

# The Government of Canada and Intangible Cultural Heritage An Excursion into Federal Domestic Policies and the UNESCO Intangible Cultural Heritage Convention

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Article abstract

Over the past twenty years, what constitutes a culture's heritage has been debated amongst those responsible for governmental policies, as well as the constituents that governments serve. While heritage has often focused on tangible items – architecture and the material world – recent policies have broadened the focus to include the intangible: knowledge, ideas, performances, beliefs handed down for generations. Many national and international agencies – lead by UNESCO – now have policies and programs that deal with intangible cultural heritage (ICH). Within the Canadian context, the federal government has had differing interpretations of the importance of this type of heritage. Most recently, in spite of initial involvement in its drafting, the Department of Canadian Heritage has decided not to support UNESCO's new international ICH Convention, which went into force in April, 2006, and now includes more than 160 countries that have ratified it. Historically, provincial governments and NGOs across Canada have been more involved with ICH, and it is here that the most recent initiatives are occurring. The changing stance of the Department of Canadian Heritage on this topic may well be related to specific figures involved, unspoken fears of legal repercussions, and the lobbying of special interest heritage groups.

# THE GOVERNMENT OF CANADA AND INTANGIBLE CULTURAL HERITAGE

*An Excursion into Federal Domestic Policies and the UNESCO Intangible Cultural Heritage Convention*

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As a North American folklorist, I had watched the gradual emergence of what has come to be called Public Sector folklore south of the border in the United States. By 1976, federal legislation in that country had created an American Folklife Center within the Library of Congress; the National Endowment for the Humanities had initiated various folk arts initiatives, and soon to follow was the appearance of numerous State folklorists. Both federal and state levels of government in the United States, then, had become directly engaged in the public sector world of folklore—or what UNESCO would later re-label as intangible cultural heritage (ICH).

In Canada, the scene remained different. For many years, neither federal nor provincial levels of jurisdiction had systematic policies relating to ICH. At times, there have been indications that the federal government planned to formulate more coherent policies. At roughly the same time, UNESCO was drafting its Convention on Intangible Cultural Heritage, and it seemed this ongoing initiative on ICH by UNESCO was impacting the work of Canadian federal departments directly involved with heritage. Federal interest wavered, however, and after several hopeful signs that the Government of Canada would create an overall coherent and coordinated ICH policy, support for such an initiative—and the UNESCO Convention itself—has quickly faded. The Government of Canada—the Department of Canadian Heritage specifically—argued otherwise, maintaining it strongly supports ICH, but I maintain that there is little coherent overall federal policy in this area. This essay discusses the changing shifts of interest in ICH policy formation (primarily by the Department of Canadian Heritage), the involvement of the Canadian Commission for UNESCO (CCU),

and a series of initiatives that attempted to further ICH activities in the federal domain.

From 2000 until 2010, I was directly involved with advising about ICH on the federal level; this essay, then, is a personal history of that involvement in ICH work during this period. The opinions and interpretations do not reflect organizations I have been affiliated with (such as the CCU); rather, they are strictly mine. In many instances, I would have liked more details, more explanations, about many of the policy decisions I was interested in chronicling, especially from the Department of Canadian Heritage. But I learned quickly that in the world of government public policy, information is often at a minimum; unfortunately, then, I can only speculate with the sometimes limited information I have been given.

### **Canadian Heritage and the Federal Government**

To understand the current state of ICH policy within the Government of Canada, one must begin with the origins and makeup of the Department of Canadian Heritage. In 1995, the Canadian Heritage Act was passed, establishing a new federal Department that gathered a number of existing federal programs and divisions together. I cannot say why the rubric Canadian Heritage was chosen. One source posited that it was simply a translation by the Chretien government of the widely used term in Québec of “patrimoine.” Another rationale was that it borrowed from the British model of the 1990s, an organizational framework in national government that included a Ministry of Heritage.

So what did this new Department of Canadian Heritage include? The Canadian Heritage Act brought together the following existing programs (although it carefully noted it was not limited to just these domains): (a) the promotion of a greater understanding of human rights, fundamental freedoms and related values; (b) multiculturalism; (c) the arts, including cultural aspects of the status of the artist; (d) cultural heritage and industries, including performing arts, visual and audio-visual arts, publishing, sound recording, film, video and literature; (e) national parks, national historic sites, historic canals, national battlefields, national marine conservation areas, heritage railway stations and federal heritage buildings; (f) the encouragement, promotion and development of amateur sport; (g) the advancement of the equality of status and use of English and French and the enhancement and development of the English and French linguistic minority communities in Canada; (h) state ceremonial and Canadian symbols; (i) broadcasting, except in respect of spectrum

management and the technical aspects of broadcasting; (j) the formulation of cultural policy, including the formulation of cultural policy as it relates to foreign investment and copyright; (k) the conservation, exportation and importation of cultural property; and (l) national museums, archives and libraries (Canada, 1995). So what we have here was a consolidation of what federal bureaucrats thought of as culture, namely: sport, broadcasting (the CRTC), the elite arts (the Canada Council), Parks Canada (historic sites, national parks), the publishing industry, multiculturalism, the official languages programs.

The federal government gathered very specific programs together to form this new Department. Whatever the reasons for calling all these domains heritage, there was one clear impact in its adoption. The term heritage had an emerging popular usage, and covered a variety of items for different groups and communities. But popular usage made likely the possibility that the Department should be responsible for all types of heritage, even if an emergent form (such as ICH) did not have a home in one of those ongoing programs. If a Department was responsible for Canadian heritage, then it should include whatever ordinary Canadians believed was covered by the term heritage.

The emergence of the concept of ICH has been dealt with in other contexts (Seitel, 2002). Some of the early work of the Department of Canadian Heritage involved UNESCO's policies that fell under the earlier rubric of "folklore." It was through this early UNESCO work in folklore that Canadian Heritage first became aware of this particular kind of cultural expression, a form they would have to pay increasing attention to, once re-labeled under UNESCO's heritage world. But first, UNESCO, folklore, and Canadian Heritage.

### **Domestic Policy and ICH**

Sometime in the spring of 1998, the Minister of the new Department of Canadian Heritage, Sheila Copps, had received a letter of complaint from an NGO that the Government of Canada was not living up to a UNESCO document that it had signed several years before, the 1989 "Recommendation on the Safeguarding of Traditional Culture and Folklore." Through several unofficial sources, I was brought to believe that the complaining group was Folklore Canada International, an umbrella agency for performing folk arts groups across the country. Copps needed to respond to these accusations, and turned to the Policy Branch of Canadian Heritage for answers. Given the nature of the divisions that made up

Canadian Heritage, there obviously was no one who knew about folklore; it was largely an unknown field of interest within that Department. But the fact that the Department was supposed to be involved with all heritage, and that it had connections with previous UNESCO work with the World Heritage Convention, made it the obvious place to refer a complaint.

In late January 1998, I got a call from Catherine Spencer-Ross who was Head of the Policy Division in the Department of Canadian Heritage. I had received a contract in 1996 from the Historic Sites and Monuments Board of Canada (a division of Canadian Heritage) to research Seal Cove, a fishing community on Grand Manan Island, New Brunswick and prepared a background paper for its nomination as a national historic site. I was chosen for this HSMB contract, I suspect, partly because Robert Hunter (who worked for the Board) knew that I had researched fisheries architecture. But HSMB staff were not just interested in the buildings but in the textures of the site itself and the knowledge demonstrated by fishers who used it. The Board knew that as a folklorist, I would be attentive to a wider range of materials other than just the buildings. I suspect that when the Policy Branch was approached about the issue of folklore in 1998, I was one of the few professional folklorists that the Department of Canadian Heritage knew, and, as a folklorist, I should know something about this field.

Spencer-Ross explained that they needed a background paper prepared on what the Government of Canada had done to support the type of programs mentioned in the 1989 UNESCO declaration in order to answer the complaint they had received. During our phone conversation, it was clear, first, that Spencer-Ross and her Department knew almost nothing about professional folklore/ethnology activity in Canada. She had never heard of the large folklore graduate programs at Université Laval and Memorial University—both in existence for thirty or so years. I mentioned a number of folklore projects, publications, and professional organizations, none of which she knew. She was actually quite excited to hear about all this extensive work, and was eager to learn more. I was not surprised at the lack of knowledge of folklore activities by Canadian Heritage, since much of the work of the Department was either on buildings and artifacts (the work of Parks Canada), elite arts (the work of market-driven professionals), or commercial (broadcasting, publishing). While Canadian Heritage would consult with a particular professional community on certain topics (with architectural historians, for example, or performing artists), there had never been any extensive contact with professional folklorists, nor were there any on staff with training and a background in this field. The complaint

relating to UNESCO's 1989 Recommendation had, finally, forced Canadian Heritage to at least begin to deal with professional folklorists.

I agreed to write the report. The contract (dated February 6, 1998) reflected our conversations: "Prepare a report on the history and current status of academic preservation and study of folklore in Canada. The report will deal with how academics have dealt with the various issues outlined under the UNESCO declaration of 1989: conservation; preservation; dissemination; protection. The contractor will also discuss relevant work in other countries, and make suggestions as to what the Federal Government might do to enhance its work." I was faxed the 1989 UNESCO Recommendation on the Safeguarding of Folklore, to familiarize myself with the policy document I knew little about. Ten years before, in fact, Lauri Honko's essay about the UNESCO Recommendation, and the drafting process, was reprinted in Canada's national folklore journal, but the article and the recommendation remained little known in 1998 by myself, and, I suspect, the Canadian academic folklore community at large (Honko, 1990).

In preparing the report, I spent time listing the various activities that the Government of Canada had funded over the years. In retrospect, I prepared a report that in great detail exonerated the federal government from any blame of not doing anything. My report listed the activities of numerous professional folklorists based largely at Universities—all forms of work that had nothing to do with any coordinated federal policy, certainly not Canadian Heritage policy. Only by coincidence and happenstance had anything about folklore occurred. Yet, my report gave the Minister a long list of initiatives that the government could take credit for. I had done something that the Government of Canada recently did to me (discussed below), and that is, simply produced a long list of programs that somehow—directly or indirectly—had received federal support. The Department could thus claim that the file of folklore was well in hand.

At this stage, I felt I was not letting the Department of Canadian Heritage off the hook, but rather engaging in a dialog that could lead to formulating a folklore policy. In the various conversations I had with Spencer-Ross, there was a clear sense that this was an area that the Department was genuinely interested in, but recognized that it knew little about. For the Policy Branch, my report would be a learning experience, as much background material that could be used by the Minister to begin new policies and programs in this area. We talked several times over the phone about folklore work across Canada, and Spencer-Ross was clearly

concerned with learning as much as possible. My report for Canadian Heritage was finished by March 1, 1998, but Spencer-Ross said that this would be the beginning of her Department's trying to deal with an issue clearly overlooked and in need of attention.

In early September 1998, Spencer-Ross contacted me while on holidays; she wanted to organize a policy session with folklore experts from across the country. Her fax of September 8, 1998 stated: "...I am arranging a one-day (or day and one half) session with representatives from the folklore field to provided [sic] input to the department to help us better recommend a policy position on the issue to the Minister. So I am a) wondering if you would be interested in participating, based on your expertise and your input in the form of the report you did for us last spring, and b) if you could suggest some names of possible participants. We are looking at 20-25 people, individuals who would be able to address the issue from a policy perspective. That is to say, such and such dance group leader may not be our best candidate, while an academic or folklorist who has dealt with a number of issues might be more appropriate. We have tentatively selected December 5-6 1998 for the session." When I returned to St. John's, I faxed Spencer-Ross (on September 13) a list of thirteen Canadian professional folklorists who could participate, as well as suggestions for representatives from other government agencies. We talked again on September 28, with Spencer-Ross wanting to know about work in other countries, and people she might speak with. Following this discussion, I faxed her contact information for Barbara Kirshenblatt-Gimblett (a Canadian folklorist working in New York City), and David Taylor (who had studied in Newfoundland, and was now working at the American Folklife Center at the Library of Congress). I also faxed the introduction to a folklife study that had recently been completed in Australia, to give an indication of broad policy recommendations made there (Anderson, Davey and McKenry, 1987). That was the last I heard from Spencer-Ross; the meeting for December 1998, was never held. In a recent email, Spencer-Ross said she could not recall why. By 2000, she had left the Policy Branch. Things seemed to be at a standstill.

While I heard nothing more from the Department of Canadian Heritage, I had given copies of my report to several of my colleagues. Eventually, in the fall of 2000, I was contacted by Pauline Greenhill, Associate Editor of *Ethnologies*, who was interested in publishing the report. I advised her to contact the Policy Branch of Canadian Heritage about this. Spencer-Ross had moved to another section by then, and Greenhill spoke with Charles-Henri Roy, who was now Senior Policy Analyst with

the Branch. Roy gave approval for the report to be published, and advised Greenhill that I should contact him about specific details. While granting permission to publish, he noted that the Department received the report “on a policy advice basis,” the recommendations in the report were mine, and that “the report and its recommendations will not necessarily be converted to policy or ministerial initiatives.” (Email 16 October 2000). While the report was published with an additional introduction and afterward, I had assumed it had little influence on Departmental policy or direction (Pocius, 2000, 2001).

By 2001, Charles Henri Roy had moved to the International Relations section of Canadian Heritage, and Louise Guertin had become the Director of the Policy Branch. In June 2001, Canadian Heritage had decided to formulate a new national heritage policy, and to begin a series of consultations across the country to gauge what directions Canadians felt was important. The Department formed what was to be called the Heritage Advisory Group (HAG), a small number of experts from various federal and provincial agencies, and NGOs from across the country working in the heritage sector. This group was organized by Canadian Heritage, under the direction of Eileen Sarkar, Assistant Deputy Minister, Arts and Heritage Sector. She would co-chair the group’s meetings, along with Ian Wilson, National Archivist of Canada at the time. The role of this HAG was to advise on the findings of a series of regional heritage roundtable consultations (in Halifax, Montreal, Toronto, Winnipeg, Edmonton and Vancouver), point out particular needs in heritage policy, identify important contributions, and support policy directions.

I received a call from Sarkar’s office in May 2001, about being part of this initiative, and I agreed. The group was small (17 members), and I was the only university teacher on it.<sup>1</sup> As these meetings began, I was somewhat puzzled as to why I had been asked to join—especially since Newfoundland and Labrador was already represented by our provincial archivist. We had

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1. The members of this Heritage Advisory Group were: Co-Chairs: Eileen Sarkar, Assistant Deputy Minister, Arts and Heritage, Canadian Heritage; Ian Wilson, National Archives of Canada; Members: Kate Davis, Canadian Art Museums Directors organization; Bryan Davies, Royal Bank of Canada; Shelly Smith, Provincial Archives of Newfoundland and Labrador; Wendy Newman, Brantford Public Library; Martin Segger, Maltwood Art Museum and Gallery; William Byrne, Government of Alberta; Brian Anthony, Heritage Canada Foundation; Deborah Morrison, Historica Foundation, Linda Pelly-Landrie, Saskatchewan Indian Cultural Centre; Francine Broisseau, Canadian Museums Association; Claude Bonnelly, Chief Librarian, Université Laval; Robert Spickler, Centre canadien d’architecture.



our first meeting on June 18, 2001, the next on November 29, 2001, both discussing what we believed new policy should focus on. It was at the November meeting that Louise Guertin informally mentioned that I had been added to the Advisory Group because of my expertise in folklore, or, intangible cultural heritage as it was now called—the term UNESCO had introduced to replace folklore. My role was to promote ICH in the new policy.

The Policy Branch of Canadian Heritage obviously had begun, again, to give attention to the ICH file, using this new terminology that made it a part of any heritage mandate. While being appointed to the HAG to be a voice for ICH, I was soon asked by Canadian Heritage to represent Canada at an international UNESCO meeting of ICH experts at Rio (more on this below). This meeting was held 22-24 January 2002; soon after my return, I was contacted (February 13, 2002) by Robin Grabell of Canadian Heritage. He advised me that the Policy Section was planning a special brainstorming session on ICH. The findings for that session would be consulted so as to better include ICH policies/programs in the domestic heritage policy draft that the Heritage Advisory Group was working on, a draft policy they hoped to be completed by March 1<sup>st</sup>. I was asked by Grabell if I could prepare an issues paper for that brainstorming session. I realized that I had little more than two weeks to prepare that paper, and that I would be away for part of that time on a research project. After much deliberation and hesitation, however, I agreed to prepare the report (Pocius, 2002). The ICH file was thus moving, so I thought, on the domestic level—soon to appear in the new domestic policy document that the HAG would complete by the end of March.

On March 4, 2002, I attended a meeting of the CCU in Ottawa, where I reported on my Rio work. At that meeting, Charles Henri-Roy (who represented the Government of Canada at CCU meetings) commented to me over lunch that everything on the ICH file was happening at once; clearly Canadian Heritage was working both domestically and internationally to develop Canadian ICH policy.

I spoke to CCU on Monday, and flew back to Ottawa the following Friday, March 8, for our two-day brainstorming session. The discussion was facilitated by Jeff Carruthers, a former Federal Assistant Deputy Minister of Energy, and chaired by Louise Guertin. There were twelve of us at the meeting (six from Canadian Heritage), and the paper I had been contracted to prepare gave us parameters to use in charting possible options for federal

policy.<sup>2</sup> At the outset of the meeting, it was suggested by Canadian Heritage that we divide our time into two parts, the first day on general ICH issues, the second morning on First Nations ICH. Several of us maintained that ICH covered all Canadians, however, and pointed out that ICH policies in other countries attempted to uniformly cover all groups. We did end up discussing special problems for First Nations ICH, but it was clear that we framed most of our findings in terms of all Canadians—no matter what their origins. In retrospect, I believe this request for two separate sections might have reflected a split within Canadian Heritage on what ICH policy should cover.

At the end of the two days, we came up with a short-, medium-, and long-term strategy for ICH work within Canada. We proposed the establishment of a federal centre, composed initially of a small central office with an Internet-based network of partnerships with other stakeholders. At the end of the second day, one of the participants wrote an outline of our framework strategy, which we all took home:

### **Heritage Policy Framework**

#### Program for the Preservation of Canadian Intangible Heritage

##### VISION

To seek out, preserve and encourage the transmission of Canadian intangible heritage which, although it has no physical form is nonetheless a vital link from generation to generation that defines who we are as Canadians

##### MISSION

- i) Definition      - What it is
- ii) Importance    - Why it is important (What it does for Canadian identity)
- iii) Benefits      - What results will be achieved
- iv) Potential loss - Impoverishment of Canadian culture
- v) Urgency        - Why action is needed now

(in the right margin of the above list was written “To be flushed out”)

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2. Those at the meeting were representatives from the Policy Branch of Canadian Heritage: Louise Guertin, (Director General), Ronal Bourgeois, Robin Grabell, Kathy Zedde; others were: Joanne Wilkinson, Identity Sector, Canadian Heritage; Ian Hodkinson, Consultant; Pat McCormack, University of Alberta and Provincial Museum of Alberta; Graeme Page, Consultant; Sheldon Posen, Canadian Museum of Civilisation; Linda Street, Canadian Conservation Institute, Canadian Heritage; Jeff Carruthers, Facilitator.

## ACTION PLAN

1. Develop a vision statement
2. Develop a mission statement
3. Establish the CCIH (Canadian Centre for Intangible Heritage)
  - composed of      -initially a small central office
  - with                -an internet-based network
  - of                    -Partnerships with other stakeholders
  - who are            -i) communities (i.e., the originators/custodians/users of IH)
  - ii) museums and universities (i.e., researchers/collectors of documented IH)
  - iii) Provinces - Depts of Heritage
4. Short Term Goals (one to two years)
  - i) Identify contacts in communities/museums/universities (etc.)
  - ii) identify            -IH about to be lost
  - IH at risk (Inventories needed)
  - living, vibrant IH
  - iii) Review and adopt a Canadian Code of Ethics for IH preservation
  - iv) set standards for documentation methods, collecting formats, usage, etc.
5. Medium Terms Goals (2-4 years) (expand CCIH)
  - i) Begin documentation and establish database and registry (at least duplicate copies)
  - ii) Develop and begin transmission strategies
  - iii) Develop and begin educational and research strategies
6. Long Term Goals
  - i) Review and refine philosophy of the mission and strategies
  - ii) Continue and intensify documentation and transmission strategies
  - iii) Continue and promote education and research

This was our plan. In the discussions that took place, a concern of using the term “intangible heritage” was raised, given how problematic it might be for the general public. We agreed that “Living Traditions” was more

user friendly, and that the CCIH should be called, instead, the Canadian Centre for Living Traditions. In trying to define intangible heritage for the public, a working definition that seemed appropriate was “the way we in communities or groups do things, drawing on our collective past.” At the end of our second day, our group was excited about the possibilities that lay ahead. For me, it was a culmination of several years of advising Canadian Heritage on ICH matters.

In the previous ten months, then, I had been working with the Heritage Advisory Group to include ICH in the Department of Canadian Heritage’s new heritage policy. And the Department had organized and funded a special two-day consultation on ICH, to arrive at specifics that could be included in the upcoming heritage policy proposal. In many ways, this 2001-2002 period was the highpoint in the Department of Canadian Heritage’s interest in finally developing a coherent national policy on incorporating intangible cultural heritage. Such an overall policy would bring Canada into step with international policies of UNESCO, and parallel the systematic national programs found in other countries, such as the United States or Scandinavia. At the next meeting of the Heritage Advisory Group, the draft of the new Canadian Heritage policy would be presented which, I believed, would include at least some of our recommendations from this brainstorming session that had just finished. Three weeks after this session, the Heritage Advisory Group convened outside Ottawa to be presented with the overall draft of the new Heritage policy that—after consultation with us and revisions—would be put forward to the federal Cabinet. But something had happened.

### **The Collapse of the ICH Policy Initiative**

The work of the Heritage Advisory Group was coming to an end. One more meeting was planned, where we would be presented with a draft outline of what was going to be proposed as a new heritage plan. Our final meeting was held on March 27, 2002, in Gatineau, outside Ottawa. After the ICH brainstorming meeting on March 8, I continued to send Louise Guertin additional material that I had mentioned at that session. On March 13, Guertin replied that because of her heavy schedule, she did not have time to read what I had sent. She reported, however that “We have had opportunities to discuss Intangible Heritage earlier this week and again tomorrow with colleagues in the Department. The discussion last week and the information you have provided us is very helpful. I believe we are making progress.” (Email 13 March 2002).

When the meeting of the Heritage Advisory Group commenced on March 27, we were told that Guertin was no longer handling the draft heritage policy file, but she was now working on the new federal building inventory program, the Historic Places Initiative. Lyn Elliot Sherwood, another Canadian Heritage official who had worked on web-based projects, was put in charge of the policy document the HAG was working on, and she presented it to our group. Sherwood went through a PowerPoint presentation of what the proposed revised heritage policy would look like; there was passing mention of the need to pay attention to the “stories” of Canadians—usually relating to objects. Under a section called “Discovering and Enriching the Legacy,” under initiatives listed as “later” was “IH Phase I,” and attached to this were aboriginal languages. Those were the only references to ICH in the new policy outline.

In this draft policy presented to us, absolutely nothing reflecting the background IH paper, nor the two days of discussion that took place in Ottawa on March 8<sup>th</sup>. I had been told earlier by one Canadian Heritage official that Sherwood was not extensively familiar with the ICH file; she certainly had not participated in the extensive discussions in our brainstorming sessions, although one can only assume she was briefed on the results. Over lunch at this March 27<sup>th</sup> HAG meeting, a representative from one of the NGOs working with the Historic Places Initiative remarked to me that federal involvement with ICH was a waste of time; as he put it, dealing with ICH was like “writing on water”—it could not be done.

In a short span of three weeks, then, little about ICH made it into the outline policy plan, after having been one of the targeted areas for new policy for a year or more. Someone had changed the course. After that meeting in March, members of the HAG received thank-you letters (August 7), were told “we will keep you informed of future progress and developments,” but, finally, I heard nothing—even though I had sent several emails asking about the status of the draft policy.

The Association of Heritage Industries was holding its annual meeting in St. John’s in September 2002, and had asked me if I would speak about ICH. In preparation for this meeting, I contacted Lyn Elliott Sherwood about whether I might discuss the broad policy suggestions that were outlined in the Heritage Advisory Group’s final meeting, as well as the points from the ICH brainstorming session. She replied that I should not reveal what we had discussed, because the final form of the document to be brought to cabinet had not been approved. Given what I heard at the final HAG meeting on draft policy, I asked about what specifically Canadian

Heritage planned to do on ICH, positing three different positions: “(1) that IH had not yet been incorporated into policy planning (2) that IH was assumed by the Federal Government to be largely in the realm of native peoples (3) that IH was a problematic issue that would not be dealt with in short term policy/programs.” Sherwood replied (email 12 August 2002) that none of these summarized her March 27<sup>th</sup> presentation. Instead, she stated: “IH is important; it’s also a challenge to define the right approach in a Canadian context and for the Government of Canada in an area where many stakeholders have responsibilities.” She went on, “defining appropriate federal roles is an important aspect of this policy development exercise...Acknowledging challenges should not be construed as an unwillingness to act.” A further email exchange (15 August 2002) led Sherwood to comment: “If you do get a question about possible [federal ICH] initiatives, it seems to me that you could turn the question back to other participants...As individual suggestions are made, a test question is what is the rationale for this action being undertaken by the Government of Canada and not other levels of government or individual affinity groups?” This was an argument for federal inactivity I had heard before. Why should the Government of Canada be involved in issues of culture, since culture is a provincial responsibility? However, in other contexts, several federal officials pointed out that, in fact, culture is a shared responsibility. Clearly, the reality was we had a Department of Canadian Heritage that took the lead in issues of provincial concern. There was no problem, for example, with the Historic Places Initiative, a federal program that established guidelines and standards for provincial building inventories and designations. With regard to ICH, then, the initiatives I had thought were developing on the domestic scene were now sidetracked, not on the radar anymore, no longer a priority. It seemed, in short, that ICH would not be a part of any new overall domestic heritage policy document drawn up by the Department of Canadian Heritage.

### **Canadian Heritage and the UNESCO Convention**

But what was happening with the UNESCO Convention? As discussions were going on with Canadian Heritage about domestic ICH initiatives, the emerging ICH Convention was often in the background; it certainly was during the March brainstorming session, and the issues paper I prepared drew on documents that were being used in the preparation of the convention. But, even before this 2002 brainstorming session, the Policy Branch of Canadian Heritage (under Louise Guertin) had felt it

important that her Department should become engaged in the drafting process of UNESCO's ICH Convention.

UNESCO had organized a series of meetings dealing with ICH going back to 1999, and Canada does not seem to have been an active participant. I am not sure if anyone representing the Government of Canada attended the 1999 meeting at the Smithsonian that was devoted to assessing the 1989 UNESCO Recommendation on Safeguarding Folklore. Canada, certainly, was not one of the 103 nations that responded to the questionnaire about the application of the recommendation that was circulated to all national UNESCO Commissions before that meeting (Kurin, 2001: 21). Another questionnaire was sent out to UNESCO National Commissions in February and August 2000, and Canada, again, did not respond to (UNESCO, 2002a). Canadians did not attend the Roundtable held in Turin, Italy, in March 2001, a meeting that provided working definitions for the term intangible cultural heritage.

For whatever reasons, the Department, by late 2001, felt that it should become more involved with ICH both internally and through the emerging UNESCO Convention. In the fall of 2001, I suspect the Government of Canada was approached by UNESCO Paris to send a representative to an upcoming drafting meeting of "experts" to be held in Rio. Protocol dictates that this request be passed onto the section of Canadian Heritage that deals with International Relations—the section where Charles-Henri Roy was now working. Rather than ignore this type of request yet again, the Department clearly wanted to actively participate in shaping UNESCO's emerging policy. I suspect Roy discussed this with Louise Guertin, and given my previous work for the Department with the 1998 UNESCO folklore report, as well as my involvement at the time with the Heritage Advisory Group, they decided to have me act as Canada's representative at the upcoming Rio meeting. Although work on the UNESCO Convention had been proceeding for at least a year, this would be the first time Canada chose to send an external expert (not just a member of Government) representative to a UNESCO ICH meeting. With this experience in Rio, I was appointed to the Sectoral Commission of the CCU, a position from which I could continue to advise both CCU and Canadian Heritage on ICH matters.

On the international front, after the 2002 Rio meeting, the draft ICH Convention was next discussed at a series of Intergovernmental Experts meetings. In 2002, four meetings on the convention were held in Paris following the Rio meeting (19-21 March; 10-12 June; 13-15 June; 23-27

September). A draft of the convention was ready on July 26, 2002, discussed at the September meeting. Canada did not attend all these meetings, and those that Canada did attend were represented by CCU, Canadian Heritage and Foreign Affairs officials—but no expert folklorists/ethnologists. These meetings were to arrive at the final legal draft.

While intergovernmental drafting meetings at UNESCO usually consisted of representatives from governmental agencies who were handling the file, it was often the case that experts from NGOs would be asked to accompany officials as well. This is what Canada had done with the drafting Convention on Underwater Heritage; it sent both Government of Canada officials, and experts working outside government institutions. However, in terms of the drafting of the ICH Convention, from March 2002, no consultation with folklore experts outside Government seemed to occur.

Contrast the Canadian process with that of the United States, who still had only observer status at the UNESCO meetings before 2003. The Americans had been sending experts to ICH meetings to accompany government officials. James Early attended the Turin meeting on terminology, as did Peter Seitel, one of the key figures in shaping the definitions that were used in the Convention. Richard Kurin attended a number of UNESCO meetings, as well; all three were from the Smithsonian Institution.

Mathias Bizimana, the Officer at CCU in charge of Culture, contacted me in September 2002, hoping to set up a series of consultations on possibly nominating a candidate for the UNESCO Masterpieces of Oral and Intangible Heritage of Humanity. I suspect he believed that Canadian Heritage support for the Convention was wavering. His plan was to have a series of meetings set up initially across Atlantic Canada, to consult about possible candidates, but, as important, to brief local NGOs about the ICH Convention. In such a way, appropriate NGOs might convince Canadian Heritage as to the importance of adopting the Convention once a vote would occur. These consultative meetings were not held, likely because of fiscal constraints.

At a meeting of the CCU in Ottawa on December 9, 2002, a discussion was held on the preliminary draft document on the ICH Convention. Charles-Henri Roy reported that the Department of Canadian Heritage continued to consult within the Department about this file, as well as with other federal government agencies. Roy expressed the Department's opinion that the drafting process was not being given enough time, and



that if the Government of Canada was to support the Convention, it would have to contain broad policies and programs that would benefit all people. Bizimana included on the meeting agenda a preliminary discussion of the possible presentation of a candidate by Canada for UNESCO's Masterpieces program, the next designations coming in 2005. Bizimana likely felt that Canadian Heritage support for the Convention could not be counted on, that a Masterpiece nomination might build support, but, finally, that an important step would be to bring together a number of ICH experts to lobby Canadian Heritage for support.

Bizimana contacted me several times in January 2003, in order to provide him with suggested participants for a special meeting of the CCU. "Consultation on Intangible Cultural Heritage in Canada," was held on March 29, 2003, with forty-five participants from across the country convening at CCU in Ottawa. The meeting began with a brief summary given by Charles-Henri Roy of the activities of UNESCO since the 1989 Safeguarding of Folklore Recommendation, putting the current ICH Convention into context. Little else was said by Roy and Robin Grabell, obviously not to commit the federal Department to any particular course of action. Further on in the consultation, Bizimana showcased UNESCO's Masterpieces program, and possible Canadian involvement in submitting a nomination. While many participants at the meeting spoke, in closing, of the importance of the ICH Convention, and urged the Government to support it, I suspect these sentiments had little impact with Canadian Heritage. After the meeting there was a flurry of email exchanges between myself and the CCU's Culture Commission executives about how to proceed with a Masterpieces nomination, but nothing ever developed from various courses of action suggested.

Three more UNESCO meetings of intergovernmental experts working on the ICH Convention occurred in 2003, again, it seems, without external expert advisers. The final convention text was brought to the 32<sup>nd</sup> General Conference of UNESCO in September 2003. While 120 countries voted in favor of the convention, Canada, the United States, Australia, the United Kingdom, and several other countries, abstained in the voting. Canada would not be signing.

At subsequent CCU meetings, I tried to obtain the specific reasons why Canadian Heritage had decided not to support the 2003 Convention. Over a year after the abstention vote in Paris, at a CCU meeting in December 2004, Artur Wilczynski, newly appointed Director of International Relations, Policy Division, Canadian Heritage, briefly outlined the Government of

Canada's objections. He promised to send me a more detailed discussion of objections. But it was only after approaching the Canadian ambassador to UNESCO at the annual Canadian Commission for UNESCO meeting in March 2005 that I finally did receive a reply. Wilczynski sent me an email in late April 2005.<sup>3</sup> Through that email, and in comments mentioned at the

3. That email follows:

**From:** Artur\_Wilczynski@pch.gc.ca [mailto:Artur\_Wilczynski@pch.gc.ca]

**Sent:** Friday, April 22, 2005 5:42 PM

**To:** Gerald Pocius

**Cc:** AnitaBest@gov.nl.ca; bmeade@gov.nl.ca; charles-henri\_roy@pch.gc.ca; mathias.bizimana@unesco.ca; mclair@gov.nl.ca; mferguson@gov.nl.ca; yvon.charbonneau@international.gc.ca; dominique.levasseur@international.gc.ca; Susan\_Murdock@pch.gc.ca; Robin\_Grabell@pch.gc.ca; denny\_gelinas@pch.gc.ca; Lyn\_Elliot\_Sherwood@pch.gc.ca; kirsten\_mlacak@pch.gc.ca

**Subject:** PCH and the UNESCO's Convention for Safeguarding Intangible Cultural Heritage

Dear Dr. Pocius:

Thank you for your recent note regarding Canada's position on the UNESCO *Convention for Safeguarding of the Intangible Cultural Heritage*. I apologize for the delay in responding to your concerns.

Your contribution to the understanding, promotion and appreciation of intangible heritage in Canada has long been recognized and I appreciate your continued interest in this area. I also understand that you have requested information from the Department concerning Canada's recent domestic actions and activities in support of intangible cultural heritage and that Lyn Elliot Sherwood will be responding to that request.

With regard to Canada's position on the UNESCO ICH Convention, you have posed some important questions and I hope I can shed some light on the issues you raise.

As I indicated previously, Canada remains interested in the international dialogue that continues to develop around intangible cultural heritage (ICH). As a multicultural, multi-ethnic nation with more than 200 different ethnic origins reported in the 2001 Census, and where close to half of the 50-70 Aboriginal languages in Canada are near extinction or are endangered, we are acutely aware of the importance of Canada's intangible, as well as tangible, cultural heritage.

The Government of Canada is active in the safeguarding, preservation and promotion of ICH, directly and through its agencies, such as the Canadian Museum of Civilization, Library and Archives Canada, and the proposed Aboriginal Languages and Cultures Centre, in addition to the legal, financial and administrative provisions set out in multiculturalism, official languages and human rights legislation and policies.

As was articulated by the Canadian delegation during the UNESCO intergovernmental meetings devoted to the development of the ICH Convention, the Government of Canada's approach for the safeguarding of ICH is based on the establishment of a conducive environment for the full expression of the diversity of our nation's ICH through governance structures and values-based legislation

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that enshrine fundamental rights of citizens and promote the values and principles of diversity, multiculturalism and an open, tolerant and accommodating society. Canada was an active participant at the intergovernmental meetings held during the process that ultimately led to the adoption of the Convention, which will come into force three months after 30 States have ratified it. During the intergovernmental meetings, members of the Canadian delegation underscored the importance of developing an approach that would garner the widest possible support from UNESCO Member States. Throughout the deliberations, the Canadian delegation consistently expressed their concerns with the development process and the Government continues to have concerns with the Convention that resulted.

What are these concerns?

As an overriding principle, Canada wanted to see the development of a flexible, normative instrument focussed on awareness raising, promotion, capacity building and the sharing of best practices, that would complement our existing domestic approaches to ICH. From an international normative perspective, we feel that it is better to leave flexibility and choice to Member States as to how they implement obligations, rather than for the instrument itself to be so broad as to attempt to encompass all types of legal regimes, philosophies and perspectives.

Canada also felt there was a need for further dialogue, debate and consensus-building among Member States on the objectives of further international normative action in this domain, and that an appropriate definition of ICH should only have been articulated after such a dialogue. The imprecise definition of ICH in the adopted Convention creates a wide scope of application, including domains such as religion, customary laws and sacred traditional knowledge, which would be difficult to interpret and implement within the Canadian context.

For Canada, the scope of the adopted Convention remains wide and ambiguous. Its approach, seeking to protect practices and ceremonies through a world list modelled on the provisions of the World Heritage Convention, rather than through enabling mechanisms for communities, tradition-bearers and practitioners, warranted further debate and deliberation. Prior to the intergovernmental meetings, UNESCO experts had argued that the 1989 *Recommendation on the Safeguarding of Traditional Culture and Folklore* may have focussed too much attention on documentation and not enough on safeguarding measures, best practices and enabling mechanisms for the tradition-bearers and practitioners. Despite this observation, the normative approach of the adopted Convention continues to promulgate documentation-based strategies (including the drawing of up national and international inventories) as a key mechanism for the safeguarding of ICH.

In regards to this normative approach, we are aware of a growing reluctance on the part of Aboriginal/indigenous communities to participate in these types of documentation-based approaches at the domestic and international levels. During the intergovernmental meetings, UNESCO was also criticized by a number of its Member States as well as by international indigenous organizations for not adequately involving or seeking the perspectives of Aboriginal/indigenous communities.

December 2004 CCU meeting, Canadian Heritage outlined its objections.

The issue of possible violations of human rights was raised. A Nation-State might designate a certain ICH practice as important, but recognize that the practice actually violated some basic principles of human rights (womens' rights were particularly mentioned). The reality is that all UNESCO international Conventions have a clause that states that any activities carried out under the auspices of the document cannot violate human rights (see Kurin 2007: 10).

In several CCU meetings, the point was raised by Canadian Heritage and by the then chair of the Sectoral Commission on Culture, Communication and Information, François-Pierre Le Scouarnec, that the Convention had been rushed, not properly thought out, that it was drafted in only a two-year period. With most other UNESCO Conventions, the drafting process took much longer. What I believe is more accurate is that Canadian Heritage was ill-prepared for this Convention, because for years (unlike other countries) the Government of Canada had no overall policies

From our perspective, other areas that required significant additional work to define and clarify concepts included issues relating to human rights, diversity and inclusiveness. Canada views the initiative for increased safeguarding of ICH through a lens of inclusiveness to reflect our open, inclusive and tolerant society. The Convention's proposal to elaborate objective selection criteria for an international list of ICH that is "representative of humanity" is a sensitive issue and raises the problem of cultural relativism. From a State perspective, there are questions about the impacts, both legal and socio-cultural, of rejecting, at any level, a particular community's efforts to have its cultural traditions recognized as being "representative of humanity".

Furthermore, the references to human rights in the Convention do not alleviate our concerns that in implementing the Convention, the rights of some groups within society could be undermined, or certain customary practices which have been deemed to be violations of human rights in other States or in international law could be normalized.

In closing, Canada's position on the Convention and its development process does not alter the Department of Canadian Heritage's commitment to diversity and ICH. We will continue to pursue approaches and mechanisms to promoting these concepts within the Canadian context, including the Aboriginal Languages and Cultures Centre initiative whose overall goal is to help revitalize and maintain Aboriginal languages and to ensure that Aboriginal cultures remain a living part of Canada's heritage.

Sincerely,

Artur Wilczynski,

Director

International Relations and Outreach

Department of Canadian Heritage

or programs relating to ICH (as witnessed by the attempts by Spencer-Ross and Guertin to introduce such information, or the lack of responses to UNESCO surveys on folklore and ICH). Therefore, with no idea of what much of this was about, the drafting process might, indeed, have seemed too swift. I suspect that no matter how long the drafting process went, there still would not have been support for the initiative.

In an ironic twist, at a meeting of the CCU in Ottawa in December 2005, Charles Henri-Roy discussed the recent UNESCO Cultural Diversity Convention that Canada was instrumental in drafting, and the first to ratify. In his comments, Roy commented that this clearly was an extraordinarily important Convention for countries around the world, reflected in the fact that it took only two years to draft and pass. While at an earlier CCU meeting, Roy and Grabell claimed that the ICH Convention was flawed because it was “rushed” in two years, Roy now pointed to the swift two-year drafting process of the Cultural Diversity Convention as a sign of how important all nations took this initiative to be—not as a Convention that was rushed.

Canadian Heritage raised the problem of the ICH Convention requiring the Nation-State to conduct a national inventory of ICH. Other countries have moved on this issue, with different approaches and solutions. I had repeatedly mentioned Brazil’s work in this regard, and the work of Korea as well (for an update see: UNESCO, 2005; Kuutma, 2013: 5-7). Wilczynski raised the issue at a CCU meeting, claiming that it was problematic to conduct an inventory, because choices would have to be made on what goes into it and what does not. These choices would be difficult politically—it was argued—as one group would feel slighted over another if its ICH was not included. However, I pointed out that the Government of Canada had begun a building registry under the Historic Places Initiative, and that choices were made there. Canada already participated in the World Heritage List of monuments, clearly elevating one site over others. With the work of the Historic Sites and Monuments Board of Canada, a wide range of bureaucrats dealt with issues of designation and significance, and surely the skills could be found to develop similar criteria for ICH (for example, see: Labadi, 2013: 127-45). We already had listings of buildings that have been chosen through the cooperation of grassroots groups and architectural experts. A similar collaborative venture could be pursued with ICH, with local groups having the final say in what was important (as the UNESCO Convention states). And the inclusion in an inventory did not mean something was best; it meant something was important. Inventories, therefore, could be continually expanding.

Canadian Heritage believed that there would be a particular problem with First Nations and inventories. Inventorying the ICH of First Nations would somehow violate their right to keep certain traditions secret. In the drafting meeting of the Convention at Rio that I attended, however, I recall we were quite adamant that it would be local cultural groups themselves who would determine the level of participation. Grassroots groups, according to the Convention, would cooperate to the extent and the level they each wanted. First Nations could decide levels of participation and restrictions to access, all done by communities themselves.

Wilczynski argued that the Convention was not acceptable because it was drafted without consulting aboriginal groups around the world. This I cannot comment on. But certainly Canadian Heritage was not interested in consulting with groups across Canada as the Convention was being drafted. There seemed to have been little of an overall consultative process by Canadian Heritage with anyone, nor calls for input. The Folklore Studies Association of Canada, for example, the national organization for professional folklorists and ethnologists, was never approached for input or advice about the Convention. Only because Mathias Bizimana at the CCU organized such a consultation meeting did any input to Canadian Heritage occur.

The issue of religion was problematic for Canadian Heritage, as it was rought up in several discussions; François-Pierre Le Scouarnec, Chair of the CCU Sectoral Commission on Culture, voiced concerns here as well. One of the domains listed in the Convention is “social practices, rituals and festive events.” This may be the phrase that Canadian Heritage officials believe gives Nation-States the option to enshrine religious practices. However, it seems unlikely that an entire religion might be enshrined; more likely, Nation-States would focus on particular festive events (such as the Elche mystery play). The fundamental guideline here is that each Nation-State decides what is placed on its inventory, and which items might have international importance. The Nation-State retains the right to not list certain practices if it feels they are too problematic or discriminatory.

The Government of Canada’s priorities internationally with regard to ICH seem to rest in the area of economics: protecting Canadian cultural industries, while promoting trade and international commerce, rather than in cultural safeguarding. Canadian Heritage was a leading player in the drafting of the 2005 Cultural Diversity Convention. The title of this Convention is misleading, for it is a treaty on cultural industries and their protection. In 2001, the first Heritage Minister, Sheila Copps, was

a champion of protecting Canadian publishing (and other industries), lobbying UNESCO to develop a Convention in this area. One federal official related to me that Copps was not pleased that the ICH Convention was being fast-tracked before one on Cultural Diversity. Copps signed the Istanbul Declaration of 2002, a meeting she attended with other cultural ministers. This Declaration, "ICH, Mirror of Cultural Diversity," stated that Cultural Diversity and ICH were part of an overall global cultural strategy to ensure cultural survival (UNESCO, 2002b). But clearly, her preference was the Cultural Diversity Convention, a priority evident today with the overwhelming monetary and bureaucratic support given by Canadian Heritage to the latter Convention.

What is the current situation, then, with regard to Canada's involvement with UNESCO? It seems that the UNESCO ICH Convention will not be passed by the current Conservative Government, just as it was opposed by the former Liberal government. Canadian Heritage officials brief their Heritage minister, and the Department has made its case well, as the official position remains not to support the ICH Convention. Signing the Convention would force the Department to pursue programs in which they have little or no interest nor expertise (such as ICH Inventories).

Perhaps one should not be surprised at the reluctance the Government of Canada shows for such norm-setting agreements on the international scene. If one looks at the list of Legal Instruments (Recommendations, Declarations, Conventions) that UNESCO has put forward since its inception, Canada has ratified fifteen of these, while not signing twenty-three. Contrast this, for example, with the United States, that has ratified eighteen, and not signed twenty—clearly a better record of supporting international normative instruments.<sup>4</sup>

The Department of Canadian Heritage may well have felt sensitive to the fact that it was not supporting the 2003 ICH Convention. Apparently at the 34<sup>th</sup> General Conference held in Paris in 2005, Canadian Heritage had printed a handout entitled "Canada and Intangible Heritage" which was widely distributed to all delegates. The handout lists a series of programs it says are indications that the Government supports ICH work. The one-page text refers the reader to the Canadian Heritage website for "additional information on the Government of Canada support for intangible cultural heritage." One can search that website under the term ICH to see what

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4. Information from UNESCO's "Legal Instruments" page, accessed October 1, 2007, at: [http://portal.unesco.org/en/ev.php-URL\\_ID=23043&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=23043&URL_DO=DO_TOPIC&URL_SECTION=201.html)

programs might be listed, but no separate section deals with this topic. Indeed, the website contained a “Canada@UNESCO” section, and the International Affairs section that deals with UNESCO activities by Canada does not list the ICH Convention at all.<sup>5</sup>

### **Canadian Heritage and Current Domestic Policy Directions**

What about domestic policies, given the reversals on the initiatives suggested at the 2002 policy brainstorming session? I had repeatedly asked the former Acting Director of Policy at Canadian Heritage, Lyn Elliot Sherwood, what the Government of Canada was doing in the area of ICH. I finally received a response from her in an email on April 26, 2005, that dealt with two major topics: support for minority languages; support for Aboriginal languages and cultures. Mention was made of the Official Languages Action Plan, launched in March 2003, a program that supports infrastructure on radio stations, newspapers, periodicals, and theater troupes—primarily French in English-speaking Canada.

The bulk of the work that Canadian Heritage wanted to showcase as evidence of its support for ICH is in the realm of Aboriginal languages and cultures. The federal government is in the process of establishing an Aboriginal Languages and Culture Center; this Center “will support a nationwide approach to community-based language and culture preservation activities and related cultural programming.” Related to this, the Department has been engaged in a series of initiatives dealing with traditional knowledge—which the Department takes as essentially Aboriginal. One wonders whether a shift occurred within Canadian Heritage from work under Guertin’s direction, which involved “scouting all corners of the nation to identify collections” of ICH, to a view that identifies traditional culture as “aboriginal culture” (INPC, 2002: 2, 2004: 2).

Unfortunately, much of the remainder of the April 2005 response from Sherwood was largely an enumerative list of federal programs that received some kind of funding—most not connected to any policy, most not within Canadian Heritage. It was the kind of laundry list that I had prepared for the Department in my 1998 folklore report. The enumerative list included claims such as “support for academic and non-academic folklore institutions, research, conferences and training (Canada Council, Library and Archives Canada, Social Sciences and Humanities Research Council, Foreign Affairs Canada, Multiculturalism Program and Canadian Studies Program

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5. The website URL was [http://www.pch.gc.ca/progs/ai-ia/rir-iro/global/unesco/committees\\_e.cfm](http://www.pch.gc.ca/progs/ai-ia/rir-iro/global/unesco/committees_e.cfm), last accessed in 2006. It no longer seems to exist.



of Canadian Heritage), support for dissemination of research (academic journals, CMC, CBC, National Film Board), and bibliographies (SSHRC and Canada Council)." The list was so broad, so all-encompassing, to make it sound as if scores of programs in many divisions of the Government of Canada had specifically targeted ICH for support.

Some of the information I received was inaccurate; for example, support was noted for "the Canadian Center for Folk Culture Studies at the Canadian Museum of Civilization (CMC), now a research unit within the CMC." In fact, CCFCFS had been dissolved some ten years before. Credit was also given for other federal support that, again, has no relation to policy. For example, mention was made of "a new Canada Research Chair in ICH at the Cape Breton University." However, such chairs are the choice of individual universities, and are approved by peer committees. The federal government has no say in what they cover.

If there is a reluctance to vigorously support a coherent national ICH policy, one might assume that Canadian Heritage is swayed by other groups. If Spencer-Ross and Guertin asked for the advice of professional folklorists and ethnologists, then who might the current lobby be to Canadian Heritage—since those working most directly in ICH are not consulted? I can only speculate that some opposition to ICH comes from the built heritage world. I have been told that opinions have been expressed by some Canadians, part of the monuments mentality of the World Heritage Convention, who clearly see the venture of UNESCO into ICH as one of the biggest mistakes that the organization has made. Is the UNESCO Convention a challenge to the authority of current experts of heritage, a challenge to the Canadian "authorized heritage discourse"—to use Laurajane Smith's phrase (Smith, 2006: 29-34)? The world of material heritage relies on such authorities who set standards themselves for what is to be recognized, how it should be restored, arguing for authenticity and purity. That world sometimes finds it difficult to deal with the ICH world of heritage characterized by constant change, recreation rather than restoration, evolution rather than static monuments. That challenge is not only intellectual, for devising new programs on ICH will clearly take money away from the architects and restorationists who make their living on a static past that needs to be continually rescued and restored. And issues like authenticity that are of central concern for the world of monuments have little place in the evolving living world of ICH (Larsen, 2005; UNESCO, 2004). Using the United Kingdom for comparison, the debate quietly rages between those who see heritage as largely built and the product of

the enlightened (Smith and Waterton, 2009), and the ordinary expressive behaviors of the majority of the population (McCleery, McCleery, Gunn and Hill, 2009).

### **The Future of ICH Policy in Canada**

Where are we now, then? Many of us interested in a coherent federal ICH policy—and a signing of the ICH Convention—believe these will come only through pressure from the provinces. On the domestic front, we realized that little leadership would be shown by Canadian Heritage, that there was no interest in pursuing systematic ICH initiatives, the kind of initiatives that Spencer-Ross and Guertin had taken the first steps to develop. Only initiatives on the provincial and municipal level could potentially change viewpoints federally. A number of ICH projects, then, are ongoing in Newfoundland and Labrador, Nova Scotia, and Quebec. Quebec conducted an extensive provincial on-line inventory of ICH from 2004 to 2012, a collaborative effort carried out by the Canada Research Chair in Ethnological Heritage at Laval University, held by Laurier Turgeon, with the financial support of the Quebec government and the participation of many provincial and regional associations ([www.irepi.ulaval.ca](http://www.irepi.ulaval.ca); [www.ipir.ulaval.ca](http://www.ipir.ulaval.ca)). The inventory contributed greatly to having ICH included in the new law on cultural heritage adopted by the Quebec government in 2012. For the first time in the history of Quebec, the new law enables the listing of ICH elements on the provincial registry of cultural heritage alongside monuments and sites. The Ministry of Culture of Quebec has set up a program to financially support the listing and the transmission of ICH. The law also authorizes municipalities to inventory, list, and subsidize intangible cultural heritage on their territory (Turgeon, 2013). Richard MacKinnon at Cape Breton University is advising the Nova Scotia government on ICH policy. The major initiative so far in that province has been in the area of Gaelic languages, fostered, in part, by UNESCO policies (MacKinnon, 2012). Municipal jurisdictions have begun to adopt heritage policies that include ICH. The city of Montreal and the city of Quebec have both included ICH in their new cultural policies (Turgeon, 2010), and Richmond, British Columbia, and Strathcona County, Alberta are exploring ICH as part of new heritage plans (Strathcona County, 2009).

It is the province of Newfoundland and Labrador that I can speak most extensively about. When the Department of Canadian Heritage showed little interest in the UNESCO ICH Convention, and felt it problematic, I decided to turn my attention to work here in Newfoundland and Labrador.

In a sense, we went forward as if we had ratified the ICH Convention, and took our direction from UNESCO's guidelines on ICH. During the past ten years, ICH policy in this province has developed slowly but steadily (see Pocius, 2010). The province included ICH in its new Cultural Blueprint, which was released in March 2006 (Newfoundland and Labrador). The Association of Heritage Industries' annual meeting in 2006 had ICH as its theme.<sup>6</sup> By April 1, 2007, the province had completed a Strategic Plan to implement the recommendations of the Cultural Blueprint.<sup>7</sup>

Much has happened in Newfoundland and Labrador since 2006—the subject, really of an entirely different essay. Indeed, there has been discussion recently of organizing a national meeting here in St. John's for 2016 to evaluate and assess the progress the province has made in the past ten years. But to highlight some of the high points, the province created an ICH Development Officer position in 2008, working within the Heritage Foundation of Newfoundland and Labrador. Partnering with Memorial University of Newfoundland, an extensive ICH website was developed ([www.mun.ca/ich](http://www.mun.ca/ich)) which served to highlight the many ICH activities going on in the province. Systematic inventorying has begun of ICH materials, deposited in a digital archive that is part of Memorial University's Queen Elizabeth II Digital Archive Initiative, accessed online through the ICH website. Metadata fields for this inventory were created in conjunction with QEII, adapting the *Ethnographic Thesaurus* from the Library of Congress to regularize the catalogue system.

Part of the ICH work in Newfoundland and Labrador has focused on UNESCO's work on transmission and celebration through the medium of public festivals. Certainly the most successful of these events was the Mummers Festival held in December 2009. Mummering has traditionally involved a group of disguised visitors going from home to home during the twelve days of Christmas (Halpert and Story, 1969). Over the past thirty years, however, it has increasingly become emblematic of Newfoundland culture (Pocius, 1988), fostering a wide range of new expressive forms. The Heritage Foundation and Memorial University organized a festival around mummering as a theme, and the festival included a Mummers Parade. That Parade has now become a major event in itself, and the work of the Heritage Foundation in creating this event has thus facilitated the continuation of this Newfoundland tradition in a modern form (Davis, 2011).

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6. Presentations and other information about the Living Traditions Forum can be found at: <http://www.mun.ca/ich/content/resources/conferences.php>

7. The province's Strategic Plan can be accessed at: [http://www.mun.ca/ich/content/draft\\_strategy.php](http://www.mun.ca/ich/content/draft_strategy.php)

The Heritage Foundation of Newfoundland and Labrador has organized a series of project-based training workshops to document and present particular traditions. Training is focused on community projects that are guided from the beginning of field work to the final products of workshops, festival, community events. Local people learn documentation skills while focused on traditions they know.

During the past two years, Newfoundland's Heritage Foundation has become increasingly engaged with UNESCO on the international scene. In 2012, the Foundation was accredited as an NGO by the UNESCO Intergovernmental Committee for the Safeguarding of ICH. With this status, Newfoundland and Labrador could now send representatives to various UNESCO meetings as official observers. And in 2014, the Foundation was contracted to provide advisory services to the Consultative Body for the UNESCO Intergovernmental Committee for the Safeguarding of ICH, reviewing files for the world ICH UNESCO lists.

There is still much I do not know about how Canadian ICH policy has progressed, nor what phase it is at now, as compared to the work being done in Newfoundland and Labrador. As a folklorist, I am used to asking questions, interpreting answers, presenting different points of view. However, I quickly realized in the world of governmental policy, I had many unanswered emails, obtuse explanations, formulaic responses. Divisions about policy cannot publically surface, and if divisions remain, removal of personalities removes divisions. Much I can still only speculate about.

Gradually, those of us working in ICH in Canada have realized that an overall national policy will likely develop from regional activities. It may well be that NGOs, including Universities, folk arts groups, local museums and cultural centers will more and more demand that heritage not be limited primarily to the material world. As the issue of heritage becomes increasingly pervasive as a global issue, Canadian federal policy may well give greater attention to the many examples of intangible cultural heritage that peoples in so many other nations recognize as important. A steady momentum is building from provinces like Quebec and Newfoundland and Labrador, and cities like Montreal and Quebec; whether it will mean that a coherent federal ICH policy is finally developed—and then acted upon—remains to be seen.

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