A Ética nas Políticas Públicas do Patrimônio Cultural Imaterial: Entrevista com Marc Jacobs

Ethics in Public Policies on Intangible Cultural Heritage: Interview with Marc Jacobs

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Resumo:
Desde que foi adotada (2003), a Convenção para a Salvaguarda do Patrimônio Cultural Imaterial da UNESCO continua a suscitar interrogações e a constituir um campo de negociação quanto à sua implementação nas políticas públicas do patrimônio cultural dos países que ratificaram o documento. As questões éticas estão atualmente no centro da discussão com a recente adoção de 12 princípios éticos que pretendem guiar as estratégias de salvaguarda do Patrimônio Cultural Imaterial. Nesta entrevista com Marc Jacobs, realizada durante a sua visita à Universidade de Évora (Portugal), refletimos sobre o impacto da Convenção para a Salvaguarda do Patrimônio Cultural Imaterial nas políticas nacionais, os seus problemas e oportunidades. Marc Jacobs (1963) é Professor de Estudos Críticos de Patrimônio na Vrije Universiteit Brussel. É desde 2008 diretor da Faro (Flemish Interface Centre for Cultural Heritage), uma organização belga para o setor do patrimônio cultural (material e imaterial). É desde 2014 o coordenador da UNESCO Chair em Critical Heritage Studies na Vrije Universiteit Brussel. Participou na

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² Full Professor at the University of Évora (Portugal) since 2004, where he teaches several disciplines and seminars connected with History (especially Medieval), Heritage and Museology. He is the holder of the UNESCO Chair in Intangible Heritage and Traditional Know-How: Linking Heritage of the University of Évora.

**Palavras-chave:** Convenção para a Salvaguarda do Patrimônio Cultural Imaterial da UNESCO, ética, públicas políticas do Patrimônio Cultural Imaterial, Patrimônio Cultural Imaterial

**Abstract:**
Since its adoption, UNESCO’s Convention for the Safeguarding of Intangible Cultural Heritage has evoked interrogations and constituted a field of negotiation, concerning its implementation in the cultural heritage public policies of the countries that ratified the document. Ethical issues are now at the center of discussions, after UNESCO adopted 12 ethical principles to guide strategies for the safeguarding of intangible cultural heritage. We took the opportunity of Marc Jacobs’ visit to the University of Évora (Portugal) to do this interview and discuss the impact of UNESCO’s Convention for the Safeguarding of Intangible Cultural Heritage (2003) in national policies, its problems and opportunities. Marc Jacobs (1963) is the director of FARO: Flemish Interface for Cultural Heritage (www.faronet.be) and holder of the UNESCO Chair in Critical Heritage Studies and the Safeguarding of Intangible Cultural Heritage (www.vub.ac.be). He holds a MA in History from the University of Ghent (1985) and a PhD in History from the VUB (1998). Jacobs has been involved in drafting, elaborating, implementing, and analysing the 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage since 2002. He was a member of the Belgian delegation to the Intergovernmental Committee of that Convention, from 2006 to 2008, and from 2012 to 2016. Marc Jacobs is a Professor of Critical Heritage Studies at Vrije Universiteit Brussel. Since 2008, he has been the Director of the Flemish Interface for cultural heritage (FARO), an accredited organization specialized in the safeguarding of Intangible Cultural Heritage. He participated as Belgium’s representative in drafting the Intangible Heritage Convention, in many expert groups and in the first Intergovernmental Committee of the Convention (2006-2008).
Marc Jacobs, 13 July 2016, Colégio do Espírito Santo, Universidade de Évora, Portugal

Keywords: UNESCO’s Convention for the Safeguarding of Intangible Cultural Heritage, ethics, intangible cultural heritage public policies, Intangible Cultural Heritage

Ana Carvalho – When did you start collaborating more closely with UNESCO and the Convention for the Safeguarding of Intangible Heritage (2003)?
Marc Jacobs – It began in 2001, when the discussions in UNESCO started about making the Convention, and they were looking for experts from several countries. There was a first meeting organized by Chérif Khaznadar – he was in the French UNESCO Commission – and he wanted to assemble a number of people from the Netherlands, Belgium, and France. At that time I had left the University, I had just done my PhD, and I had become director of the Flemish Centre for Popular Culture. They were looking for somebody who knew something about this strange thing called Intangible Cultural Heritage. I was there together with my French-speaking colleague Jean-Pierre Ducastelle, who is the chairperson of the Walloon organization for popular culture. From that time on, we kept on going to every expert meeting that was organized. The Flemish government and the administration, any time they had to reflect about Intangible Cultural Heritage, they sent me together with my French-speaking colleague, we had a lot of freedom to speak and to participate as experts in the discussions. They let us work in all those negotiations leading up to the Convention in 2003. In Belgium, we really stalked politicians and policy makers to quickly ratify the Convention. After that we kept going to the Intergovernmental Committee of the Convention. And especially after 2008, the policy makers started seeing the potential of the Convention, and then more diplomats and people from the administration joined our Belgian team. But, especially in the first years, we had a lot of liberty to defend the “expert” point of view; and this was supported ever since. This was interesting because we saw a lot of other delegations that, from the start, included consisted primarily of diplomats and politicians, and they were often very restricted in what they said; we could respond more quickly.

In 2003 I worked in that Flemish Centre for Popular Culture and the first thing I did when I become director was to put “popular culture” between inverted commas, because it was a politically dangerous concept – folk culture. Especially for extremist parties, this was a very hot topic. So, we had to make it more complex and make it vaguer so it could not just be used as an easy essentialist notion by populists. That’s why I really like the concept of Intangible Cultural Heritage, because populists cannot really use it, it is so intangible and vague. Eventually “Intangible Cultural Heritage” replaced the concept of “popular culture”. “Intangible Cultural Heritage” being a more neutral term, it is
Filipe Themudo Barata – We have had the Convention for 13 years now. In your opinion, what has been done right and wrong?

Marc Jacobs – I think it made sense, it still makes sense. Something I learned is that there is not something monolithic like UNESCO, but that it is an assemblage, that many different actors are co-responsible for what they are doing. In that complex setting, you can have a kind of red line and defend it, and I am quite convinced of the principles and a way that I think is consistent. If you stick to that, you can have a lot of impact and influence, and that's what I've been trying to do right from the beginning: to have a kind of – you can call it my own – agenda, which is compatible with the agenda of the Flemish policy makers, luckily, to look for consistency and coherence in your points of view: to really go for recognition of those non-elite forms of culture, which were called popular culture, that they should deserve a place and should be recognized. But also that the concept of heritage is more than monuments and landscape. That safeguarding can be interesting. And I noticed the concept of Intangible Culture Heritage/Patrimoine Culturel Immatériel – or however you translate it – is a concept that works for policy makers, it works in society, people take the concept seriously and want to think about it. So, that’s one of the things that happened.

What I like about the Convention is article 15, mentioning communities, groups, and individuals, without having a definition of any of these, especially communities and groups. That is very flexible and open, and it is empowering communities and groups. And another point, which I find is extremely important, is that it opens a possibility to organise transfers from rich countries to developing countries, to organise capacity building and transfer of funds.

Also, something that is happening now with the Convention is that there is a lot of money in the Intangible Heritage Fund. One of the things which I, and therefore Belgium, could help influence by participating in many meetings, is that, in addition to making lists and
all those other non-interesting things, at least these capacity-building programs are organized and money is flowing in that direction. Especially in Flanders, we managed to help develop a policy around safeguarding Intangible Cultural Heritage. But at the same time, ratifying the Convention helped to convince our government to invest in a UNESCO Trust Fund, and they basically donated, during the last five years 600,000 euros to invest in Southern African countries. For me, that already legitimizes all the energy that has been put into the Convention. At least, I am glad about that.

Filipe Themudo Barata – But if you could change something, what would you change in the 2003 Convention?

Marc Jacobs – In the Convention I would get rid of article 16, the Representative List of the Intangible Cultural Heritage of Humanity (hereafter referred to as the Representative List). That’s a problem. What a lot of actors, countries and experts wanted was a kind of alternative to the UNESCO World Heritage List, which was also part of the Masterpieces program. What I have been doing right from the start is trying to question the notions of masterpieces and world heritage, and to promote a register of good practices of safeguarding. There were many debates between 2001 and 2003, and afterwards. It was clear that a lot of powerful actors wanted a kind of world heritage light, but many specialists counterbalanced this view. This resulted in the Representative List: nobody really knows what “representative” means. The Representative List functions for drawing attention, but not so good for the safeguarding. I don’t believe in it because case studies about the masterpieces program demonstrate that proclaiming something as a masterpiece or putting something on the Representative List has a negative effect in many cases. If you really go and look, it has not helped the local communities. But apparently, it is something you need to do to convince the press, the media, and others.

Ana Carvalho – And you can’t go back, can you?

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3 There are now (July 2016) 337 elements inscribed in the Representative List and 43 elements inscribed in the Urgent Safeguard List. And the Register of Best Safeguarding Practices has only 12 projects.
Marc Jacobs – No. I have a twofold strategy. On the one hand, the Representative List is there. Right from the start, I said we should have a Wikipedia kind of solution, feeding and overflooding the whole system by entering thousands and thousands of phenomena, which through a peer-review process can yield a kind of encyclopaedia. There’s been a kind of discussion or game as to what criteria should be used for the Representative List, and a lot of people wanted the kind of world heritage light list: they wanted to have easy criteria to put items on that list but still enjoy all the advantages of world heritage status. And every time they wanted to make really easy criteria, then Belgium intervened and said – well, let’s go for Wikipedia instead, and let everybody join, but the group did not want to go that far. So, I will keep on repeating – let’s go for a Wikipedia list. There was a lot of resistance, but if you hear the new secretary of the Convention, Tim Curtis, he too is already sometimes evoking Wikipedia as a possible alternative in the future.

Ana Carvalho – Scotland initially had a project like Wikipedia, and then changed to another kind of platform.

Marc Jacobs – In Scotland it was Napier University: they had funding for a year, they haven’t been able to fully develop it, and do not forget, the UK has not ratified the Convention. But now Finland has launched a Wiki as their official inventory. So, I think that it is possible. I am in favor of a Representative Wiki. But if there is no Wikipedia, then, from my point of view, we should follow the rules we make together, make an agreement on the criteria. Belgium, and I am partially responsible for this, takes a very tough position, pleading for consistency: the same rules for everyone. If for instance an evaluation body concludes that a nomination file of an element of Intangible Cultural Heritage does not satisfy the criteria, then we should not put it on the list; that is fair. But this has become a minority position among the 24 countries at present (2016) in the Intergovernmental Committee. You have to follow the criteria.

4 Tim Curtis started as secretary in beginning of 2016. He has PhD in Cultural Anthropology and has worked for UNESCO since 2000. Curtis has more than 11 years in the field, first at UNESCO Office in Dar-es-Salaam (Tanzania) and then as head of UNESCO’s Cultural Unit in Bangkok (Thailand). He succeeded Cécile Duvelle who was secretary between 2008 and 2015.
Ana Carvalho - One of the aspects we are seeing in Portugal is some confusion about which Intangible Cultural Heritage can be representative, because the criteria for inscription on the lists are quite vague. How are the elements on the Representative List being selected in Belgium?

Marc Jacobs – Belgium is a complex case because we have different Communities. Each is fully autonomous and competent, and functions at the level of a nation state. We have Flanders, the Walloon part, the German-speaking part, and Brussels. Each has its own list, and each has their own strategy for implementing the 2003 Convention.

And we have different policies. Our Walloon colleagues have legislation on masterpieces, so they were very active in the period of the masterpieces program but now they have to change their legislation.

Flanders has submitted several elements to the Representative List, but now our preference is to submit files for the Register of Best Safeguarding Practices.

The German-speaking part has its own strategy. There is a file coming now on Belgium beer, that is, the art and culture of producing and consuming beer in Belgium. The file was originally sponsored by the Belgian brewers’ association. It was introduced in, via and by the German speaking community, which is a relatively small community – 60,000 people – but autonomous.

So, we have four different strategies, as Brussels is also starting with a policy.

In the beginning (2009), it was rather easy: there were no upper limits. It was easy to submit a file then, now it is much more difficult.

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5 Belgium has now (July 2016) 10 elements inscribed in the Representative List and two projects on the Register of Best Safeguarding Practices.
6 The file for the beer culture in Belgium as an element of Intangible Culture Heritage is at the moment (July 2016) under process by UNESCO for the Representative List.
There is an inventory at the Flemish level, established via a specific procedure; twice every year there is a call – who wants to present something for that list in Flanders? But if you want to apply as a community or a person, you have to connect with an official active heritage organisation – this could be a center of expertise, or a museum, or an archive. You have to team up with them and present a safeguarding plan for the next five years. And when you submit something on that list – which is now a database –, you have to submit that file with a safeguarding plan. An underlying goal is to create an inventory of safeguarding plans that are updated every five years.

Ana Carvalho – Are the safeguarding plans a set of intentions, or do they have to be already implemented?

Marc Jacobs – They have to report every year on what they have done. But until now, that’s the same in UNESCO, there are no sanctions for not submitting a report, there is a kind of moral obligation. It is easy to put something on the list, if you write a nice file and describe it, but it is a hard job to report on safeguarding results every year. But there are several interesting examples, where a very active heritage community seems to function. So, in the Flemish inventory you see the active networks emerging, and that’s what policy makers want to do.

Ana Carvalho – And where do you get the resources to draw up these safeguarding plans?

Marc Jacobs – Sometimes it is our local government that sponsors them. In the case of the Belgian beer it was the brewers, they have a lot of money. But often, when they team up with the subsidized and officially recognised heritage institutions, a lot of the work and follow-up is done there, through those brokers and mediators. In some museums, it is part of their job to take care of tangible and intangible heritage, and through that system of linking up with heritage institutions, you see outside people coming to the museum and requesting to help them.

Ana Carvalho – Who are these organizations recognised by?
Marc Jacobs – In practice, they are in most cases recognised by a local government or by the Flemish government.

Filipe Themudo Barata – So, to be included in the regional list you have to present a safeguarding plan and inscribe it on a database.

Marc Jacobs – We have two deadlines every year – May and September –, you have to fill out a form (4-5 pages: who you are, contact persons, what it is about, describe it, and what the safeguarding plan is). It is very easy. At the beginning, we started with just a list with a name of the phenomenon and place, but now the system is more developed. The procedure is as follows: the file is sent to a commission which includes experts, representatives of communities or groups with Intangible Cultural Heritage already on the list, and volunteers. They examine it and give feedback, and then they send it to the Ministry of Culture, that can officialize the decision of that commission. Then, it is put on the inventory or the list. It is sent to an NGO called Tapis Plein (Bruges), which is responsible for developing that database. Originally it was the government, but they outsourced it. They actively document changes and interesting examples. The government intervenes to officialize the inscription on the inventory but for the rest dynamics of civil society should function. For resources, we have project funding. Once you are on that list, it is much easier to get project funding. That is an incentive, but you have to do really interesting things to obtain funds. It is a mechanism designed to have many institutions (heritage organisations) involved and working, and they put pressure on each other to do a better job.

Filipe Themudo Barata – Do you think this is a fair system, at least?

Marc Jacobs – I think so.

Filipe Themudo Barata – Do you think that outside Europe it is possible to organise a system like that?
Marc Jacobs – I think you can organise it like that, and the key is updating. Is it good to inscribe an element on a list, if nobody asks questions about what happens afterwards? Recently, in the meeting in Paris (Sixth session of the General Assembly of the States Parties to the Convention for the Safeguarding of the Intangible Cultural Heritage, 30 May to 1 June), and in the Windhoek meeting (Nov-Dec. 2015), for instance, a lot of emphasis was put on updating. Because in the List of Intangible Cultural Heritage in Need of Urgent Safeguarding List, there was a file from Vietnam that wanted to be removed. The argument was that after four years of urgent safeguarding, it was time to move the file to the Representative List. They requested to set up a procedure. But there are no mechanisms to check this. There are also the periodic reports; a lot of countries are very hesitant to submit those reports. It is a kind of moral pressure on the country, but UNESCO is moving toward a new submission mode for the Lists. They could make a rule saying that, to obtain money, first you have to submit the periodic report.

Filipe Themudo Barata – What is your opinion on the UNESCO programme Human Living Treasures?

Marc Jacobs – This programme was originally sponsored mainly by South Korea and Japan. There is a very interesting article by Noriko Aikawa-Faure (2014), who is one of the protagonists behind the Convention, and who is a consultant. At this moment, she is making a very critical analysis of how this programme is used in South Korea and Japan. She cautions not to blindly follow these examples. But in a lot of countries they are examining how to do something with the notion of recognition, the apprenticeship system, and so on. I think it is a valuable formula. In Flanders, in Belgium, we managed to convince the Ministry of Culture to try to examine and set up a similar system. In September 2015, there was a big meeting organised by the French UNESCO Commission about this living human treasures programme – how it can be implemented and improved. I think there is some potential there.

The original programme sponsored by Japan and South Korea backfired, because it became a system of recognition with the main effect that the price of products by those masters skyrocketed. It became a very exclusive programme, not primarily about
transmission but about exclusiveness. A lot of countries are struggling with it. It is an interesting programme, it should not be just passively accepted but something could be done about it. There is potential, and that’s one of the challenges for the coming years, especially cultivating the connections with economy, tourism, and education. There is a lot of potential there for crafts and arts. I believe in it, but I haven’t seen a very convincing formula developed anywhere yet.

Ana Carvalho – France has the Les Maîtres d’Art (since 1994), for instance.

Marc Jacobs – There is a PhD thesis of Francesca Cominelli (2013) that analysed that programme, discovering flaws. The programme is not always used in the spirit of the Convention. Something else should be developed, I think.

Ana Carvalho – In 2015, UNESCO adopted 12 ethical principles regarding the safeguarding of Intangible Cultural Heritage. What was the motivation behind this initiative? Aren’t there ethics codes already, for each field of research? Anthropology has one, museums have another, and so on. What’s your view on this issue?

Marc Jacobs – Doing something about ethics was a question launched by a lot of countries, Belgium among them, and I was one of the people asking for that. If you look at the Museum Code of Ethics of ICOM, it is a rather unbalanced code of ethics that is not very useful for dealing with Intangible Cultural Heritage. From the anthropological point of view, I like the notion of brokerage and mediation very much. And there is no universally applicable code of ethics – anthropologists are just one of the actors.

The basic idea was to examine whether it would be sensible to make a kind of global code of ethics. Upon reflection, it was said that it was not a good idea, because it is impossible to apply something to the whole world. The solution was to adopt two options. On the one hand, there was the solution of the “12 principles”: basically that’s an exercise in rephrasing or formulating the spirit of the Convention, what the Convention is about, in different words. If you look at the 12 principles, these are very general ideas, but the main characteristic is that, if you put them all together, they
occupy only a (few) page(s), which you can translate and distribute all over the world. The document of the 12 principles has a chance of being seen by many eyes and of explaining what the Convention is all about – and that’s already sufficient.

There are some new concepts that have been introduced, one could even say, smuggled, or injected into the 12 principles, which are interesting and new, because they add something to the vocabulary. One of the things is that, instead of “prior and informed consent” there is now “prior and sustained informed consent” (principle n.º 4). This sensitizes for feedback and follow up. Prior and informed consent is one of the criteria for the Representative List – and for the other list too. But by using the word “sustained”, one could, for instance, emphasize that every five years you have to check whether there is still consent within the community.

Ana Carvalho – But that can still be manipulated.

Marc Jacobs – Yes, but at least the word “sustained” is there to be activated, to be mobilized, so there can be a periodic check or follow-up of the consent.

There is another concept – “access and benefit sharing” – which is important in the Diversity Convention, that was introduced or smuggled into one of the 12 principles, opening new doors. It is also there in the UNESCO official document, so it can be used, just like in the texts of the Convention on Biodiversity. And next to promoting the 12 Principles, UNESCO will set up a database on their website with all kinds of ethics tools, e.g. forms and professional codes. UNESCO has to involve accredited NGOs in building up that database. That’s another example of innovation.

Ana Carvalho – The notion of “community” has created several misunderstandings. If I understood well, you prefer the notion of “heritage community” in the Faro Convention (Council of Europe, 2005), which says: “a heritage community consists of people who value specific aspects of cultural heritage which they wish, within the framework of public action, to sustain and transmit to future generations”. Could you explain your perspective regarding this notion?
Marc Jacobs – On the one hand, it is also a very open and constructivist definition. If you see how heritage community is defined in the Faro Convention, you don’t have to be the owner of the heritage, so it can be anyone that has a special interest in it and wants to go for public action around that heritage. On the other hand, I see “heritage community” as a network of actors around heritage – and these could be private persons, they could be museums or other organisations. Basically, we are thinking in terms of networks and not just in terms of a village community, a small, supposedly closed or homogeneous group. By using the word “network”, you can move it to include also experts, centres of expertise and so on. That is how it is used in decrees in Flanders.

Ana Carvalho – So, Belgium uses and adapts the concept but hasn’t ratified the Faro Convention.

Marc Jacobs – Absolutely. Our legislation contains the definition of “heritage community” that we copied from the Faro Convention, but we adapted the definition by adding “organisations”. Personally, I think that by having persons and organizations we can get that network idea – the word “organisation” was smuggled or injected or grafted into that definition. By adding this you can have a whole network structure, and it completely changes the way we can work with this. The advantage of the Convention of Faro is that it is the only European Convention that actually recognizes Intangible Cultural Heritage. So, it is our Trojan horse in the heritage field in Europe, to have Intangible Cultural Heritage included. I like most of what is written in the Convention of Faro, I only have problems with the notion of European heritage as an essence, I don’t believe in that construction.

Filipe Themudo Barata – Which construction do you believe in?

Marc Jacobs – If there are actors with enough energy and plans to call something “heritage” and develop a heritage program, then it is heritage. If you freeze or reify it, if you essentialise it, then it becomes very dangerous. That is also how I think about popular culture. In a network, you have to make it so that no one can possess it, so that
it is all over the place: a lot of energy but nobody can control it. It is always a process of finding consensus or a power play, but at least it is something that can change over and over again. That’s what heritage, or a tradition, is. That’s why I like the 2003 Convention – what communities, groups and individuals think is their heritage and the way they manage to convince other people. It is a very relativistic approach.

Ana Carvalho – You are the holder of the UNESCO Chair in Critical Heritage Studies and the Safeguarding of Intangible Cultural Heritage at Vrije Universiteit Brussel. What are your main goals for the near future?

Marc Jacobs – On the one hand, I want to work on the topic of sustainable development, the new chapter VI in the operational directives of the 2003 Convention on sustainable development and hence about 2030 Agenda of the UN. For instance, the role that safeguarding Intangible Cultural Heritage can play for peace processes – let’s take this seriously and find ways to make it work to reflect on how this could happen. And also, I want to organise a number of seminars, meetings, and publications around this.

On the other hand, in Belgium, or in Flanders, I want to develop more research and help a number of people who are starting their PhDs, to build up some research capacity in order to help reflection.

Another goal is to find some international networks of exchange and do projects together. In the coming years, there are several new chairs that are already emerging, one in Turkey, one in Latvia (Anita Vaivade, she is a very strong legal scholar but with great ambition and I really believe in what she is doing). In the Netherlands there will be perhaps one, and there are several others. If these plans work out, we will have about ten chairs, and it will be a good way to work together. I also think connections can be made with the UNESCO Secretariat, to see what can be done together. For instance, the UNESCO Secretariat wants to set up a worldwide monitoring programme on the impact of the Convention. They want to develop a kind of monitoring system over national committees – they will implement this programme in the coming years. I think the Chairs could play a role in this case, to actually follow it up or make it happen. There
are several possibilities, and it is always a challenge to see how independent your work can be, and how critically you can work from the UNESCO point of view. I was actively involved in the intergovernmental committee of the Convention until last June. From now on I will just be observing, and that’s something I look forward to.

References


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Caption

Marc Jacobs, 13 July 2016
Colégio do Espírito Santo, Universidade de Évora, Portugal
Photo by Ana Carvalho