, education, politics, medicine, philosophy, or many of these at once, particularly for the lowest-status members of poor communities who lack access to the codified forms. In some cases—artisanal and some performance traditions—it allows individuals to earn income. Other forms are not commercialized until late in their histories, or at all, but serve other purposes, which may be differentially affected by “protection” or propertization. Some examples:

- Entertainment and aesthetic experience. The conditions of protection—i.e. sacralization as cultural identity, touristification, freezing as the heritage of the past—can remove many of these satisfactions for local participants.
- Developing verbal, physical, and other skills that are typically related to traditional forms of labor or prestige.
- Collective reflection, political debate, social theorizing, and exercise of social control, typically in the absence of a free and accessible Habermasian public sphere. The space of this traditional public sphere is jeopardized by freezing, public and state scrutiny, and labeling of meanings, all typical consequences of formal protection.
- Opportunities to earn prestige, social protagonism, and a public voice for actors who lack other kinds of social authority (subaltern castes or ethnic groups, women, sexual minorities, landless day laborers, children etc.). When the tradition acquires external prestige, the senior men and/or the best-positioned entrepreneurs have a tendency to take it over.
- The initiation/socialization of children and outsiders, e.g. immigrants but also local patrons, useful resource persons, etc. The latter uses can be lost with propertization that creates exclusive rights to participation.
- Religious devotion. Elements of the built environment that are fenced off from the everyday world as heritage may not be accessible for local devotional activities. “Intangible” traditions conserved as heritage have sometimes been divorced from their religious context.

The sense of identity is a *secondary effect* of long practical intimacy: the tradition is “in the blood.” (When people say this they mean that they feel driven to perform and/or can perform without thinking: they are talking about passion and habit, not descent.) Communities do sometimes maintain traditions that have lost their primary uses because of this sense of belonging and pleasure in participation. Bureaucratization of such traditions reduces this already thinner form of intimacy, alienating people from their own practices.

Misunderstanding 4

Too simple: *Folklore disappears with colonialism, modernity, globalization, etc. (The dinosaurs are dying out.)*

Better: *In most cases, old folklore is transmuted into something else, and/or moves to a more available environment. (The dinosaurs evolved into birds.)*

There is a natural history to traditions too. Note that with culture this does not entail evolutionary “progress” or increased complexity; it does not entail free choice; it does not entail increase of well-being. But people do adapt valued practices with remarkable ingenuity and tenacity. Conversely, reform and abandonment and forgetting are rarely as thorough as either our fears or our hopes would have them. Habits are not easy to shed, and culture is a continual recycling, both willed and unwilled. To be sure, complex performances are moored in complex social resources and can unravel when the larger lifeworld changes.

Misunderstanding 5

Too simple: *Cultural diversity is a scarce resource, so all traditional culture should be preserved.*

Better: *Meaningful cultural diversity—the ongoing purposeful renovation and invention of situated means for situated ends—would best be preserved by addressing global human security: hunger, environmental degradation, oppression, poverty, disease, employment, and so on.*

Cultural invention and differentiation are ongoing, and forgetting is as necessary as remembering for life to go forward. If people do not value practices, why not let them die? New stuff keeps happening. History is not over.

But there is an important caveat: the poor lack the freedom of choice possessed by the rich as to maintaining their traditions. This is a problem of inequality, not of cultural difference. It has to do, dare I say, with fast-capitalism: the rapid global transformation and equally rapid abandonment of landscapes, labor forces, etc., by international capital and the simultaneous, equally abrupt, penetration of local markets by global consumer goods. It is hard to maintain time-consuming traditions when you are working long hours in a factory, still harder when you are forced to migrate and lose both materials and a community of knowledge. Even without migration, it is hard to keep young people interested in the practices of the poor when seductive facsimiles of those of the wealthy are on offer. In less insecure parts of the world, however, global options are often rejected in favor of, or adapted to, local tastes, and with an increase in prosperity local tastes are likely to reassert themselves still further. (Consider the history of American culture in Europe; consider contemporary Japan.)

A second valid concern is that knowledge is lost when situated traditions are lost. The knowledge of subaltern social actors is likely to be of special importance in a global society under stress. This is already recognized of what WIPO calls “traditional knowledge”: the agricultural, land management, medical, and nutritional skills that take shape in scarce-resource environments. Perhaps as important is the social knowledge of peoples who have lived historically in tight quarters with others or in subordinate positions that require them to become close observers and skilled negotiators, developing customary mechanisms for managing conflict and competition.

The concerns of the intergovernmental organizations are thus entirely appropriate. The danger is in methods that address the symptom rather than the disease. Intervening to preserve an oral genre or a ritual practice makes a fetish of a form that derives its meaning from its embedding in social life. Detached from its moorings, the form may gain economic value for its practitioners (although to date those benefits have mostly gone to brokers and service providers). But the everyday life that shaped it loses resonance and becomes still more vulnerable to external pressures. The more rapidly the lifeworld transforms itself, the looser become the links of meaning and knowledge between actors and their traditional performances. Heritage interventions themselves can offer this kind of violence, bringing new actors and infrastructures to the community, formalizing and monetizing relationships, replacing old forms of social coercion with new ones. The history of heritagization, like that of development in general, is rife with unintended consequences. As with other well-intended varieties of policy intervention, it is necessary to consider whether the remedy may become worse than the problem.

Misunderstanding 6

Too simple: *The dignity of a group is damaged when its traditions are exposed or misused.*

Better: *Indignity is at bottom a problem of inequality, exacerbated by unequal access to privacy.*

How many people reading this document derive their own sense of personal dignity from their inherited cultural traditions? How many of us would want to outlaw parody of, say, the Catholic mass? Would we want to protect the right to secrecy of Western politicians in the same way we are concerned to protect the secrecy of indigenous ritual specialists? The greater problem is rather that those peoples classed as “traditional” or “cultural” are increasingly pressured to admit outsiders and expose and commodify their cultural practices—which means also their own bodies and everyday lives—in a context of scarce economic options. They do not have the luxury of choosing privacy, as the activists organizing the influential “toilet festivals” of urban India remind us.

Moreover, actors often find ways of partitioning their practices so that some aspects are made public and others are reserved for insiders. It should be remembered that the possession of secrets is an important source of sociopolitical authority—there are plenty of contemporary Western examples—but to gain this authority you have to advertise the existence of the secrets. (Their existence is often more important than their actual content.) The relationship between dignity and attention is thus complex.

This is not to deny the suffering of those who have long endured denigration or ridicule of their way of life or of what they hold sacred. But the search for a remedy by legal means based in the principle of moral rights, as is now being explored, raises not only the aforementioned problems of allocating use rights, but that of defining misuse. May the young challenge the sacred cows of their elders? Will a minority interpretation become vulnerable to blasphemy charges? In an international context, will the actions of a single provocateur, like the Florida pastor who recently threatened to burn the Qur’an, not only create an international incident but, in the event

of their execution, make the whole polity legally responsible for the offense? Such controls might tend to strengthen the grip of traditional authority figures at the local level while increasing the provocation to rebel and further raising the stakes of such incidents as the Danish cartoons ridiculing Muhammad or the destruction of the Bamiyan Buddhas. More than defending the dignity of peoples, we would be offering an instrument to every crackpot in search of attention.

We might note the dignified response of the Muslim congregations in Gainesville, the town in which the threatened Qur'an-burning was to take place. One imam urged his flock not to attend and protest but to spend the day volunteering in hospitals or charities. Muslim congregations, churches, civic institutions, and the political authorities came together to refuse the provocation, some by creating alternative events, some by protesting, some by avoidance. Dignity is as dignity does, one might say. It is achieved and recognized not by regulatory fiat but in tedious, erratic, and multifarious social process.

That seems to me the general conclusion. The vitality of cultural forms, the viability of local lifeways, the ductility of group identities, and the dignity of peoples are complex effects of social, economic, and political interactions. There is no question that these interactions have become ever more thickly mediated and inflected by institutional procedures and ever more globally networked. While these ever-denser imbrications heighten the demand for general instruments to help local actors retain (or gain) control of their forms of life, they also exacerbate the inevitable violence of generalization itself. Such instruments, that is, are necessarily blunt.

The most worrying aspect of this bluntness is that such instruments institutionalize an old ideological divide between the traditional and the modern. They conceal genuine commonalities in cultural process. They naturalize a discredited discourse and confer upon it the immortality of bureaucracy. They create incentives for well-placed local actors to confine their less well-placed fellows in picturesque identity jails. They weaken incentives for new coalitions to rethink overall logics of intellectual property law, economic development, and environmental sustainability.

There is no doubt that the rapidity of global economic and environmental transformation in the present has created radical instabilities in local lifeways. We should recognize this as a temporally specific situation calling for specific remediations intended as transitional and temporary. This should be the focus of policy efforts. To rescue subaltern actors from the violence of history by enclosing them in the crystalline eternity of culture may count as protection, but it is not justice.

Notes

1. Rather than saying anything new, I am summing up a well-established and voluminous bibliography from folklore, anthropology, political theory, and elsewhere. But the nuanced insights of ethnography and critical theory have by their very nature limited efficacy in a complex political arena where forceful, blunt messages can most easily be communicated. This commentary was composed quickly and I purposefully avoided citations to the relevant literatures on which it draws. When it was initially published as a working paper of the *DFG*

Research Group on Cultural Property, the editor of that series appended two items for “Further Reading.” These are a paper of my own exploring the themes treated here within a specific case (Noyes 2006) and a recent thematic journal issue edited by two fellow participants in the work of the research group (Bendix and Hafstein 2009). I am grateful to all who have worked to advance the conversation to which this commentary is intended as a contribution.

2. The current distribution of governance mechanisms over cultural invention implies an evolution of culture from collective tradition, increasingly protected as heritage, to individual creation, protected by intellectual property law, to networked innovation, for which new licensing regimes are taking shape. In contrast, the ethnographic study of both old traditions like epic song and new traditions like open-source software and hip-hop, as well as contemporary literary theory’s account of intertextuality, dialogism, and the author-function, make it clear that it is networks all the way down (cf. Hafstein 2004).

References Cited

Bendix, Regina and Valdimar Hafstein, eds.

2009 Culture and Property. Theme issue, *Ethnologia Europaea* 39(2).

Hafstein, Valdimar

2004 The Politics of Origins: Collective Creation Revisited. *Journal of American Folklore* 117(465):300–315.

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2006 The Judgement of Solomon: Global Protections for Tradition and the Problem of Community Ownership. *Cultural Analysis* 5:27–56.

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