THAILAND

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage: Thailand’s Implementation

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A nation’s culture resides in the hearts and in the soul of its people.
Mahatma Gandhi

1. Introduction

Thailand is blessed with cultural diversity. Its cultural heritage is recognized worldwide. Kick boxing, traditional massage, and Thai food are distinctly unique to Thai culture. If Thailand remains silent on the protection of intangible cultural heritage (“ICH”), it must soon face consistent loss of its heritage through globalization. The recent trend towards uniformity is a danger to the rich, cultural diversity of mankind. Unlike tangible cultural heritage that is created during a certain period and then remains relatively static over time, ICH changes dynamically in the course of human history.

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In order to protect and preserve Thailand’s traditional culture, in 2016, the Thai government ratified the United Nations Educational and Scientific Organization (“UNESCO”) Convention for the Safeguarding of Intangible Cultural Heritage 2003 (hereinafter ICH Convention), along with 170 partner States.

2. Background

The idea of preserving culture through a legal instrument can be traced back to the 1950s. It originated exclusively in the event of an armed conflict. By the early 1970s, the international community had realized that in order to fully protect a culture, they should reach beyond tangible heritage. In 1972, the UNESCO began paying attention to ICH. At that time, Bolivia and several other States felt that the Convention concerning the Protection of World Culture and Natural Heritage of 1972 (hereinafter World Heritage Convention) was insufficient, so that they needed to create new sui generis regulatory regimes. This led to the creation of the World Heritage List subsequent to the adoption of the World Heritage Convention.

Unfortunately, little action was taken until Recommendation on the Safeguarding

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7 The incident of this action was due to the early 1970s’ Western pop musicians. They released song “El Condor Pasa,” which was soon identified as a Bolivian folk song without copyright protection. Since the record brought the author remunerative success, it was felt that some should be returned back to Bolivia. See S. Sherkin, A Historical Study on the Preparation of the 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore, available at http://www.folklife.si.edu/resources/Unesco/sherkin.htm (last visited on Oct. 1, 2016).
9 L. Lixinski, INTANGIBLE CULTURAL HERITAGE IN INTERNATIONAL LAW 18-23 (2013).