

# Intangible Cultural Heritage in Religious Contexts: a Comparative Legal Study

## *O Patrimônio Cultural Imaterial em Contextos Religiosos: um Estudo de Direito Comparado*

## *Patrimonio Cultural Inmaterial en Contextos Religiosos: un Estudio Jurídico Comparado*

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### Abstract

This article aims to analyze the interconnections between tangible and intangible religious heritage, by underlining the role of intangible cultural heritage (ICH) legal instruments, such as safeguarding measures, in improving the protection of its associated heritage: the “tangible” dimension of religious spaces. To that end, a comparative empirical analysis is conducted on the elements inscribed in the ICH UNESCO list database from Southern Europe, focusing on the implemented safeguarding measures described both in Nomination Files and Periodic State Reports. The analysis is grounded on the field of comparative public law and public international law, and addresses an interdisciplinary perspective between legal and political science, with a focus on law and policy enforcement. The article analysis the legal definition of ICH; dives into the concepts of religious heritage and religious spaces; and then, analyses how ICH instruments can foster sustainability in religious spaces, through safeguarding measures.

**Keywords:** intangible cultural heritage law; religious spaces; safeguarding measures; Southern Europe.

### Resumo

*Este artigo tem como objetivo analisar as interconexões entre o patrimônio religioso material e imaterial, destacando o papel dos instrumentos jurídicos relativos ao patrimônio cultural imaterial (PCI), como as medidas de salvaguarda, na melhoria da proteção do patrimônio a ele associado: a dimensão “material” dos espaços religiosos. Para tanto, realiza-se uma análise empírica comparada dos elementos inscritos na lista da UNESCO de PCI provenientes do sul da Europa, com foco nas medidas de salvaguarda implementadas, conforme descritas nos Dossiês de Candidatura e nos Relatórios Periódicos dos Estados. A análise está ancorada nos campos do direito público comparado e do direito internacional público, e adota uma perspectiva interdisciplinar entre o direito e a ciência política, com ênfase na aplicação jurídica e na formulação de políticas públicas. O artigo examina a definição jurídica de PCI; explora os conceitos de patrimônio religioso e de espaços religiosos; e, por fim, analisa como os instrumentos do PCI podem promover a sustentabilidade desses espaços por meio de medidas de salvaguarda.*

**Palavras-chave:** direito do patrimônio cultural imaterial; espaços religiosos; medidas de salvaguarda; Sul da Europa.

### Resumen

*El presente artículo tiene como objetivo analizar las interconexiones entre el patrimonio religioso tangible e intangible, subrayando el papel de los instrumentos jurídicos del patrimonio cultural inmaterial (PCI), tales como las medidas de salvaguardia, en la mejora de la protección del patrimonio asociado: la dimensión “tangible” de los espacios religiosos. Con ese fin, se realiza un análisis empírico comparado sobre los elementos inscritos en la base de datos de la lista del PCI de la UNESCO procedentes del sur de Europa, centrándose en las medidas de salvaguardia implementadas que se describen tanto en los Expedientes de Nominación como en los Informes Periódicos de los Estados. El análisis se fundamenta en el ámbito del derecho público comparado y del derecho internacional público, y aborda una perspectiva interdisciplinaria entre la ciencia jurídica y la ciencia política, con especial énfasis en la aplicación jurídica y política. El artículo analiza la definición jurídica del PCI; profundiza en los conceptos de patrimonio religioso y espacios religiosos; y, a continuación, examina cómo los instrumentos del PCI pueden fomentar la sostenibilidad de los espacios religiosos mediante medidas de salvaguardia.*

**Palabras clave:** derecho del patrimonio cultural inmaterial; espacios religiosos; medidas de salvaguardia; Europa meridional.

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# 1 Introduction

In 2003, the *International Convention for the Safeguarding of Intangible Cultural Heritage* was enacted by UNESCO. Since then, a number of states have ratified it, adopting and implementing specific laws and policies to enforce this novel approach of understanding and addressing cultural heritage (Cornu, 2020; Petrillo, 2023). Indeed, new institutions were established in international and national arenas, to support new models of legal regulation and public policy, all in an effort to enforce the legal provisions of the Convention, which places *communities* and *groups* at the center of its governance principles.

The 2003 UNESCO Convention plays a significant role in encouraging *cultural diversity* (Neyrinck, 2017) and improving *sustainable development* systems (Bortolotto, Skounti, 2024) in national and international scale – both of which are mentioned in the Preamble of the Convention. It acknowledges that ICH has an intrinsic relationship to “*tangible*” cultural heritage – also emphasized in the Preamble – in all of its manifestations, to the extent that distinct components of ICH have a strong connection with cultural tangible aspects, and vice versa (Munjeri, 2004), underlining the need for integrated approaches to enhance a better governance.

While the 2003 UNESCO Convention gained ground, *religious spaces* have also received growing attention from several actors over the last three decades (Jordan, 2013). All around the world, religious places have been recognized as “cultural heritage” both under national and international laws, primarily due to their “tangible” character – architecture, monuments, artifacts, among other things – which is widely analyzed by a rich literature. Nonetheless, few studies emphasize ICH instruments in religious heritage, and how they can improve the sustainability of religious spaces, by the means of an integrated approach through the implementation of safeguarding measures.

Taking this into consideration, this article aims to analyze the interconnections between tangible and ICH focusing on religious heritage, by underlining the role of ICH legal instruments, such as the safeguarding measures, in improving the protection of its associated heritage: the “tangible” dimension of religious spaces. The analysis focuses on religious heritage, as this field clearly transcends the boundaries of *(in)tangible* heritage, prompting UNESCO to classify it under the concept of “*living heritage*”, which describes the hybridism of tangible and intangible elements within the scope of this phenomenon. As a result, the ICH analysis on the religious domain appears topical and relevant for the aims of this study.

In order to achieve this, the study employs an empirical comparative analysis of the elements registered in the ICH UNESCO list database from Southern Europe, focusing on the implemented safeguarding measures described both in Nomination Files and Periodic Reports in each case. Five cases that include safeguarding measure to protect ICH-related places of worship were selected: *Festivities of “La Maré de Déu de la Salut”* (Spain, 2011), “*Celebrations of the Big Shoulder-Borne Processional Structures*” (Italy, 2013), “*Celestial Forgiveness Celebration*” (Italy, 2019), “*Community Festivities of Campo Maior*” (Portugal, 2021), and “*Manual Bell Ringing*” (Spain, 2022).

The analysis is methodologically grounded in the fields of comparative public law and public international law, and is rooted in an “empirical legal studies” approach, which articulates an interdisciplinary approach between legal science and political science, with a focus on the enforcement of laws and policies. Three sections comprise the text: I – Defining Intangible cultural heritage in legal terms; II – Religious intangible heritage and religious spaces in the post-secular age; III – Fostering sustainable development in religious spaces through safeguarding ICH.

## 2 Defining Intangible cultural heritage in legal terms

The 2003 UNESCO Convention addresses the international regime for safeguarding Intangible Cultural Heritage (ICH). This regime was gradually conformed after the enactment of the World Heritage Convention in 1972 (Blake, 2015). The latter entails the concept of cultural heritage essentially linked to the “modern” notion, which emerged during the French Revolution (Choay, 1995), being it entrenched on the concepts of “*monument*”, “*groups of buildings*”, and “*sites*”<sup>1</sup>. As this international regime ignored other cultural heritage manifestations, such as intangible elements, several criticisms have sparked especially from Global South countries (Blake, 2001), who triggered the debate in this arena.

<sup>1</sup> As states the art. 1 of the Convention. However, it should be noted that one of the great innovations of this Convention was to include the concept of “natural heritage”. It can be considered “a landmark for the protection of the cultural and natural heritage of mankind. Since its approval [...] it has become one of the most effective and important mechanisms for the sites and monuments worldwide”, triggering the “internationalization of heritage”, (Lixinski, 2008, p. 371).

The 2003 UNESCO Convention is deeply based on an “anthropological” concept of culture (Arantes, 2013; Kono, 2009), whereby ICH is not considered as a mere “thing” or “good” (Ariezpe, 2020), but embodies an extensive concept of culture, including all human production by which a given community identifies itself (Vaivade, 2018). In this regard, the 2003 UNESCO Convention enriches the definition of cultural heritage in International Law, associated with a set of resources inherited from the past, which people identify, regardless of whether they own the property, as a reflection and expression of their values, beliefs, knowledge and traditions, which is constantly evolving (Blake 2000; Craith 2008), to also become a “*living*” heritage, constantly recreated by communities (Blake, 2020; Cornu, 2020).

Article 2 of the Convention establishes the concept of ICH:

The “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development (UNESCO, 2003).

On this definition, Tullio Scovazzi points out that “more than a real definition, this is a *description* of a complex reality that includes heterogeneous elements” (Scovazzi, 2020, p. 22). As a result, there are various ways in which the legal notion of ICH can manifest: 1) *traditions and oral expressions*; 2) *performing arts*; 3) *social uses, rituals and festive acts*; 4) *knowledge and uses related to nature and the universe*; and, 5) *traditional craft techniques*. Therefore, “examples of intangible cultural heritage are not limited to a single expression and many of them include elements belonging to multiple areas”, because, “the boundaries between the areas are very imprecise and often vary from one community to another” (UNESCO, 2014, p. 3). States may include new elements that may not be covered by the Convention’s concept in their own definitions of ICH, provided that they adhere to the Convention’s determinations<sup>2</sup>.

In the field of *International Cultural Heritage Law*, the 2003 UNESCO Convention has resulted in two significant advancements. The first relates to the inclusion of the term “safeguard”, as defined in articles 2, 3<sup>3</sup>, and refers to actions taken by states, communities and stakeholders to “*guarantee the viability*” or “*continuity*” of ICH. This definition goes beyond the traditional meaning of “*protection*” – which refers to tangible heritage –, and requires States to develop specific safeguard plans and safeguarding measures with the participation of communities and stakeholders for each listed element, recognizing their specificities and the variety of actors involved in this process, in order to guarantee the continuity of the element, as ICH is a living practice.

The second, which is addressed in art. 15, refers to the need for ensuring the widest possible participation of communities, groups, and individuals<sup>4</sup>. In this length, “a diversity of voices from within the community needs to be heard in order to achieve truly participatory approaches to safeguarding” (Bendix; Eggert; Peselman, 2012; Blake, 2015, p. 185; Blake; Lixinski, 2011, 2020; Bortolotto *et al.*, 2020;), in order to make participation more faithful to what the Convention itself determines, moving the convention from the “state-centric approach” to a “*community-centric approach*”. These components add complexity to the current legal and political frameworks of ICH safeguarding.

These innovations are the result of “a truly explosion of patrimonial enterprises”, according to Dominique Poulot, placed on a “sense of cultural sharing” (Poulot, 1998, p. 7), whereby “cultural heritage [is] no longer only historical, artistic or archaeological, but also ethnological, biological or natural; not only tangible, but intangible; not only national, or local, or regional, but global, universal” (Poulot, 1998, p. 7). Stated differently, cultural heritage

<sup>2</sup> “States may use different categories of areas. There is already considerable variety: some countries divide the manifestations of intangible cultural heritage differently, while others use areas quite similar to those of the Convention, giving them another name. There are those who add new areas, or add subcategories to existing areas. This may entail the incorporation of “subfields” already used in countries that recognize intangible cultural heritage, for example “traditional games and sports”, “culinary traditions”, “animal husbandry”, “pilgrimages” or “places of memory” (UNESCO, 2014, p. 3).

<sup>3</sup> “Article 2: Definitions [...] 3. “Safeguarding” means measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage”. For further analysis, see: Arantes (2019).

<sup>4</sup> “Article 15: Participation of communities, groups and individuals. Within the framework of its safeguarding activities of the intangible cultural heritage, 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.”.

currently plays a polysemic and comprehensive role in the legal (Benôit; Dionisi-Peyrusse, 2015) and political systems (Heinich, 2009). Even though the term “cultural heritage” is essentially a “single concept” that incorporates multiple dimensions and meanings, it has experienced many changes, additions, and specializations – especially in the past few decades –, contributing to the very emergence of the “intangible cultural heritage”.

The definition asserted by the 2003 UNESCO Convention was the result of several changes in the field of international cultural heritage law, driving structural changes also in international human rights law<sup>5</sup>. At the European level, almost all States have ratified the Convention, with the exception of Russia<sup>6</sup>. Likewise, the Convention also boosted the design of other international documents, such as the *Convention on the Value of Cultural Heritage for Society*, also known as the *Faro Convention*, enacted in 2005 by the European Council, also addresses the legal complexities surrounding the concept of intangible cultural heritage – as it is a legal instrument of great relevance for the safeguarding of ICH at European level, and “proposes a broad and innovative concept of Cultural Heritage” (Woolfe-Pavan, 2017, p. 21; see also: Martel, 2017),

Nonetheless, a number of objections to the ICH legal concept still remain. Some Anthropologists continue to criticize ICH’s concept due to its potential to “crystallize” heritage, which is fundamentally “alive” (Bortolotto, 2011, 2013). Theoretically, cultural heritage is a single and cohesive concept with multiple dimensions, making the distinction between tangible and intangible heritage essentially “superficial”. Despite the aforementioned criticism is valid theoretically, the tangible-intangible distinction makes sense in terms of practical operability in the fields of politics and law because ICH owns particular characteristics that call for special and unique types of protection.

Even if each “tangible” cultural heritage is also endowed of a “intangible” dimension, and vice-versa (Rudolf, 2006), the legal recognition of ICH by international and national legal frameworks allows for several cultural practices to be inscribed as such, as well as the development of innovative and suitable measures to ensure their effective safeguard. Consequently, the 2003 UNESCO Convention holds exceptional legal and political significance. A number of new difficulties, however, also complicate the *institutional symbolic negation* (Burckhart, 2023) surrounding ICH at least twice: when it comes to the “recognition” of this new heritage through national and international inventories, such as the UNESCO lists, and when it comes to the implementation of the safeguarding measures.

This evinces how the central idea of “cultural heritage” was appropriated and reshaped to suit the newly established requirements (Poulot, 1998), as it is conceived as a “human right” – precisely as a “cultural right” (Donders, 2020; Shaheed, 2010; Wanner, 2017). It revolves around the critical value that ICH signifies for individuals, communities, and groups, particularly with regard to cultural identity issues (United Nations, 2012, p. 8). In this sense, the 2003 UNESCO Convention represents a true “revolution” on the legal and political understanding of cultural heritage, especially in terms of national, regional and local policies taken by different nations, as well as the international community, to effectively safeguard it from a multilevel perspective<sup>7</sup>.

The 2003 UNESCO Convention gave rise to new legal frameworks – both in terms of international soft law and event national legal measures – that made it possible to conceptualize the ICH as a tool for community-holders and right-holders to “look towards the future” rather than “regressing into the past”. In this regard, ICH must be triggered as a *transversal* subject that must be included in various policies within the scope of different institutions, particularly tangible and natural heritage policies, as well as legal and political frameworks, in order to enforce the Convention’s provisions broadly.

### 3 Religious intangible heritage and religious spaces in the post-secular age

While intangible cultural heritage has become increasingly important in recent years, religions have experienced a “resurgence” that has redefined their role in various state governments’ public spaces as well as on a global scale. This observation is explored, for instance, by Peter Berger (1999) and José Casanova (1994), who refer to the process of “*deseccularization of the world*”, arguing that the concept of secularization is in fact insufficient as a theory to fully capture the political and cultural realities of the late twentieth and early twenty-first centuries. The authors challenge the commonly held belief that “modernity” and “secularism” are components of a larger historical symbiosis (Berger, 1999, p. 7).

<sup>5</sup> As is the case with the interpretation of the right to cultural life elaborated by the *United Nations Economic, Social and Cultural Committee* (CESCR) through General Comment n. 21, in 2009 (United Nations, 2011, p. 4; Vrdoljak, 2013, p. 23)

<sup>6</sup> The update list of State parties can be consulted here: <https://www.unesco.org/en/legal-affairs/convention-safeguarding-intangible-cultural-heritage#item-2>

<sup>7</sup> Multilevel as the different levels of normativity, See: Pernice (1999).



Some authors refer to the phenomenon of the increasingly merging of “faith” and “reason” by using the terms *post-secularism* or *post-secular society* (Habermas, 2008; Taylor, 2007). Since the secular principle – known as *laïcité* in French – is central to the development of modern law and politics and forms the basis of many contemporary societies, post-secularism poses many challenges to these very foundations. This phenomenon reshapes the role that has previously been given to the intangible components that religions claim to have – particularly their distinctive liturgies<sup>8</sup>. As a result, a dynamic of legal diversity emerges (Tsivolas, 2019), resulting in a variety of ways for the law to regulate the religious phenomenon (Burchardt, 2020)<sup>9</sup>.

In this sense, “religious cultural heritage” can be defined as the tangible and intangible elements that make up the collective memory of a given religious group or religious community (Tsivolas, 2015, p. 40)<sup>10</sup>. As soon as these elements are “patrimonialized”, they are subject to other legal regimes that may occasionally overlap with national and international cultural heritage law. Religious cultural heritage is, therefore, a “resource” for religious communities as well as governments, since the latter is primarily responsible for defining and determining what qualifies as “cultural heritage”. However, its characterization can undertake many different forms, since people’s perceptions of the sacred are fundamentally different and depend on a number of peculiar factors (Chechi, 2014, p. 302; Tsivolas, 2017).

Within religious cultural heritage a “deep relationship between tangible and intangible cultural heritage” (Tsivolas, 2015, p. 61) manifests, despite the differences between the two legal regimes. One can say that “they are two sides of the same coin” (Bouchenaki, 2007), complementing each other – every tangible heritage has an intangible dimension, and vice versa. The designation of religious intangible heritage, however, suggests a change from conventional conservation methods to a new paradigm that is based on “safeguarding practices” and emphasizes the importance of *people* – individuals, communities, and groups—in a holistic approach. This is what Gamini Wijesuriya refers to as the “*de-secularization of heritage*”, defined as surpassing of the overemphasis on the tangible aspects of heritage and updating it for the benefit of people (Wijesuriya, 2017).

In this regard, the dilemmas of the post-secular era have led to an increase in the recognition of religious heritage as “cultural heritage” in recent decades (Tamma; Sartori, 2017, p. 558)<sup>11</sup>. For instance, the largest single category on the World Heritage Convention’s Representative List is represented by about 20% of the elements inscriptions that are only covered by the and have some sort of spiritual or religious connection<sup>12</sup>. The requirement of “Outstanding Universal Value” in that specific legal regime is justified by the spiritual or religious component. Furthermore, according to the *UNESCO MAB Programme*, sacred sites “are indeed the oldest protected areas of the planet”, and “have a vital importance for safeguarding cultural and biological diversity for present and future generations”<sup>13</sup>.

Numerous religions assets are examples and can be listed, such as: *Buddhist Monuments at Sanchi* (India), the *Franciscan Structure of Assisi* (Italy), *Nandi Temple* (India), *Islamic Cairo* (Egypt), among others<sup>14</sup>. Several religious places are also recognized as ICH in the UNESCO Representative List of intangible cultural heritage: *Indigenous festivity dedicated to the dead* (Mexico, 2008), *Hopping procession of Echternach* (Luxembourg, 2010), *Festivity of Virgin de la Candelaria of Puno* (Peru, 2014), *Ifa divination system* (Nigeria, 2008), *Tibetan opera* (China, 2009),

<sup>8</sup> It is related to the insurgence of “new social movements” grounded on a “cultural perspective” (Benhabib, 2002; Mattelart, 2007; Touraine, 2005) by which religions and religious sentiment have been at the center of this process in several countries.

<sup>9</sup> One can enumerate at least three legal regimes. By definition, the first one refers to the “*secular*” regime, which is distinguished by the rigid separation of religion and state and operates on the basis of secularism. France is the best example of this model. The second model refers to *theocratic systems*, of which the Islamic Republic of Iran and other Arab States are the most blatant examples. These systems obfuscate the distinctions between religion and state. In the limbo between these two models there is a third model that can be defined as *post-secular* according to the Habermasian definition. It is characterized by the integration between faith and religion in the public domain – which isn’t always friendly. Many examples fall into this category, perhaps most of the countries on Earth, such as Brazil, Spain, Italy, South Africa, India, the US, and Turkey.

<sup>10</sup> In this same light, according to Alessandro Chechi, cultural heritage can be defined by meeting two out of three criteria: “1) current religious value; 2) symbolic or profane value, related to associations of value to people not affiliated with that faith, which can be a living or dead religion; and 3) its artistic or cultural value, embodying the idea that many religious buildings are also masterpieces of a certain architectural style” (Chechi, 2014). See also: Francioni (2020, p. 48-57).

<sup>11</sup> Despite the many issues that raise from the “heritagization” process. For further analysis, see by Lixinski (2011), Franceschini (2023), Hemel, Salemi and Stengs (2022), Harrison (2013), Harvey (2008) and Thiouki (2022).

<sup>12</sup> See. <https://whc.unesco.org/en/religious-sacred-heritage/>

<sup>13</sup> See. <https://whc.unesco.org/en/religious-sacred-heritage/>. In this regard, “A corpus of standard-setting documents, including charters and recommendations, exists on the subject of monuments and sites. A number of research studies and analyses of religious heritage and sacred sites were carried out by the Advisory Bodies - ICCROM, ICOMOS and IUCN. There were a number of conclusions and recommendations drawn from previous meetings and activities on religious and sacred heritage, such as the ICCROM 2003 Forum on the conservation of Living Religious Heritage, the 2005 ICOMOS General Assembly resolution calling for the «establishment of an International Thematic Programme for Religious Heritage», and 2011 ICOMOS General Assembly Resolution on the Protection and Enhancement of sacred heritage sites, buildings and landscapes, as well as the UNESCO MAB/IUCN Guidelines for the Conservation and Management of Sacred Natural Sites”. See. <https://whc.unesco.org/en/religious-sacred-heritage/>

<sup>14</sup> See. <https://whc.unesco.org/en/list/>

*Festivals related to the Journey of the Holy Family in Egypt* (Egypt, 2022), *Procession of the Holy Blood in Bruges* (Belgium, 2009), *Holy Week Procession in Popayán* (Colombia, 2009), among others.

In this regard, it evinces that “the notion of sacred place is complex”, and can be conceived as a synonymous of “religious place”<sup>15</sup>. Bearing this in mind, Andrea Benzo claims that under International Law there is no precise definition of what sacred places are, but based on scattered elements – especially from the decisions of the former Tribunal for Yugoslavia – one can cast in order to define its content: 1) link to a sacred manifestation; 2) a historical landmark; 3) veneration of believers; and 4) consensus on its sacred character (Benzo, 2014, p. 21).

Religious places are central to discussions about cultural identity issues and can be seen as a conducive instrument for communities and groups dialogue, that is, where *intercultural* and *interreligious dialogue* can flourish – although it does not always happen (Benzo, 2014, p. 21). In the same way, religious spaces are arenas in which politics and religion find an action camp (Halafoff, Clarke, 2018, p. 5), as space itself is a concept with a great capacity to capture the relationship, as well as dynamics of hybridity, of law and policy in the course of their *operativity*. This illustrates how religious heritage can refer to the widest range of religious expressions in various contexts, depending on how each group or community views and experiences the sacred.

Actually, “sacred sites are attracting growing attention from scholars, policymakers and local communities, who see them more and more as a common heritage” (Tamma; Sartori, 2017, p. 557). It therefore follows that maintaining its integrity is imperative. It is undeniable that management techniques and strategies that are up to the demands of sustainable development and the new global challenges are needed for the protection and preservation of religious spaces. Due of this, Michele Tama and Rita Sartori draw a line under which the ICH safeguarding regime’s safeguarding approach should be applied to the preservation of religious spaces” (Tamma; Sartori, 2017, p. 558). According to them, this approach “can help to preserve the integrity of the place, and avoid conflicts and inappropriate behaviours” (Griffiths, 2011).

Given this, safeguarding ICH linked to religious heritage can be a very useful tool for preserving the related religious sites, as it is based on an understanding of the aforementioned connection between tangible and intangible cultural heritage<sup>16</sup>. The protection of ICH might be seen as a “resource” for safeguarding religious spaces and ensuring sustainable development dynamics for these spaces, as well as for the ICH surrounded by it, even though it has not been thoroughly investigated yet. This is because heritage can be a driver and enabler of all the SDGs (Labadi *et al.*, 2021; Niglio, 2022), being it more evident when it comes to contexts involving religious minorities or minorities in the most diverse spaces<sup>17</sup>. It stands for the potential to give the relationship between religious spaces and cultural heritage new meanings on a variety of levels.

“Religions” are not recognized as ICH under the 2003 UNESCO Convention legal framework<sup>18</sup>. However, when some cultural element of a given religion or religious practice adhere to the legal notion outlined in art. 2, the intangible innate components associated with them may be acknowledged as such<sup>19</sup>. The Operational Directives for the implementation of the 2003 UNESCO Convention however refer to religion in Chapter IV, when it states that “all parties are encouraged to take particular care to ensure that awareness-raising actions will not [...] contribute to justifying any form of political, social, ethnic, religious, linguistic or gender-based discrimination” (UNESCO, 2022).

Academic research on the safeguarding practices of this particular kind of ICH is still lacking, particularly with regard to the implementation of safeguarding measures for each component in a critical perspective. This contradicts the growing heritagization of intangible religious components and their potential to foster sustainable development in various areas. Actually, post-secular age poses several new challenges for the grammar of politics and law in various domains, and heritage is one of the means by which this is most implicitly demonstrated in the current phase of Western modernity.

<sup>15</sup> In this article, *sacred places* and *religious places* are seen as synonymous.

<sup>16</sup> “In November 2010 UNESCO finally recognized the distinctive nature of religious World Heritage properties within the framework of the WHC both for being *living heritage* and having a *continuing nature*. Therefore, UNESCO does encourage new forms of dialogue between old and new stakeholders and new forms of action on the purpose of safeguarding religious heritage of outstanding universal value for future generations” (Tamma; Sartori, 2017, p. 557-558). See: <https://whc.unesco.org/en/religious-sacred-heritage/>

<sup>17</sup> Regarding the relationship between the ICH and minorities, see: Vrdoljak (2005).

<sup>18</sup> “Religion itself is not part of cultural heritage systems” (Lixinski, 2018). But, the “popular religious customs” can be considered as such (Ubertainzi, 2020). Lucas Lixinski explains that while International Human Rights Law protects religion in a multifaceted dimension – both cultural religious heritage and the right to religious freedom –, International Cultural Heritage Law is concerned only with cultural heritage elements (Lixinski, 2018, p. 146).

<sup>19</sup> As outlined in the UNESCO ICH site: “organized religions cannot be nominated specifically as elements for inscription, although a lot of intangible heritage has spiritual aspects. Intangible cultural heritage elements relating to religious traditions are normally presented as belonging under the domain of ‘knowledge and practices concerning nature and the universe’ or ‘social practices, ritual and festive events’.” In: <https://ich.unesco.org/en/faq-00021>

## 4 Fostering sustainable development in religious spaces by safeguarding ICH

The 2003 UNESCO Convention establishes the legal framework to safeguard intangible aspects of European religious heritage found in religious spaces. A comparative analysis of the elements included in the UNESCO database's representative list reveals that at least ten elements are inextricably linked to religious spaces in Southern Europe. These elements are: *Festivities of Saint Blaise* (Croatia, 2009), *Procession of Za Krizen* (Croatia, 2009), *Festivities of "La Maré de Dieu de la Salut"* (Spain, 2011), *Celebrations of Big Shoulder-Borne Processional Structures* (Italy, 2013), *Feast of the Holy Forty Martyrs* (North Macedonia, 2013), *Holy Week Procession of Mendrisio* (Switzerland, 2019)<sup>20</sup>, *Celestial Forgiveness Celebration* (Italy, 2019), *Community Festivities of Campo Maior* (Portugal, 2021), and *Manual Bell Ringing* (Spain, 2022).

The majority of the elements on the list are events and gatherings held in religious places, as these spaces are directly linked to their perpetuation and continuity. This suggests that spaces can be thought of as "*symbolic destinations*" (Pezzoli-Olgiaiti, 2013), especially religious spaces, because they "are appropriate heritage typology to investigate innovative practices, that can lead to long term sustainable development" (Niglio, 2022, p. 4). The 2003 UNESCO Convention emphasizes the concept of ICH-integrated sustainable development, but it lacks a clear definition of its meaning. In fact, sustainable development has become a political slogan for the broadest range of political ideologies due to its current polysemy<sup>21</sup>.

According to UNESCO, sustainable development "is at the core concept of UNESCO as the organization thrives to tackle poverty, foster education and protect our natural heritage"<sup>22</sup>. For the International Organization, sustainable development is "a resolution to meet the needs of the present without compromising the future"; "a vision that encompasses populations, animal and plant species, ecosystems, natural resources – water, air, energy", as well as "an endeavor to integrate concerns such as the fight against poverty, gender equality, human rights, education for all, health, human security, intercultural dialogue, etc."<sup>23</sup>. This definition is in symbiosis with the specialized literature on the topic (Bortolotto, Skounti, 2024; Kotzé *et al.*, 2022; Purvis; Mao; Robinson, 2019), and relates to the acquisitive evolutions that this concept has undergone in recent years<sup>24</sup>.

Although there are several well-founded criticisms over sustainable development as a concept and a political practice, by pointing out its *frailty* and *ubiquity* or even by highlighting its "*colonizing*" or "*colonizing*" character due to corroborate with the separation between developed and underdeveloped (Lang; Mokrani, 2013; Sachs, 2009) countries, it is a fact that sustainable development has entered the political and legal lexicon, and can be considered one of the most important categories of governance at a global and local level to date. The aforementioned criticisms prompted a review of the category's content, broadening its focus and highlighting the differences between nations and regions, each of which has distinct requirements to carry out its own goals at the political, institutional, and legal levels.

Furthermore, the safeguarding plans and ICH Nomination Files frequently mention and cite the concept of sustainable development. The Nomination files in the aforementioned cases stipulated a number of safeguard measures of varying types and scopes of action that States and other relevant parties were to enforce – all of which concerned the improvement of sustainable development dynamics. These measures involved formal and informal education, the creation of films and documentaries, digitalization and media sources, workshops and exhibitions, documentation procedures, the gathering and registration of registered elements, the execution of inventories at various levels and themes, funding for research and project financing, as well as measures concerning the dynamics of institutional and legal support.

In addition to providing some or all of the above-mentioned safeguards, five of the ten cases mentioned also include in their Nomination Files measures aimed at the "*preservation*" of related religious spaces. Each of the ten cases mentioned accomplishes this in a unique way. As shown in Figure 1, these measures, as stated in the corresponding Nomination Files, refer to two World Heritage Convention-typical concepts: "protection" and "restoration" of religious spaces connected to the ICH:

<sup>20</sup> This element was included in the research despite Switzerland being localized in Central Europe, because it is a cultural practice located in the Italianophone part of the country, with strong ties to Southern Europe.

<sup>21</sup> This concept appeared for the very first time at the Brundtland Report (United Nations, 1987).

<sup>22</sup> See. <https://www.unesco.org/en/sustainable-development?hub=72522>

<sup>23</sup> See. <https://www.unesco.org/en/sustainable-development?hub=72522>

<sup>24</sup> Especially since the introduction of the "Sustainable Development Goals" by the United Nations. (United Nations, 2015).

Table 1 – Safeguarding measures by element

UNESCO ICH element	2022 Manual Bell Ringing (Spain)	2021 Community Festivities of Campo Maior (Portugal)	2019 Celestial Forgiveness Celebration (Italy)	2013 Celebrations of the Big Shoulder-Borne Processional Structures (Italy)	2011 Festivities of “La Maré de Déu de la Salut” (Spain)
<b>Safeguarding measure for “Preservation”</b>	Restoration, preservation and rehabilitation of Bell Ringing Spaces, as well as music instruments (UNESCO, 2022a, p. 8-9)	Restoration of the Historical Center (UNESCO, 2021, p. 9)	Restoration work of the Basilica of Collemaggio (UNESCO, 2019, p. 9)	Integration of the plan to protect architectural and urban planning monuments with ICH safeguarding; restoration of cultural places linked to the ceremony (UNESCO, 2013, p. 8)	Restoration works and improvements to the properties and buildings associated with the ritual acts of the event (UNESCO, 2011, p. 11)

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The safeguarding measures evinces the *frailty* or *vulnerability* that many religious spaces face, owing to a variety of factors, particularly political and economic ones<sup>25</sup>. The need to ensure the socio-environmental sustainability (Dillard; Dujon; King, 2008) of the most diverse religious spaces, with the active participation of communities, religious institutions, groups, and other stakeholders, is, in fact, one of the conundrums of the post-secular era's challenges. The elements in the cases under analysis are inextricably linked to the related religious spaces, and their conservation, preservation, and eventual restoration are thus essential to ensure the survival and perpetuation of these intangible cultural practices.

Some safeguard measures are not limited to the strict protection and restoration of “religious spaces” – although they are included among the measures – but exceed this geographical context. The “*Community Festivities of Campo Maior*” (Portugal, 2021) indicates the restoration of the Historic Center – in which the *Campo Maior Parish Church* is located – where the festivities take place. Regarding the “*Celebrations of the Big Shoulder-Borne Processional Structures*” (Italy, 2013), it designates something even more complex: integrating the protection of architectural heritage within the scope of ICH safeguarding, along with restoring the cultural spaces linked to the ceremony. In the case of the “*Festivities of ‘La Maré de Déu de la Salut’*” (Spain, 2011), reference is also made to the properties and buildings associated with the festivity – including the *Capela de la Toballa*, and the *Basilica de Sant Jaume Apòstol*, where the celebrations take place in the city of Algemesí.

Based on the analysis of the Nomination Files and Periodic Reports written by the States parties – and deposited in 2022 by the European and North American States to the Intergovernmental Committee<sup>26</sup> –, the following safeguarding measures can be listed:

### 4.1 Festivities of “La Maré de Déu de la Salut” (Spain, 2011)

According to the Report the inscription of the element – which occurred more than ten years ago – significantly contributed to its safeguarding and promotion. Among the safeguarding measures implemented, there is the “re-adaptation of the statutes to safeguard the heritage elements associated with the festival, proposing innovative ways to protect its rights by coordinating with Spanish Legislation” (UNESCO, 2022d, p. 539), besides the “restoration works and improvements to the properties and buildings associated with the ritual acts of the event” (UNESCO, 2011, p. 11), two measures that meet the interrelationship between the tangible and intangible dimensions of religious cultural heritage.

Furthermore, the Nomination File highlights the readaptation of the “Museu Valencia de la Festa”, with European funds (UNESCO, 2011, p. 10), created in 2012 to preserve the intangible heritage related to the festivities. According to the Report, “museum resources have been readapted in collaboration with the European Social Fund, extending

<sup>25</sup> “Religious heritage of Christian affiliation, and especially places of worship such as churches, cathedrals, monasteries and convents, is actually facing unprecedented issues and getting into increasing difficulties. A growing number of religious buildings are neglected as congregations dwindle, or the nature of one country's population changes. Secularization, the lack of faithful and volunteers, a negative demographic trend, the redistribution of the population on the territory, are the main facts explaining a significant decrease in the attendance of many places of cult, hence their redundancy. In the same way, other factors are undermining the survival of most places of cult: a remarkable drop of religious vocations, increasing safekeeping and management costs and current limited private and public resources/fundings. Their management structures are all subject to increasing pressure as the traditional implicit support for religious buildings is reduced. As a result, religious heritage is facing several major risks, including the decay of the buildings, the original worship use, the historical and artistic heritage (Cavana, 2012). The lack of human, technical, and financial resources is undermining the maintenance standard requirements of the sites, their functionality and accessibility, up to their closure, change of use, or sale” (Tamma; Sartori, 2017, p. 559).

<sup>26</sup> They can be accessed here: <https://ich.unesco.org/en/periodic-reporting-00460>



their message in English, French, Arabic, Chinese and Japanese. Visits have also been adapted for the blind with resources available in Braille” (UNESCO, 2022d, p. 540). In fact, one way to think of the museum is as a religious festival’s “extension”, or as a sacred or religious space that is incorporated into the sacred dynamics of the celebration.

## 4.2 Celebrations of the Big Shoulder-Borne Processional Structures (Italy, 2013)

The Report emphasizes that listing the element contributed to the visibility of the celebration, as well as to stimulating a more adequate understanding of the importance of ICH as a “forum of identity, continuity, creativity and intercultural dialogue, mutual respect among communities, groups and individuals, respect for human rights and a driver of sustainable development” (UNESCO, 2022b, p. 288). Over the ten years of safeguarding, the Report points to “measures adopted by the local governments for protecting the architectural, historical and urban features of the spaces associates with the celebrations” (UNESCO, 2022b, p. 289), besides the “financing of restoration of cultural emergencies linked with the execution of ceremonials” (UNESCO, 2022b, p. 289).

Likewise, the Report also indicates that the Network involved in the safeguard measures “has also engaged in dialogue with the Italian Association of World Heritage Sites, in order to create synergies between tangible and intangible cultural heritage, for spreading good practices of common management and safeguard to the neighbouring territories” (UNESCO, 2022b, p. 288). However, it does not clearly specify how the works occurred, nor even the tenor by which they were developed.

## 4.3 Celestial Forgiveness Celebration (Italy, 2019)

The Report points out that safeguarding measures are enforced through the complex and specific organization of the Celestial Forgiveness Celebration, involving several actors and stakeholders. The report also outlines the steps taken by the Italian Ministry of Culture and the Abruzzo Region to protect the inscribed element’s historical and cultural values, as well as its “tangible” components. The Report stresses out as an example the restoration project for the conservation of the Historical Bull of Aquila municipality, which is a tangible aspect associated with the ICH, carried out by the Central Institute for the Restoration of Archival and Book Heritage<sup>27</sup>.

Furthermore, the financial contribution from the *Italian National Hydrocarbons Agency* for the historic-artistic Superintendence of the Abruzzo Region has bolstered the global restoration works of the Basilica of Collemaggio in order to make all its areas, included the outdoors, more accessible (UNESCO, 2019, p. 65). Similarly, the Nomination File pointed the measures “aimed at increasing awareness and sharing of the element by means of exhibitions, concerts, use of public spaces (e.g. Piazza Chiarino, Parco delle Acque, Parco del Castello) by those cultural associations who want to contribute to the organization of events”, underlining that “all the safeguarding measures’ impacts consider the several dimensions of sustainability in order not to jeopardize the element” (UNESCO, 2019, p. 9).

## 4.4 Community Festivities of Campo Maior (Portugal, 2021)

The Report underlines several measures adopted for the preservation and restoration of the historic center and the tangible heritage linked to the ICH, for which it is mention: *Campo Maior Urbanization Plan* (2015), the *Campo Maior Urban Development Strategic Plan* (2015), the *review of the Municipal Master Plan* (2016), and the *Campo Maior Strategic Urban Rehabilitation Program 2016/2022* (UNESCO, 2022c, p. 87). The Alentejo 2020 Operational Program, financed by the European Union, boosted the rehabilitation of the *Capela dos Ossos* of the *Igreja Matriz de Campo Maior*. The Report also recognizes the intrinsic link between the uses of the Historical Center and the development of the festivities, underlining the expectation that interventions will continue and intensify in the coming years – in view of the element’s inscription on the UNESCO List occurred very recently, in 2021.

The Campo Maior Municipal Council has been developing a policy of restoration of the buildings in the Historic Centre, integrated into the programme of the Urban Rehabilitation Area, for subsequent establishment of new family dwellings in this area, co-financed by European funds (UNESCO, 2021, p. 9). The Report also points out that “as can be seen from the municipal urban rehabilitation strategy defined for the town of Campo Maior, it is expected that the municipality will intensify in the coming years interventions that seek to qualify and integrate the public space of

<sup>27</sup> “The Ministry of Culture and the Abruzzo Region also contributed to the safeguarding of the material aspects linked to the element registered in the UNESCO 2003 list, as well as its historical and cultural values. For example, the Government financed through the Abruzzo-Molise Archival Superintendence, a restoration project for the correct conservation of the “Historical Bull” (tangible aspect associated to the Celebration of the Celestinian Forgiveness), carried out in 2017 by the Central institute for the Restoration of Archival and Book Heritage”, (UNESCO, 2019, p. 68).

the historic center” as well as “integrate the historic center into the surrounding urban fabric and reinforce the urban agglomeration from a cultural and economic point of view” (UNESCO, 2022c, p. 88). Another safeguard measure implemented was the construction of the “*Casa das Flores*” the Museum for the Festivities of Campo Maior in 2021, which promotes the safeguarding of the element and associated material heritage.

#### 4.5 Manual Bell Ringing (Spain, 2022)

In 2017, the Cultural Committee of the Spanish Senate unanimously approved an all-party motion that urged the Spanish Government to protect traditional bell ringing and draw up a national plan to protect bell ringing the bell towers (UNESCO, 2022d, p. 410). This resulted in the Technical Report established by Resolution of February 18, 2019, from the *Dirección General de Bellas Artes* (España, 2019, p. 13), in which the manifestation of recognition of the Manual Bell Ringing as an intangible heritage of humanity is urged. This document acknowledges that the cultural practice is in danger of extinction, and only 10% of all the country’s campanas are currently inventoried (UNESCO, 2022d, p. 411).

The Nomination File points to the development of principles to define good practices for the restoration and rehabilitation of bell towers, along with the restoration of musical instruments (UNESCO, 2022a, p. 9). Campaneros associations, such as “*Mestres Campaners de Valencia*”, are an important stakeholder and agent for the restoration and rehabilitation of towers and campanelos that act directly in the application of safeguarding measures – since before the formal recognition of the element as ICH of humanity<sup>28</sup>. The associations, as the technical report points out, are dedicated to the conservation and recovery of manual bell ringing and the church towers through which the bells are rung. This is a heritage management model strongly linked to community participation, through direct involvement of associations<sup>29</sup>, which in addition to being directly responsible for the “continuity” of cultural practice is also responsible for the maintenance, rehabilitation, preservation and restoration of the towers and *campanelos*.

Some conclusions come about from the analysis of these documents:

The first one evinces a “diffuse” understanding, in the countries under consideration, of the complementary relationship between ICH and tangible heritage, underlined in the implemented safeguarding measures of each element. This comprehension is largely inspired by UNESCO’s “living heritage” definition, which corroborates the integrated approaches to religious cultural heritage. Indeed, the legal instrument of “safeguarding measures” inspire states, communities and stakeholders to articulate this integrated approach. This indicates that safeguarding ICH might provide religious spaces with a vital tool that is highly relevant for its preservation and has positive practical effects.

The second conclusion, as evinced by the Reports of the state parties, illustrates that all of the safeguarding measures described in the Nomination Files were partially or completely implemented by states, with the support and engagement of communities and many other stakeholders. The Reports consistently refer to the steps that states primarily have taken to safeguard their respective ICH elements – even though there is a number of “weaknesses” from a technical point of view regarding to the writing of the Reports, spanning from a “general” content, that does not delve deeper into the information and data about how the safeguarding measures were effectively implemented by the various responsible actors.

The third conclusion emphasizes the importance of safeguarding measures in encouraging long-term sustainability of intangible religious elements and spaces. They are carried out not only by governments, but also by communities, organizations, and other stakeholders. This is certainly due to the *diffuse responsibility* that ICH promotes, emphasizing that communities, groups, and other stakeholders play a crucial role in safeguarding ICH, insofar as the state is not solely responsible for the elements’ viability (Tamma; Sartori, 2017). To effectively safeguard intangible cultural practices, a high level of sustainability is required in a variety of domains, including social, environmental, political, economic, and institutional. Only then will the “continuity” of these practices be effectively ensured<sup>30</sup>.

However, a thorough examination of these elements’ reports and nomination files leads to the need to highlight at least three issues:

<sup>28</sup> ESPAÑA. *Resolución de 18 de febrero de 2019*, Op. Cit., p. 15.

<sup>29</sup> The Technical Report points to several associations (España, 2019, p. 16).

<sup>30</sup> Of course, the assertion that the safeguarding measures foster sustainable development might be true depending on the concept one chooses on sustainable development. The affirmation made by me is based on the UNESCO’s concept.

1) The first issue concerns the need to be cautious of potentially biased dates provided by states about the implementation of the UNESCO 2003 Convention. In this sense, the information provided by the states in the documents under review are effectively judged “reliable” in this study, notwithstanding the constant risk of skewed data;

2) The second issue emphasizes the persistent threat that communities, groups, and individuals, including state parties to the Convention, face on a variety of levels, including political, legal, economic, and institutional ambits. It is critical to keep in mind that the process of “heritagization” as well as the implementation of safeguarding measures is marked by political choices and institutional symbolic negotiation, as well as occasional financial limitations, which may eventually subvert the ambitions inscribed in official documents;

3) and thirdly, the ICH UNESCO system is effectively not perfect, and has several pitfalls, as communities and groups may occasionally feel abandoned by states, institutions and other stakeholders (Lixinski, 2019). In this same light, conflicts emerging between state and religion might also indicate the failure of safeguarding measures implementation. As a result, the UNESCO ICH system is constantly being improved from inside, and the proposals for its updating falls within the following aspects: i) safeguarding intangible cultural heritage and climate change, ii) the economic dimension of safeguarding intangible cultural heritage, and iii) safeguarding intangible cultural heritage in urban contexts (UNESCO, 2022).

The examined cases, however, demonstrate that the international framework established by the 2003 UNESCO Convention can ensure not only the safeguarding of ICH elements, but by doing so, it also preserves tangible-related aspects. This has the potential to foster and guarantee long-term sustainability, particularly in terms of social-environmental and economic sustainable practices in religious spaces. Despite the fact that international ICH regime occasionally places restrictive approaches to the “emancipation” of communities and groups, Lucas Lixinski (2020) highlights that “heritage law processes can also aid religious communities to tap the possibilities for heritage safeguarding to protect their faith”. Intangible cultural heritage therefore plays a key role in the multifaceted dynamics for improving sustainable dynamics in religious spaces.

## 5 Conclusions

ICH legal mechanisms are important instrument in the legal toolbox for assisting religious heritage and religious spaces, owing the potential to foster sustainability. Even though “emancipation” is limited within this international legal regime – especially in virtue of the political and economic interferences within the decision-process of identifying and establishing ICH –, ICH safeguarding measures represent a potential to empower communities and groups, both in cultural and economic terms. This is due to the fact that safeguarding measures imply in putting communities and groups at the forefront process of heritagization. This “methodology” may therefore be useful in reviving religious spaces and intangible religious cultural manifestations worldwide.

This suggests that “entangling from the grassroots” is the best strategic approach for safeguarding ICH in all its dimensions, as well as to revitalize and valorize associated heritage related to the tangible aspects. Putting communities, groups and individuals at the center of safeguarding dynamics avoids, in a large scale, their political instrumentalization by political parties, economic groups and other institutions. It also contributes to give them voice to address the main challenges continuously faced by them in order to guarantee the continuity of the intangible cultural elements and practices, in particular when it comes to fostering sustainable practices and approaches, that may help to look out on the main issues of present and future generations.

The empirical analysis of the cases selected for this research indicates that the interactions between “tangible” and “intangible” dynamics, embedded in the UNESCO concept of “*living heritage*”, can foster sustainable dynamics for safeguarding religious heritage and create synergies between different actors. In this regard, the protection of the associated ICH places, such as religious spaces, could revitalize the festivals, celebrations and intangible cultural practices, strengthening the community-holders. In this regard, the interdependence between tangible and intangible cultural heritage points to the need to integrate not only discourses, but also and primarily practices, in order to turn safeguarding effective, and provide participative governance of ICH.

However, the research also reveals that all the intangible religious heritage inscribed in the UNESCO lists by the Southern European countries under analysis are related to Christian religious denominations, which is indicative of the majority population of these countries. Several questions remain about how ethnic, religious and linguistic minorities interact with heritagization processes in Italy, Spain and Portugal, as well as whether their intangible religious heritage could be recognized as such, and their ICH-related heritage also preserved, valorized and revitalized. This is an issue that needs to be better understood through further research.

In fact, the enforcement of the legal instruments for safeguarding ICH provided by the 2003 UNESCO Convention can effectively “learn” from the diverse safeguarding experiences, and improve methods through “acquisitive evolution” by the means of productive and transparent communication between researchers, anthropologists, political scientists, jurists, stakeholders, communities and institutions. This “intercultural dialogue” might foster better practices for heritagization regimes, and improve confidence in UNESCO’s legal instruments and its role in the daily lives of communities.

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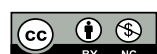
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