

# Roundtable on ICH inventorying, Intellectual Property and Artificial Intelligence, 3 June 2024

Harriet Deacon



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This roundtable, organized by the University of Hull on 3 June 2024, brought together nearly 40 experts from different backgrounds and disciplines across the UK and abroad, to discuss the implications of managing intellectual property (IP) rights and considering artificial intelligence (AI) technologies in the context of ICH inventorying in the UK. The Department for Culture, Media & Sport kindly provided a venue for the meeting in London, and additional participants joined online. What follows is a brief summary of the main points considered in the meeting.

The notion of intangible cultural heritage (ICH) or 'living heritage' includes a broad range of heritage skills and practices, such as traditional crafts, performances, foodways and oral expressions. Crucially, these practices are linked to community identity and managed by communities and practitioners themselves. The concept has received increased publicity in the UK since the end of December 2023, when the Department for Culture, Media & Sport announced [plans to ratify](#) the [UNESCO 2003 Convention](#) for the safeguarding of the Intangible Cultural Heritage, and began [consultations](#) on its implementation. UK ratification of the Convention [became effective](#) on 7 June, but implementation work was paused during the preparations for the General Election on 4 July. The UK has several existing ICH inventories, including the [Red List of Endangered Crafts](#) and an [inventory of ICH in Scotland](#) and is planning an inventory at the national level, since inventorying is one of the key obligations of States Parties to the Convention. At the time of the roundtable, public sector work on the issue was under an election-period embargo, so any practical implications for the UK inventorying process were not discussed.

The aim of the roundtable was to outline key issues cutting across academia, policy and practice, set out some areas for further investigation, and identify networks of experts in this and related areas. The meeting highlighted the importance of considering community-led data governance to ensure that implementing the Convention, including ICH inventorying, contributes to safeguarding, or the continued practice and transmission of the heritage within communities. A full schedule of speakers and roundtable members is provided below.

The roundtable considered some key questions:

1. What do we mean by ICH inventorying, IP and AI?
2. What are the synergies and tensions between approaches to ICH safeguarding (especially inventorying), IP and AI?
3. What IP rights issues could or should be considered in ICH inventorying processes, considering the safeguarding imperative?
4. To what extent could use of AI tools affect ICH inventorying processes, whether directly or indirectly?
5. How can we address policy, research and capacity-building needs in this area?

After introductions of panel members and welcome messages from University of Hull and the DCMS, the roundtable discussion was divided into three main sessions. The first session focused on explanations of the key areas under discussion, namely ICH inventorying, IP and AI. The second session highlighted some of the issues to consider when trying to consider IP rights and AI in inventorying ICH, and the impact of AI technologies on both cultural practice and inventorying in the ICH sector. The final session considered what could be done to address some of the challenges, considering Indigenous approaches to data governance, technological solutions and regulation of AI.

Inventorying ICH under the [Convention](#) involves collating information about different living heritage practices according to the Convention's [Ethical Principles](#) and with the involvement and free, prior and informed consent of communities, groups and individuals who practice and identify with that heritage. Conventional intellectual property rights do not generally cover intangible heritage practices or products as such, focusing on original creations of individual artists. Thus, many communities and practitioners of ICH, which is transmitted over generations, do not have any IP rights in their heritage as such. However, documentation and inventorying processes involve the creation of new audiovisual or text documentation in which the IP rights belong to the organisation or individuals doing that documentation.

While there is [guidance](#) on undertaking inventorying processes from UNESCO, there has been relatively little in-depth discussion in the ICH field about how to manage intellectual property rights in inventorying processes (such as [copyright](#) in documentation), within the framework of community involvement, participation and consent. Inventorying projects thus need to consider how to ensure that communities retain control over and benefit from use of their data, what kinds of control communities wish to have and how this affects their IP strategy. A [toolbox](#) has been developed in Belgium to provide guidance to inventorying projects on this issue.

IP law, ICH inventorying and AI technologies do not map easily onto each other, even as artificial intelligence technologies are becoming more widely used in society and business and AI tools are changing the economic landscape of cultural activity, cultural industries and data management in cultural institutions. The British Library's Mia Ridge recently published an [article](#) for the Museums Association saying "AI literacy is an important part of good governance. ... People need a solid understanding of where biases are likely to appear, how to review and contest decisions made by

algorithms and where sharing data might have privacy or legal implications, so that they can make good decisions about the products they buy or implement. It also helps people plan so that AI tools enhance jobs, rather than attempting to replace them.”

The general agreement in the roundtable was that current AI tools (particularly generative AI) would be of limited utility in inventorying ICH at this stage, although it is being used in managing museum and archival collections. This conclusion was not unexpected, given widespread concerns about bias in generative AI systems, lack of transparency about data used for training and replication of bias in training data. Further work is needed on the effects of biases in generative AI on cultural practice. But, even if inventorying projects choose not to use AI tools, use of AI in society will have an impact on ICH practice, transmission and safeguarding in general. For example, the general public may use generative AI to find out information about their ICH, information that could be biased. AI tools could thus affect the way in which communities perceive their own heritage, and are perceived by others. In this context, the role of inventories as trusted sources of data may even be more important than before. The new [WIPO treaty](#) on Intellectual Property, Genetic Resources and Associated Traditional Knowledge renews attention to the role of databases in defensive protection for traditional knowledge. Well-curated databases of cultural information are very valuable assets, and should be considered as such. Such an example is the [Oma Traditional Textile Design Database](#)© (2021) in Lao PDR. Community involvement and consent in data governance is thus essential.

Use of AI may affect how ICH is used by artists and craftspeople, and third parties, to generate income, which may or may not benefit the communities concerned. Since ICH crafts are generally handmade using traditional patterns, it is not clear to what extent use of generative AI is currently affecting practitioner markets. Contemporary artists in the craft sector have been experiencing significant challenges in this regard, however. Data in inventories could also be used to train AI models and generate data ‘in the style of’ traditional designs. AI may have an impact on learning pipelines: AI-generated crochet patterns have reportedly affected opportunities for teaching and learning in that sector, for example. Further work is needed to understand the impact of AI in the ICH sector, especially communities who are disadvantaged by biased systems, and how to address negative impacts. New uses of cultural data uploaded online (for example data scraping of cultural information in inventories) could (and should) be discussed in the process of obtaining free, prior and informed consent from communities inventorying their ICH. Insights from Indigenous Data Governance initiatives, particularly the [FAIR and CARE](#) principles, could inform inventorying processes under the Convention. Practical information on IP strategies and data governance in inventorying that focuses on safeguarding outcomes should be developed. Participants underlined the importance of community engagement in ICH inventorying, the need to critically consider consent processes, and discussed definitions of minority or marginalised communities.

As in the culture sector more generally, there is a tension between ‘open culture’ approaches to cultural data sharing on the one hand, and placing an emphasis on community custodianship in participatory data governance on the other. On the one hand, good quality data approved by communities (such as we find in inventories) is needed to reduce bias and misinformation. On the other hand, there may be negative implications of unauthorised data sharing. Some communities or groups want their cultural data completely open, but others have thus opted to keep their cultural information (including inventories) private for various reasons. This may not be suitable or possible in all contexts, and uses of data once uploaded, are difficult to track and control. There are limited ways in which cultural data uploaded online could be protected from unauthorised data scraping through various technological protection measures and regulation, which require further investigation. Better

regulation is needed, but regulators need to consider not just the views of the technology sector or business, but also the views of culture sector stakeholders, and impacts on ICH and its practitioners.

These issues need to be explored further by multiple stakeholders, with involvement by diverse communities and ICH practitioners. The roundtable ended with suggestions to plan further meetings and expand networks such as HAIL and Enredados.

Links discussed by the roundtable and shared by participants are available in this [Padlet](#).

## Schedule

Time	Topic	
9am-9:30am	Arrival and coffee	
Session 1: Introduction		
9:45-10am	Welcome	<b>Harriet Deacon</b> (Treated Spaces & DAIM, Hull) <b>Joy Porter</b> (Treated Spaces, Hull) <b>Kevin Pimblet</b> (DAIM, Hull) <b>Phil Foxwood</b> (DCMS)
10am -10:45	Introductions	
Session 2: Concepts and interactions		
10:45-11:30	Clarifying the concepts	<b>Charlotte Joy</b> (UK UNESCO NATCOM): what is ICH inventorying? Plans in the UK (with Joanne Orr) <b>Freda Owusu</b> (ICH consultant): comment on UK consultations <b>Megan Blakeley</b> (Lancaster University Law School): what is IP? <b>Aoife Curran</b> (DAIM, Hull): what is AI? <b>Paula Westenberger</b> (Brunel Law School): connections between AI, IP and heritage
11:30-11:45	Break	
11:45-1pm	Making the connections between AI, IP and ICH	<b>Jorijn Neyrinck</b> (WIE, Belgium): providing information about IP in inventorying training <b>Monica Bota Moisin</b> (Cultural Intellectual Property Rights Initiative, Romania): IP issues in inventorying / AI issues in inventorying <b>Daniel Carpenter</b> (Heritage Crafts Association): impact of AI / IP on the craft sector and inventorying
1-2pm	Lunch	
Session 3: How does considering IP and AI make a difference to inventorying strategy and implementation?		

Time	Topic	
2-3pm	Implications for inventorying / safeguarding ICH	<p><b>Chidi Oguamanam</b> (University of Ottawa) indigenous data governance and ICH inventorying</p> <p><b>Kirstine Eiby Møller</b> (Greenland National Museum &amp; Archives) ICH inventorying experiences</p> <p><b>Bartosz Pielinski</b> (University of Warsaw, Team member of UNESCO Chair on ICH in Public and Global Governance): museum collections and AI, AI readiness of the sector</p> <p><b>Mathilde Pavis</b> (IP/AI consultant): AI regulation in the UK and EU and implications for creative sector</p> <p><b>Aoife Curran</b> (DAIM, Hull): opt outs and style glazing</p>
3-3:15pm	Coffee	
3:30-4:30pm	<p>General discussion</p> <p>What are the future policy, research and capacity-building needs in this area?</p> <ul style="list-style-type: none"> <li>• Research needs</li> <li>• Advocacy</li> <li>• Networking</li> </ul>	
4:30-4:45pm	Close	<b>Harriet Deacon</b>

## Participants

Title	Name	Organisation
OBE	Arokiasamy, Clara	ICOMOS UK, ICH committee
Dr	Blake, Janet	UNESCO facilitator; Shahid Beheshti University, Faculty of Law (Iran)
Dr	Blakely, Megan	Lancaster University Law School
Av.	Bota-Moisin, Monica	Cultural Intellectual Property Rights Initiative (Romania)
Prof	Braber, Natalie	Nottingham Trent University
	Carpenter, Daniel	Heritage Crafts Association UK
Dr	Collins, Stephen	University of the West of Scotland
	Crocker, August	DCMS
Dr	Curran, Aoife	DAIM University of Hull

Dr	Deacon, Harriet	DAIM and Treated Spaces Research Group, University of Hull
	Dunn, Kay	Queen Mary University of London
Prof	Dutfield, Graham	Leeds University
	Foxwood, Phil	DCMS
	Fraser, Josie	National Lottery Heritage Fund
	Gowan-Brown, Macaulay	DAIM, University of Hull
	Iqbal, Zarka	Heritage Crafts Association
Dr	Jones, Will	DAIM, University of Hull
Dr	Joy, Charlotte	UK UNESCO National Commission
	Kumar, Abhijeet	Leicester University
	Macdonald, Dids	ACID
Dr	Meletti, Bartolomeo	CREATe Glasgow
Dr	Mishra, Bhupesh	DAIM, University of Hull
Dr	Møller, Kirstine Eiby	Greenland National Museum & Archives
	Neyrinck, Jorijn	Werkplaats immaterieel erfgoed (Brussels)
Prof	Oguamanam, Chidi	University of Ottawa Faculty of Law (Canada)
Dr	Orr, Joanne	UNESCO facilitator; former CEO MGS Scotland
Dr	Owusu, Freda	ICH expert and private consultant
Dr	Pavis, Mathilde	AI and IP, creative industries sector expert
Dr	Pielinski, Bartosz	University of Warsaw, Team member of UNESCO Chair on ICH in Public and Global Governance (Poland)
Dr	Pimblet, Kevin	DAIM, University of Hull
	Pirie, Victoria	Pomegranate
Prof	Porter, Joy	Treated Spaces Research Group, University of Hull
MBE	Sinclair, Roselind	Goldsmiths, University of London
Dr	Smeets, Riëks	former Secretary to the ICH Convention, UNESCO
	Strauss, Melissa	National Lottery Heritage Fund
Prof	Suthersanen, Uma	Queen Mary Intellectual Property Research Institute
Dr	Westenberger, Paula	Brunel University
Dr	Wilson, Dawn	Philosophy, University of Hull