



SANT'ANNA LEGAL STUDIES
STALS RESEARCH PAPER 4/2025

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**The Safeguarding of Braille as Intangible
Cultural Heritage:
At Their Fingertips**

Scuola Superiore Sant'Anna
Pisa

<http://stals.sssup.it>

ISSN: 1974-5656

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Eva S. Krolla*

Abstract

The adoption of the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (2003 Convention) contributed to the broadening of the concept of cultural heritage beyond material and immovable manifestations. Following the recognition of Braille, a tactile reading and writing system, as intangible cultural heritage (ICH) under the 2003 Convention by Germany and France, this article discusses the boundaries of our current understanding of ICH. In that connection it also reflects as to whether the 2003 Convention can proffer a degree of legal protection for the cultural heritage and cultural identities of persons with disabilities more generally. In doing so, it links the 2003 Convention to the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) and specifically to the realisation of the right to participate in cultural life. The analysis suggests that the 2003 Convention can indeed be viewed as one instrument through which States Parties can gradually realise the right to participate in cultural life of persons with disabilities in line with their obligations under the CRPD. Moreover, the recognition of Braille as ICH element under the 2003 Convention contributes to deepening our understanding of cultural diversity and may be a pathway to recognising new “other groups”, including persons with disabilities, as creators and bearers of cultural heritage.

Keywords

Intangible Cultural Heritage – Braille – Right to Participate in Cultural Life – Disability – UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage – UN Convention on the Rights of Persons with Disabilities

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The Safeguarding of Braille as Intangible Cultural Heritage: At Their Fingertips

Eva S. Krolla

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1. Introduction

The Convention for the Safeguarding of the Intangible Cultural Heritage of 2003 (2003 Convention)¹ was adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in response to the growing pressure – particularly from the Global South – to develop a more comprehensive concept and legal protection of cultural heritage at international level. As such it substantially adds to the mosaic of UNESCO treaties and other instruments on cultural heritage. It particularly complements the Convention Concerning the Protection of World Cultural and Natural Heritage (World Heritage Convention) of 1972,² by extending the legal concept and protection of cultural heritage to the immaterial, that is, to encompass intangible cultural heritage (ICH). In fact, the 2003 Convention has contributed to expanding the concept of cultural heritage and importantly its

¹ UNESCO, Convention for the Safeguarding of the Intangible Cultural Heritage (2003 Convention), (Paris, 17 October 2003).

² UNESCO, Convention Concerning the Protection of the Worlds Cultural and Natural Heritage (World Heritage Convention), (Paris, 16 November 1972).

safeguarding beyond Western, Eurocentric perspectives³ supporting the diversification of cultural heritage as understood at international level.

Further, the 2003 Convention considers ICH as “mainspring of cultural diversity”⁴ and distinctly connects it to both international human rights law and other UNESCO instruments protecting cultural rights.⁵ Reference is made to the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights⁶ emphasising the right to participate in cultural life as inherent to human rights. Reference is also made to the previous UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore of 1989 – the first international instrument addressing immaterial cultural heritage – and the UNESCO Universal Declaration on Cultural Diversity of 2001 (2001 Declaration) which introduced a more dynamic understanding of culture and cultural heritage by stating in Article 1 that:

“[c]ulture takes *diverse forms across time and space*. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity and should be recognized and affirmed for the *benefit of present and future generations*”.⁷

To record and recognise elements of ICH at international level, the 2003 Convention establishes several Lists, namely the Representative List of the Intangible Cultural Heritage of Humanity (RL) pursuant to Article 16 and the List of Intangible Cultural Heritage in Need of

³ Yahaya Ahmad, “The Scope and Definitions of Heritage: From Tangible to Intangible,” *International Journal of Heritage Studies* 12, No. 3 (2006): 292-300; Chiara Bortolotto, “From Objects to Processes: UNESCO’s ‘Intangible Cultural Heritage’,” *Journal of Museum Ethnography* 19, (2007): 21-33; Federico Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” *The European Journal of International Law* 22, No. 1 (2011): 104.

⁴ Recital 2 2003 Convention.

⁵ Janet Blake, “Safeguarding Intangible Cultural Heritage” in Francesco Francioni, and Ana Filipa Vrdoljak (eds), *The Oxford Handbook of International Cultural Heritage Law* (Oxford: Oxford University Press, 2020) 361.

⁶ Recital 1 2003 Convention; Article 27 of the International Covenant on Civil and Political Rights enshrines the right to one’s own culture and has been interpreted as moving cultural heritage firmly within cultural rights as it is fundamental for the maintenance of one’s own culture. See William Logan, “Cultural diversity, cultural heritage and human rights: towards heritage management as human rights-based cultural practice,” *International Journal of Heritage Studies* 18, No. 3 (2012): 235.

⁷ Emphasis added. UNESCO, Universal Declaration on Cultural Diversity (2001 Declaration), (Paris, 2 November 2001).

Urgent Safeguarding pursuant to Article 17.⁸ Furthermore, the Register of Good Safeguarding Practices was established to collect programmes, projects and activities that best encapsulate the principles and objectives of the 2003 Convention to serve as good examples in line with Article 18.

At national level, States Parties must establish one or more inventories best suited for their own situation “to ensure identification with a view to safeguarding” of ICH elements on their territory in accordance with Article 12. In recent years, Germany and France listed Braille on their respective national inventories of ICH under the 2003 Convention.⁹ Celebrating its bicentenary in 2025, Braille is a highly versatile, tactile reading and writing system (hereafter: “writing system” or “script”) – named after its inventor, blind pupil Louis Braille¹⁰ – mostly used by blind, visually impaired and deafblind people. The approach taken by Germany and France prompts an important reflection as to whether Braille – and possibly other cultural heritage elements created and borne by persons with disabilities – falls within the scope of the 2003 Convention. The 2003 Convention does not explicitly address any particular community, group or individuals (CGIs), except briefly stating that indigenous communities play an important role in relation to ICH in the Preamble.¹¹ It thus affords expansive conceptualisations of CGIs and ICH respectively.

This article discusses the boundaries of our current understanding of ICH and explores to what extent Braille indeed falls within the scope of ICH as defined by Article 2 of the 2003 Convention. It further considers what the implications are for our current understanding of cultural heritage and cultural diversity. In that connection it reflects as to whether the 2003 Convention can proffer a degree of legal protection for the cultural heritage and cultural identities of persons with disabilities more generally. In doing so, it links the 2003 Convention to the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD). The call to mainstream and embed a disability perspective in cultural life stems both from the

⁸ For the purposes of the present article, only the RL will be considered.

⁹ Deutsche UNESCO Kommission, “[Bundesweites Verzeichnis des Immateriellen Kulturerbes](#)” [Accessed 10 October 2024]; Ministère de la culture, “[L’inventaire national du Patrimoine culturel immatériel](#)” [Accessed 10 October 2024].

¹⁰ Musée Louis Braille, “[Braille the Inventor](#)” [Accessed 10 October 2024]; European Blind Union (EBU), “[Access to Reading and Using Braille – a matter of the future](#)” EBU Statement (September 2023) 2 [Accessed 10 October 2024].

¹¹ Recital 6 2003 Convention.

CRPD as global legal standard of disability rights¹² and from the UN human rights system more broadly. Particularly regarding the right to participate in cultural life this emanates from Article 30 CRPD explicating it as an inherent human right of persons with disabilities and from Resolution 10/23 of the Human Rights Council.¹³ This resolution created the first mandate of the Independent expert in the field of cultural rights (Independent expert)¹⁴ and emphasised the integration of a disability perspective when clarifying cultural rights, including the right to take part in cultural life.¹⁵

The article proceeds as follows. Section 2 discusses Braille as a tactile script and form of cultural expression, while section 3 looks at the 2003 Convention more closely including the legal conceptual shifts of cultural heritage at international level. Section 4 then examines Braille as ICH element within the meaning of the 2003 Convention. Section 5 discusses the implications of conceptualising this tactile script as ICH and “[t]he link between cultural heritage, cultural diversity and cultural rights”¹⁶ from a disability perspective. Section 6 closes with some concluding remarks.

2. Braille: A Tactile Script

Braille is a distinct tactile reading and writing system consisting of raised dots arranged in a so-called “Braille cell” of a two-column by three-row roster, through which spoken languages

¹² Andrea Broderick, and Delia Ferri, *International and European Disability Law and Policy. Text, Cases and Materials*. (Cambridge: Cambridge University Press, 2019).

¹³ Human Rights Council (HRC), *Resolution 10/23. Independent expert in the field of cultural rights*, 26 March 2009, UN Doc. A/HRC/RES/10/23, para. 9(e).

¹⁴ HRC, *Resolution 10/23. Independent expert in the field of cultural rights*, 26 March 2009, UN Doc. A/HRC/RES/10/23, para. 9. This mandate has since been renewed several times with the latest issued by HRC, *Resolution 55/5. Mandate of Special Rapporteur in the field of cultural rights*, 5 April 2024, UN Doc. A/HRC/RES/55/5. Note that the mandate has been renamed to Special Rapporteur in HRC, *Resolution 19/6. Special Rapporteur in the field of cultural rights*, 3 April 2012, UN Doc. A/HRC/RES/19/6, para. 8.

¹⁵ HRC, *Resolution 10/23. Independent expert in the field of cultural rights*, 26 March 2009, UN Doc. A/HRC/RES/10/23, paras. 2, 9(e). Despite being included in the initial report of the Independent expert and reiterated in subsequent reports as well as by following mandate holders, a thematic report on the right to take part in cultural life from a disability perspective remains outstanding. See HRC, *Report of the independent expert in the field of cultural rights*, Ms. Farida Shaheed, 22 March 2010, UN Doc. A/HRC/14/36, para. 43; HRC, *Report of the Special Rapporteur in the field of cultural rights*, 3 February 2016, UN Doc. A/HRC/31/59, paras. 40, 90(c); HRC, *Universality, cultural diversity and cultural rights*, 25 July 2018, UN Doc. A/73/227, paras. 60-61; HRC, *Cultural rights: tenth anniversary report. Report of the Special Rapporteur in the field of cultural rights*, 17 January 2019, UN Doc. A/HRC/40/53, paras. 13, 86-87, 96; HRC, *Cultural Rights: an empowering agenda. Report of the Special Rapporteur in the field of cultural rights*, Alexandra Xanthaki, 22 March 2022, UN Doc. A/HRC/49/54, paras. 21, 50.

¹⁶ HRC, *Report of the independent expert in the field of cultural rights*, Farida Shaheed, 21 March 2011, UN Doc. A/HRC/17/38, para. 21.

become legible for persons who are blind, visually impaired or deafblind. However, it is not a direct tactile representation of print writing but a script perceptible through touch rather than vision.¹⁷ It thus fulfils a vital function for its users, namely that of becoming literate.¹⁸ Although audio formats – and many other recent developments in assistive and language technology – can make information, educational materials as well as cultural and leisure materials accessible to people who are blind, visually impaired or deafblind, they do not allow them (to learn) to read and write.¹⁹ Literacy, however, is an important aspect of human experience and has been shown to allow high levels of education, job attainment and satisfaction as well as emotional well-being.²⁰

As a writing system, Braille has been standardised for at least 133 languages, including many lesser-used languages and languages using nonalphabetic scripts such as Mainland Chinese Braille, allowing many people to read and write through their native tongue(s).²¹ It can be used in long or contracted forms as well as in analogue or digital formats for various purposes.²² Besides enabling people to be “truly literate”,²³ Braille has also been developed for music annotation, mathematics, chemistry and other scientific notation as well as for crafts such

¹⁷ Robert Englebretson, Cay Holbrook, and Simon Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” *Applied Psycholinguistics* 44, (2023): 408-410.

¹⁸ Lindsay N. Harris, et al., “Braille literacy as a human right: A challenge to the “inefficiency” argument against braille instruction,” *International Journal of Psychology* 58, No. 1 (2023): 53.

¹⁹ Englebretson, Holbrook, and Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” 401; EBU, “[Access to Reading and Using Braille – a matter of the future](#)”, 2-3.

²⁰ Arielle Michal Silverman, and Edward C. Bell, “The Association between Braille Reading History and Well-being for Blind Adults,” *Journal of Blindness Innovation and Research* 8, No 1 (2018) available at <<https://nfb.org/images/nfb/publications/jbir/jbir18/jbir080103.html>> [Accessed 3 March 2025]; Englebretson, Holbrook, and Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” 400-401 Harris, et al., “Braille literacy as a human right: A challenge to the “inefficiency” argument against braille instruction,” 52-58; Anthony Beudaert, “Fifty shades of Braille: motivations, challenges and cultural significance in visual impairment,” *Journal of Consumer Marketing* 41, No. 3 (2024): 357-367.

²¹ Englebretson, Holbrook, and Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” 404-405; For details see Perkins School for the Blind, “[World Braille Usage](#)” [Accessed 11 March 2025].

²² See eg Brailleschriftkomitee der deutschsprachigen Länder, “[Deutsche Brailleschriftsysteme](#)” [Accessed 14 March 2025]; For an overview of Braille variants in Europe see EBU, “[The Braille Authorities of Europe](#)” [Accessed 10 October 2024].

²³ Braille Literacy Canada, “[Learn About Braille](#)” available at [Accessed 10 October 2024]; Harris, et al., “Braille literacy as a human right: A challenge to the “inefficiency” argument against braille instruction,” 53.

as knitting, crocheting or drawing.²⁴ Oftentimes Braille is also used to contribute creatively to literature, art and performing arts or games.²⁵

Furthermore, Braille was developed by its users²⁶ and continues to be adapted by users themselves rather than being an external imposition or accessibility feature developed by others. Originally written with Braille slates and styluses, Braille type writers, an instrument similar to a type writer, were later developed and make faster analogous Braille writing possible.²⁷ In the digital age, refreshable Braille displays which can be connected to a computer or mobile device enable digital reading and writing through Braille.²⁸

Due to its vast adaptability and global use, Braille is naturally transboundary and not geographically confined. Yet, due to the uncertain, but rather low number of Braille users, protracted access to Braille instruction and technological developments, some perceive Braille as being at risk of being further marginalised warranting targeted safeguarding for its continuity.²⁹

Braille users, or Braillists as some self-identify,³⁰ are a heterogenous group of people using Braille, including persons who are blind, visually impaired or deafblind, but also Braille transcribers, Braille teachers and other, often sighted, persons interested in or using Braille on a frequent basis.³¹ Braille users importantly are a sub-group of persons who are blind, visually impaired or deafblind since only an estimated average of 10-15% of people with a visual impairment use Braille.³²

²⁴ Englebretson, Holbrook, and Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” 404-405; See also brailleart.org, “[Instructions for Braille Drawings](#)” available at [Accessed 18 March 2025].

²⁵ Deutsche UNESCO Kommission, “[Immaterielles Kulturerbe. Verwendung und Weitergabe der Brailleschrift in Deutschland](#)” [Accessed 10 October 2024]; See also various entries on EBU, “[Braille 200](#)” [Accessed 15 January 2025].

²⁶ Deutsche UNESCO Kommission, “[Immaterielles Kulturerbe. Verwendung und Weitergabe der Brailleschrift in Deutschland](#)”; EBU, “[Access to Reading and Using Braille – a matter of the future](#)”.

²⁷ Deutscher Blinden- und Sehbehindertenverband e.V., “[Wie die Brailleschrift funktioniert](#)” [Accessed 7 October 2024].

²⁸ Bureau of Internet Accessibility, “[How Do Refreshable Braille Displays Work?](#)” (5 May 2022) [Accessed 7 October 2024].

²⁹ EBU, “[Access to Reading and Using Braille – a matter of the future](#)”, 4; Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 17-20 [Accessed 10 October 2024].

³⁰ Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 2; To capture most people using Braille, this paper adopts the term ‘Braille user(s)’ to denote all people who frequently use Braille for various purposes and at different times in their life. Other terms will only be used intermittently and in context to point to a particular aspect.

³¹ Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 2.

³² Englebretson, Holbrook, and Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” 402; Silverman, and Bell, “The Association between Braille Reading History and Well-being for Blind Adults,”.

From a cultural heritage perspective, the creators and bearers, or CGIs,³³ associated with Braille are a diverse and discrete group of individuals whose identification is subjective³⁴ and through the use of Braille. Braille has been shown to contribute to the identity formation of individuals who associate with it and if applicable, connotes primarily a positive association with an individuals' visual impairment.³⁵ Such an identity forming dimension is also increasingly strengthened by Braille users conceiving of Braille as part of their cultural heritage and specifically as ICH,³⁶ rather than as an accessibility measure to navigate their environment and print language.

3. The 2003 Convention: The Broadening of Cultural Heritage Protection

To contextualise the significance of the 2003 Convention and to discern its relevance in realising the right to participate in cultural life, it is useful to briefly recall the origins and connection between that right and cultural heritage before delving into the 2003 Convention.

Rooted in Article 27 UDHR the right to participate in cultural life gained legally binding character in Article 15 ICESCR. In its General comment No. 21 on the right of everyone to take part in cultural life, the Committee on Economic, Social and Cultural Rights (ESCR Committee) explains that the right to participate in cultural life encompasses three interrelated main tenets, namely, participation in, access to and contribution to cultural life.³⁷ Participation entails, *inter alia*, that everyone has the right to choose their own identity and to engage in one's own cultural practices.³⁸ Access to cultural life connects to the right of everyone to know and understand their own culture as well as that of others and "to benefit from cultural heritage".³⁹ Contribution to cultural life then relates to the "right of everyone to be involved in creating the

³³ See eg Articles 2(2), 11(b) and 15 2003 Convention; Janet Blake, "The Impact of UNESCO's 2003 Convention on National Policy-Making: developing a New Heritage Protection Paradigm?" in Michelle L. Stefano, and Peter Davis (eds), *The Routledge Companion to Intangible Cultural Heritage* (London: Routledge 2017) 69-72.

³⁴ Lenzerini, "Intangible Cultural Heritage: the Living Cultures of Peoples," 109.

³⁵ Beudaert, "Fifty shades of Braille: motivations, challenges and cultural significance in visual impairment," 357, 363; Englebretson, Holbrook, and Fischer-Baum, "A position paper on researching braille in the cognitive sciences: decentering the sighted norm," 408-409; Silverman, and Bell, "The Association between Braille Reading History and Well-being for Blind Adults,".

³⁶ Beudaert, "Fifty shades of Braille: motivations, challenges and cultural significance in visual impairment," 359.

³⁷ Committee on Economic, Social and Cultural Rights (ESCR Committee), *General Comment No. 21 Right of everyone to take part in cultural life*, 21 December 2009, UN Doc. E/C.12/GC/21, para. 15.

³⁸ ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 15(a).

³⁹ ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 15(b); See also Roger O'Keefe, "The "Right to Take Part in Cultural Life" under Article 15 of the ICESCR," *The International and Comparative Law Quarterly* 47, No. 4 (1998): 908-915.

spiritual, material, intellectual and emotional expressions of the community”.⁴⁰ Importantly, the ESCR Committee also encourages States Parties to recognise the right of persons with disabilities to their specific cultural and linguistic identity.⁴¹

In this connection, the ESCR Committee further elaborated that the right to participate in cultural life derived from Article 15 ICESCR entails the positive obligation of States Parties to “respect and protect cultural heritage in all its forms”⁴² and “of all groups and communities”⁴³ as an obligation with immediate effect.⁴⁴ It thus moves the protection of cultural heritage within the remit of the right to participate in cultural life, a notion confirmed by the Independent expert.⁴⁵ This section therefore focuses on how the adoption of the 2003 Convention has contributed to the broadening of the legal concept and protection of cultural heritage at international level, thereby strengthening the protection of the right to participate in cultural life.

3.1. The Convention for the Safeguarding of the Intangible Cultural Heritage

Adopted during the 32nd session of the UNESCO General Conference on 17 October 2003, the 2003 Convention pursues four objectives set out in Article 1. It purports to a) safeguard the intangible cultural heritage, b) ensure respect for intangible cultural heritage, c) raise awareness of the importance of intangible cultural heritage and ensure its mutual appreciation as well as d) to provide for international cooperation and assistance.⁴⁶ To do so, the 2003 Convention established the General Assembly of States Parties as sovereign treaty body (Article 4). Moreover, the Intergovernmental Committee for the Safeguarding of Intangible Cultural Heritage (Article 5; hereafter “the Committee”) was created to promote and implement the objectives of the 2003 Convention. The Committee provides guidance and recommendations on best practices in safeguarding ICH; is responsible for the granting of international assistance

⁴⁰ ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 15(c).

⁴¹ ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 31.

⁴² ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 50(a).

⁴³ ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 50(b).

⁴⁴ Laura Pineschi, “Cultural Diversity as a Human Right? General Comment No. 21 of the Committee on Economic, Social and Cultural Rights” in Silvia Borelli, and Federico Lenzerini (eds), *Cultural Heritage, Cultural Rights, Cultural Diversity: New Developments in International Law* (Leiden: Brill, 2012) 40.

⁴⁵ HRC, *Report of the independent expert in the field of cultural rights, Ms. Farida Shaheed*, 22 March 2010, UN Doc. A/HRC/14/36, para. 26; HRC, *Report of the independent expert in the field of cultural rights, Farida Shaheed*, 21 March 2011, UN Doc. A/HRC/17/38, paras. 34-36. See also Karolina Sikora, “The Right to Cultural Heritage in International Law, with Special Reference to Indigenous Peoples’ Rights,” *Santander Art and Culture Review* 2, No. 7 (2021): 149-172.

⁴⁶ Article 1 2003 Convention.

pursuant to Articles 21-23; develops the Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Heritage (ODs) pursuant to Article 7 and examines States Parties' submitted inscription requests of ICH elements on the Lists of the 2003 Convention, amongst other tasks.⁴⁷ The General Assembly elects States Members of the Committee according to the principle of equitable geographical representation and rotation (Article 6(1)) and renews half of the States Members every two years (Article 6(4)).

Supporting the examination of inscription requests, the Evaluation Body was established by paragraph 27 of the ODs which comprises expert representatives of States Parties not currently members of the Committee and accredited non-governmental organisations (NGOs).⁴⁸ Its work encompasses the evaluation of inscription nominations for the Lists, including the extension or reduction of an already inscribed ICH element or the transfer of an element to another List, as well as the evaluation of programmes, projects and activities to be included on the Register of Good Safeguarding Practices. The Evaluation Body makes recommendations to the Committee for final decisions of inscription.⁴⁹

States Parties are required to submit periodic reports to the Committee in accordance with Article 29 and as further specified in the ODs. Every six years States Parties must report on the legislative, regulatory and other measures taken for the implementation of the 2003 Convention⁵⁰ with particular focus on the inventories, safeguarding measures as elaborated in Articles 11, 13 and 14, any measures taken by it at the bilateral, subregional, regional and international levels, including measures of international cooperation and the current status of elements inscribed on the various Lists of the 2003 Convention.⁵¹ States Parties are generally encouraged to supplement their reports with information from NGOs,⁵² and to include a gender perspective as well as the widest possible participation of CGIs when reporting on the current status of inscribed ICH elements on the RL.⁵³ Such participatory approach can be detected throughout the 2003 Convention, including regarding the identification, recognition as well as

⁴⁷ UNESCO Intangible Cultural Heritage, "[Functions of the Intergovernmental Committee for the Safeguarding of Intangible Cultural Heritage](#)" [Accessed 14 April 2025].

⁴⁸ UNESCO Intangible Cultural Heritage, "[Evaluation Body](#)" [Accessed 14 April 2025]; UNESCO Intangible Cultural Heritage, Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage (Operational Directives), (Paris, 11-12 June 2024), para. 27.

⁴⁹ UNESCO Intangible Cultural Heritage, "[Evaluation Body](#)".

⁵⁰ Para. 152 Operational Directives.

⁵¹ Paras. 153-156 Operational Directives.

⁵² Para. 151 Operational Directives.

⁵³ Para. 157 Operational Directives.

inventorying and inscription of ICH elements at national level, and is further fleshed out in the ODs. This is discussed in more detail below.

3.2. The Concept of Cultural Heritage

One of the main recognised merits of the 2003 Convention is that of expanding the notion of cultural heritage which is variously conceptualised in scholarship depending on disciplinary perspectives from anthropology and sociology to law. Looking at the different legal conceptualisations of cultural heritage in international law, the adoption of the 2003 Convention signified a second major shift in approach and legal protection. Whereas the first shift occurred with the move from the concept of cultural property towards cultural heritage,⁵⁴ this second shift occurred with the inclusion of intangible cultural elements encompassed by cultural heritage. Importantly, this supported a more nuanced approach to the identification and recognition of cultural heritage elements by adopting a subjective approach in the 2003 Convention.

The World Heritage Convention had previously established an objective approach to (immovable and tangible) cultural and natural heritage elements⁵⁵ which must be of “outstanding universal value”⁵⁶ and authenticity⁵⁷ for the purpose of identification, recognition and ultimately inscription on the World Heritage List. Such criteria have long been criticised as reductionist⁵⁸ and exclusive of many forms of cultural heritage that do not manifest in the material or tangible and are not of universally discernible value.⁵⁹ By contrast, ICH acquires

⁵⁴ Ana Filipa Vrdoljak, and Francesco Francioni, “Introduction” in Francesco Francioni, and Ana Filipa Vrdoljak (eds), *The Oxford Handbook of International Cultural Heritage Law* (Oxford: Oxford University Press, 2020) 4.

⁵⁵ Articles 1 and 2 World Heritage Convention.

⁵⁶ Article 1 World Heritage Convention; Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” 108.

⁵⁷ UNESCO Intangible Cultural Heritage, Operational Guidelines for the Implementation of the World Heritage Convention (Operational Guidelines), WHC.24/01 (31 July 2024), paras. 49-53, 79-86; Dawson Munjeri, “Tangible and Intangible Heritage: from difference to convergence,” *Museum International* 56, No.1-2 (2004): 13; Jukka Jokilehto, “Human rights and cultural heritage. Observations on the recognition of human rights in the international doctrine,” *International Journal of Heritage Studie* 18, No. 3 (2012): 228.

⁵⁸ Munjeri, “Tangible and Intangible Heritage: from difference to convergence,” 13.

⁵⁹ Janet Blake, “Taking a Human Rights Approach to Cultural Heritage Protection,” *Heritage & Society* 4, No.2 (2011): 203; Neil A. Silberman, “Heritage interpretation and human rights: documenting diversity, expressing identity, or establishing universal principles,” *International Journal of Heritage Studies* 18, No. 3 (2012): 247-248; Vrdoljak, and Francioni, “Introduction”, 4.

value by virtue of self-identification of its creators and bearers rather than through externalised criteria.⁶⁰ Under the 2003 Convention ICH is defined as:

“[...] the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity”.⁶¹

It thus encompasses aspects of self-identification and recognition, transmission and recreation as well as identity formation.⁶² The aspects of self-identification and recognition of ICH by CGIs and the relevance for identity formation most clearly signify the shift towards a subjective understanding of cultural heritage by locating the value and meaning-giving of ICH in the creators and bearers of that heritage.⁶³ Recreation corresponds to the more dynamic understanding of cultural heritage initiated by the 2001 Declaration and better acknowledges the diversity of an element that may change over time and with context. The addition of the 2003 Convention has thus contributed to a broader understanding of cultural heritage to encompass tangible and intangible aspects relevant for given CGIs.⁶⁴

This is also reflected in the new Lists established by the 2003 Convention. Intended as a non-exhaustive and less hierarchical international inventory of cultural heritage than the World Heritage List,⁶⁵ the RL alludes to the importance of the representativeness of inscribed

⁶⁰ Blake, “The Impact of UNESCO’s 2003 Convention on National Policy-Making. Developing a new heritage protection paradigm?”, 70-71; Francesco Francioni, “World Cultural Heritage” in Francioni, and Vrdoljak (eds), *The Oxford Handbook of International Cultural Heritage Law*, 252-260.

⁶¹ Article 2(1) 2003 Convention.

⁶² See also Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” 107-112.

⁶³ Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” 108; Sikora, “The Right to Cultural Heritage in International Law, with Special Reference to Indigenous Peoples’ Rights,” 150, 153, 168.

⁶⁴ Munjeri, “Tangible and Intangible Heritage: from difference to convergence,” 13 Jokilehto, “Human rights and cultural heritage. Observations on the recognition of human rights in the international doctrine,” 226-230.

⁶⁵ Blake, “Taking a Human Rights Approach to Cultural Heritage Protection,” 228-229; Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” 110-111; For a critical discussion on the adequacy and shortcomings of the listing mechanism under the 2003 Convention see, amongst others, Federico Lenzerini,

elements. Representativeness, in contrast to universal value, implies the inherent diversity and non-exclusive nature of ICH elements inscribed that exemplify human cultural diversity. Inscribed ICH elements are thus not merely valued, or ranked, as cultural goods⁶⁶ but exhibit meaningful cultural expressions and practices of certain communities and groups that make up humankind.

Referenced at the outset of the Preamble of the 2003 Convention, the 2001 Declaration underscores the importance of safeguarding cultural heritage as a common concern and its valuable contribution to cultural diversity in Article 7 which states that:

“[...] heritage in all its forms must be preserved, enhanced and handed on to future generations as a record of human experience and aspirations, so as to foster creativity in all its diversity [...]”.

It thereby connects the aspects of safeguarding, transmission and recreation echoed in Article 2 of the 2003 Convention, each of which feed into the cultural diversity of humankind. In addition, the 2001 Declaration distinctly links cultural diversity to human rights by declaring that “[t]he defence of cultural diversity is an ethical imperative, inseparable from the respect for human dignity”.⁶⁷ Conversely, the respect for human dignity rooted in the Preamble of and Article 1 UDHR implies the respect for cultural diversity whose safeguarding becomes vital for the protection of human rights.⁶⁸ The 2003 Convention then embeds this human rights approach to both cultural diversity and cultural heritage by explicitly stating that ICH provides a “sense of identity and continuity” for its bearers and creators.⁶⁹ Indeed, the Independent expert confirmed that “cultural heritage is linked to human dignity and identity”⁷⁰ and further defined cultural heritage as “resources enabling the cultural identification and development processes

“Articles 16-17: Listing Intangible Cultural Heritage” in Janet Blake, and Lucas Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary* (Oxford: Oxford University Press, 2020) 306-328.

⁶⁶ UNESCO Intangible Cultural Heritage, “[What is Intangible Cultural Heritage?](#)” [Accessed 10 October 2024].

⁶⁷ Article 4 2001 Declaration.

⁶⁸ Blake, “Taking a Human Rights Approach to Cultural Heritage Protection,” 208, 215, 224; See also Articles 1, 22 Universal Declaration of Human Rights (UDHR).

⁶⁹ Article 2(1) 2003 Convention; Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” 109; Yvonne Donders, “Cultural Heritage and Human Rights” in Francioni, and Vrdoljak (eds), *The Oxford Handbook of International Cultural Heritage Law*, 380, 385-386.

⁷⁰ HRC, *Report of the independent expert in the field of cultural rights*, Farida Shaheed, 21 March 2011, UN Doc. A/HRC/17/38, para. 2. See also Article 22 UDHR which sets out that cultural rights are ‘indispensable’ for human dignity and personal development.

of individuals and communities”.⁷¹ Underscoring their interconnection,⁷² the safeguarding of such heritage then is crucial for individuals and communities in developing their cultural identity.⁷³ The 2003 Convention has thus been deemed to be “the closest linkage yet between the right to cultural identity and cultural heritage protection law”.⁷⁴ As mentioned above, the right to one’s own identity and to engage in one’s own cultural practices⁷⁵ has been explicated by the ESCR Committee’s General comment No. 21 as part of the right of everyone to take part in cultural life and echoes Article 30(4) CRPD.⁷⁶

3.3. Safeguarding Intangible Cultural Heritage

Although there is considerable discussion around the term and precise delineation of the concept of safeguarding in the 2003 Convention,⁷⁷ Nafziger argues that safeguarding is not only the primary purpose but also that its meaning becomes sufficiently clear from its elaboration throughout the 2003 Convention.⁷⁸ Article 2(3) clarifies that “safeguarding” ICH entails:

“[...] ensuring the *viability* of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage”.⁷⁹

Characterising safeguarding as the viability of ICH answers the need to accommodate the newly recognised dynamic nature of cultural heritage and in particular its adaptation to an ever

⁷¹ HRC, *Report of the independent expert in the field of cultural rights, Farida Shaheed*, 21 March 2011, UN Doc. A/HRC/17/38, para. 6.

⁷² Article 2 2003 Convention; ESCR Committee, *General comment No. 21 Right of everyone to take part in cultural life*, para. 50; HRC, *Report of the independent expert in the field of cultural rights, Farida Shaheed*, 21 March 2011, UN Doc. A/HRC/17/38, para. 20.

⁷³ HRC, *Report of the independent expert in the field of cultural rights, Farida Shaheed*, 21 March 2011, UN Doc. A/HRC/17/38, para. 20.

⁷⁴ Blake, “Taking a Human Rights Approach to Cultural Heritage Protection,” 224.

⁷⁵ ESCR Committee, *General comment No. 21 Right of everyone to take part in cultural life*, para. 15(a).

⁷⁶ ESCR Committee, *General comment No. 21 Right of everyone to take part in cultural life*, para. 31.

⁷⁷ See eg Antonio Arantes, *Formation of the Notion of ‘Safeguarding’ Adopted by the 2003 Convention* in Blake, and Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary*, 455-469.

⁷⁸ James A.R. Nafziger, “Article 1. Purpose of the Convention” in Blake, and Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary*, 36, 42-43.

⁷⁹ Emphasis added.

changing environment as well as its transmission from generation to generation, that is to say its continuity.⁸⁰

To facilitate the identification of ICH elements, as an initial step to safeguarding, five broad, non-exhaustive domains are formulated in Article 2(2).⁸¹ Namely, oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; performing arts; social practices, rituals and festive events; knowledge and practices concerning nature and the universe and traditional craftsmanship.⁸² This allows interpretative leeway for States Parties – who are also free to add or develop more nuanced domains for national purposes –⁸³ as to what qualifies as ICH contributing to its diversification at national level, but also creates conceptual uncertainty.

However, the ODs set out the criteria for the inscription of an element on the RL somewhat delineating which elements can be recognised and inscribed at international level. Besides being an ICH element within the meaning of Article 2, an element nominated for RL inscription must “contribute to ensuring visibility and awareness of the significance of the intangible cultural heritage [...] reflecting cultural diversity worldwide and testifying to human creativity”.⁸⁴ This gives emphasis to the representativeness of an ICH element,⁸⁵ and its relevance for cultural diversity.

The ODs further require that a nominated element must be inscribed on an inventory of at least one States Party. Such inventories are then one measure of safeguarding in that they support documentation and recognition of ICH elements following identification at national level and simultaneously fulfil a pre-requisite function for inscription at international level. Inventorying however also supports the awareness raising about ICH, the respect for ICH and

⁸⁰ See also HRC, *Report of the independent expert in the field of cultural rights*, Farida Shaheed, 21 March 2011, UN Doc. A/HRC/17/38, para. 64.

⁸¹ UNESCO Intangible Cultural Heritage, “[Intangible Cultural Heritage domains in the 2003 Convention](#)” [Accessed 11 February 2025]; Janet Blake, “Introduction. The Convention, from Inception to Young Adulthood” in Blake, and Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary*, 6.

⁸² However, languages and religion are explicitly excluded from the scope of the 2003 Convention with languages only recognised as a ‘vehicle’ for the purposes of the 2003 Convention. See, *inter alia*, Benedetta Ubertazzi, “Article 2(2). Manifesting Intangible Cultural Heritage” in Blake, and Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary*, 62-63, 70-71; on languages see, *inter alia*, Rieks Smeets, “Language as a Vehicle of the Intangible Cultural Heritage,” *Museum International* 56, No. 1-2 (2004): 156-165; Bruno De Witte, “Language as Cultural Heritage” in Francioni, and Vrdoljak (eds), *The Oxford Handbook of International Cultural Heritage Law*, 371-378.

⁸³ UNESCO Intangible Cultural Heritage, “Guidance Note for Inventorying Intangible Cultural Heritage under the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage” (February 2021) 3.

⁸⁴ Point 1.2. para. 2(R.2) Operational Directives.

⁸⁵ See also UNESCO Intangible Cultural Heritage, *Decision of the Intergovernmental Committee: 9.COM 10*, (Paris, 24-28 November 2014) para. 11.

understanding between CGIs aligning with some of the latter objectives of the 2003 Convention.⁸⁶

Pursuant to Articles 11(b) and 15, inventorying under the 2003 Convention features a strong participatory dimension which is further elaborated by the ODs requiring that an element may only be inscribed on the RL if it “has been nominated following the widest possible participation of the community, group or, if applicable, individuals concerned and with their free, prior and informed consent”.⁸⁷ This approach has been fostered by the Committee, which during its 9th session in 2014 stated in Decision 10 that:

“[...] communities, groups and, where appropriate, individuals concerned are essential participants at all stages of the identification and inventorying of intangible cultural heritage [...] and calls upon submitting States to demonstrate community participation in the nomination process through ample and convincing evidence”.⁸⁸

The Committee therewith incentivises States Parties to ensure wide participation of the creators and bearers of ICH in identifying, recognising, documenting and inventorying elements at national level.⁸⁹ While States Parties remain gatekeepers for the recognition and inscription at national level as well as the nomination for inscription of an element at international level,⁹⁰ an increase in meaningful engagement of concerned CGIs in the identification, recognition, documentation and inscription of relevant ICH can be observed at national level.⁹¹

⁸⁶ Marie Cornu, and Rieks Smeets, “Article 12. Inventories” in Blake, and Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary*, 186. Inventorying as a safeguarding measure, and listing by UNESCO, is not uncontested and has been critically discussed by, amongst others, Valdimar TR. Hafstein, “Intangible heritage as a list: From masterpieces to representation” in Laurajane Smith, and Natsuko Akagawa (eds), *Intangible Heritage*, 1st ed, (London: Routledge, 2008).

⁸⁷ Point 1.2. para. 2(R.3) Operational Directives.

⁸⁸ UNESCO Intangible Cultural Heritage, *Decision of the Intergovernmental Committee: 9.COM 10*, para. 14. Original emphasis.

⁸⁹ Cornu, and Smeets, “Article 12. Inventories”, 188.

⁹⁰ See Articles 7(g),(i), 16 2003 Convention; Blake, “Taking a Human Rights Approach to Cultural Heritage Protection,” 230; Lenzerini, “Intangible Cultural Heritage: the Living Cultures of Peoples,” 111-113; Silberman, “Heritage interpretation and human rights: documenting diversity, expressing identity, or establishing universal principles,” 250; Donders, “Cultural Heritage and Human Rights”, 385.

⁹¹ See eg bottom-up wiki-inventorying practices in Finland and Scotland and large-scale community-based inventorying in several African States Parties. Cornu, and Smeets, “Article 12. Inventories”, 194; Nafziger, “Article 1. Purpose of the Convention”, 47.

Although it is the ICH element that is protected under the 2003 Convention, the identification of its creators and bearers is crucial to facilitate the identification, recognition, documentation and importantly the most appropriate management of an ICH element. Despite ongoing scholarly debate on the precise meaning and delineation of CGIs for the purpose of the 2003 Convention,⁹² this article embraces the “vagueness” of CGIs that allows for “including other social groups based on shared characteristics of social orientation, for example, or a shared interest [...] for [the] development in the understanding we have of the full range of ICH and its associated groups and communities”.⁹³ As Jacobs suggests,⁹⁴ such an understanding of CGIs offers the possibility of including indeed the “widest possible participation” of hitherto underrepresented or entirely unrecognised voices to explore whether and to what extent “other groups” may be bearers and creators of ICH. This conception thus affords the possibility to include ICH elements of previously excluded creators and bearers, such as persons with disabilities, which contributes to a more expansive understanding of both ICH and CGIs. In turn, this allows us to think of persons with disabilities as creators and bearers of ICH, and such ICH elements as contributing to cultural diversity and as integral part of the common heritage of humanity, rather than as accessibility features of discrete groups of persons with disabilities.

4. Braille as Intangible Cultural Heritage

The inscription of Braille on the national inventories of ICH of Germany and France respectively serve an interesting case study to explore such an expansive concept of ICH, and by extension of hitherto overlooked creators and bearers that contribute to human cultural diversity.

⁹² See eg Markus Tauschek, “Imaginations, Constructions and Constraints: Some Concluding Remarks on Heritage, Community and Participation” in Nicolas Adell, et al., (eds), *Between Imagined Communities of Practice. Participation, Territory and the Making of Heritage* (Göttingen: Göttingen University Press, 2017) 291-306.

⁹³ Janet Blake, “Safeguarding Intangible Cultural Heritage in the Urban Environment. Some Experiences Gained from Implementing UNESCO’s 2003 Convention” in Sophia Labadi, and William Logan (eds), *Urban Heritage, Development and Sustainability. International Frameworks, National and Local Governance* (Abingdon: Routledge, 2016) 126 as cited in Marc Jacobs, “Article 15. Participation of Communities, Groups and Individuals: CGIs, not Just ‘the Community’” in Blake, and Lixinski (eds), *The 2003 UNESCO Intangible Heritage Convention. A Commentary*, 288. See also Dorothy Noyes, “Group” in Burt Feintuch (ed), *Eight Words for the Study of Expressive Culture* (Urbana: University of Illinois Press, 2003) 7-41.

⁹⁴ Marc Jacobs, “De Constructie van een Hoofdletter: met de D van Dilemma. Dove Ogen, (Cy)Borgen en Immaterieel Cultureel Erfgoed,” *faro. Tijdschrift over cultureel erfgoed* 4, No.2 (2011): 14-15; Jacobs, “Article 15. Participation of Communities, Groups and Individuals: CGIs, not Just ‘the Community’”, 288.

4.1. Self-Identification and National Recognition

Perhaps the most important aspect is that both inscriptions followed the self-identification of Braille as ICH element by its users, and their initiative to recognise and inscribe it as such on national inventories. These inscriptions suggest both active and meaningful participation of the creators and bearers, including their free, prior and informed consent to the respective inscriptions,⁹⁵ and the conceptualisation of Braille users as cultural creators and bearers by themselves. The latter point is particularly relevant because it epitomises a shift from viewing Braille merely as an accessibility measure for persons with visual impairments to conceiving of it as a cultural practice that expresses and contributes to human cultural diversity. In turn, these inscriptions emphasise that people who use Braille are bearers of a distinct script rather than as a group of persons who are blind, visually impaired or deafblind.⁹⁶

In 2020, Germany inscribed “the use and dissemination of Braille in Germany” on its national inventory of ICH. Applying the categorisations of Article 2 of the 2003 Convention, Germany inscribed the element as within three domains: “oral traditions and expressions”; “knowledge and practices concerning nature and the universe”; and “traditional craftsmanship”.⁹⁷ Following suit in 2023, France inscribed “Learning and using Braille” on its national inventory as falling within the categories of “performing arts” and “social practices, rituals and festive events”.⁹⁸ Two things appear immediately noteworthy. Firstly, both entries inscribe the “usage” of Braille, rather than solely the script itself, pointing to a dynamic understanding emphasising the practical dimension of this element. It moreover seems to pronounce the specific use of Braille by Braille users in the respective territories tallying with the notion that Braille is not a universal tactile writing system, but a script that varies in spelling and notation per language just like printed scripts do. This applied understanding is further substantiated by the weight given to “dissemination” and “learning” respectively which clearly

⁹⁵ Deutscher Blinden- und Sehbehindertenverband e.V., “[Braille-Schrift/Blindenschrift](#)” [Accessed 10 October 2024]; Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 36-39.

⁹⁶ This is reflected in Germany’s first Periodic Report to the Committee, which states that while accessibility measures are taken to facilitate the comprehensive participation of persons with disabilities in safeguarding ICH, persons with disabilities can also form the majority bearer group of listed ICH elements. See Germany, “[Periodic Report \(Convention\)](#)”, 3 January 2022, Questions 8.2 and 16.1 [Accessed 28 April 2025].

⁹⁷ Deutsche UNESCO Kommission, “[Immaterielles Kulturerbe. Verwendung und Weitergabe der Brailleschrift in Deutschland](#)”.

⁹⁸ Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 2.

echo the transmission dimension of ICH elements as defined in the 2003 Convention. This also includes that Braille literacy skills are transmitted from older generations to younger ones through, for instance, associations, clubs, or local and online communities.⁹⁹

Secondly, the variation in categorising the use of Braille is in part expression of the broad domains set by Article 2 leaving States Parties considerable leeway for interpretation. Yet, it also alludes to the discrete perspectives of those involved in inscribing the elements, specifically Braille users,¹⁰⁰ and the diverse nature, function and meaning of Braille for its various users.

4.2. Identity Formation and Representativeness

The intricate relationship between various scripts, ICH and cultural diversity is exemplified by the RL inscriptions of the “Living culture of three writing systems of the Georgian alphabet” by Georgia in 2016¹⁰¹ and “Armenian letter art and its cultural expressions” by Armenia in 2019.¹⁰² As such the Georgian entry states for instance that the writing systems “[...] coexist thanks to their different cultural and social functions, reflecting an aspect of Georgia’s diversity and identity. Their ongoing use in a cultural sense, also gives communities a feeling of continuity”.¹⁰³

This emphasises the value of scripts fulfilling important social and cultural functions but also alludes to the value of the plurality of scripts in response to different social and cultural purposes by different individuals and groups within a society. It moreover points to the identity forming dimension of writing systems and their subsequent significance as ICH elements. As stated above, Braille contributes to the identity of its individual users and their cultural expression giving value to it as an ICH element. Moreover, said identification with the ICH element of Braille contributes to the construction of a collective dimension of identity of Braille users as creators and bearers of same.

⁹⁹ See eg Deutsche UNESCO Kommission, “[Immaterielles Kulturerbe. Verwendung und Weitergabe der Brailleschrift in Deutschland](#)”; The Braillists Foundation, “[About Us](#)” [Accessed 4 March 2025]; Barillecast, “[About Us](#)” [Accessed 25 March 2025]; EBU, “[Braille 200](#)” [Accessed 15 January 2025].

¹⁰⁰ Deutscher Blinden- und Sehbehindertenverband e.V., “[Braille-Schrift/Blindenschrift](#)”; Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 33-39.

¹⁰¹ UNESCO Intangible Cultural Heritage, *Decision of the Intergovernmental Committee: 11.COM 10.B.13*, (Addis Ababa, 28 November to 2 December 2016).

¹⁰² UNESCO Intangible Cultural Heritage, *Decision of the Intergovernmental Committee: 14.COM 10.B.1*, (Bogotá, 9 to 14 December 2019).

¹⁰³ UNESCO Intangible Cultural Heritage, “[Living culture of three writing systems of the Georgian alphabet](#)” [Accessed 14 March 2025].

The versatile use and adaptability of Braille indeed speaks to its representativeness as ICH in line with the criterion of “contribut[ing] to [...] reflecting cultural diversity worldwide and testifying to human creativity” set by the ODs. As the German entry stresses, Braille has historically been and is presently being developed and adapted by its users,¹⁰⁴ alluding to the recreation processes in response to the environment emphasised in Article 2(1) of the 2003 Convention. The recreation of Braille can be observed in its adaptations for the digital era with the introduction of refreshable Braille displays and the current development of eBraille codes as a digital reading format for instance.¹⁰⁵ Moreover, the usage of Braille beyond accessing essential information for the purpose of writing poems, painting or inventing games,¹⁰⁶ demonstrate the creative potential and cultural expression value of Braille.

This creativity is exemplified by cross-border initiatives such as “livingbraille”¹⁰⁷ by the European Blind Union for instance, which amongst other projects, initiated a “Braille 200”¹⁰⁸ platform to celebrate the bicentenary of Braille. In this forum, Braille users from all across Europe contribute daily with their multifaceted Braille creations, art pieces and innovative uses. In this way it also brings together diverse Braille users from geographically disparate locations who all identify with Braille as an essential part of their life and culture, which in turn contributes to their individual as well as collective identity formation. In this context, it should be noted that both the German and French entries recognise Braille usage as an ICH element throughout the entirety of their respective territories.¹⁰⁹ Thus, Braille usage as an ICH element exemplifies how “the element [...] defines the community”¹¹⁰ where individuals may identify with the element and the collective dimension of “Braille users” derives from a common, albeit not identical, practice of using Braille in all domains of life.

¹⁰⁴ Deutsche UNESCO Kommission, “[Immaterielles Kulturerbe. Verwendung und Weitergabe der Brailleschrift in Deutschland](#)”.

¹⁰⁵ EBU, “[Access to Reading and Using Braille – a matter of the future](#)”, 3; DAISY Consortium, “[eBraille 1.0. DAISY Candidate Release 3 March 2025](#)” [Accessed 11 March 2025]; Englebreton, Holbrook, and Fischer-Baum, “A position paper on researching braille in the cognitive sciences: decentering the sighted norm,” 401.

¹⁰⁶ See eg Braillecast, “[Games Galore: Braille and Tactile Games for All the Family](#)” [Accessed 25 March 2025]; EBU, “[Braille 200 – Love, Fear and Poems](#)” [Accessed 8 March 2025].

¹⁰⁷ EBU, “[livingbraille](#)” [Accessed 10 October 2024].

¹⁰⁸ EBU, “[Braille 200](#)” [Accessed 24 March 2025].

¹⁰⁹ Deutsche UNESCO Kommission, “[Immaterielles Kulturerbe. Verwendung und Weitergabe der Brailleschrift in Deutschland](#)”; Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 3.

¹¹⁰ Postulated by the secretary of the 2003 Convention, see Chiara Bortolotto, “Placing Intangible Cultural Heritage, Owning a Tradition, Affirming Sovereignty. The role of spatiality in the practice of the 2003 Convention” in Stefano, and Davis (eds), *The Routledge Companion to Intangible Cultural Heritage* (London: Routledge 2017), 49.

4.3. International Recognition and Inscription

On the whole, Braille appears to fulfil the criteria of an ICH element as defined in Article 2 of the 2003 Convention as it is an element identified and recognised by its creators and bearers, is transmitted from generation to generation, is constantly being recreated and has proven its adaptability to a changing environment as well as a diverse usage contributing to the identity formation of its bearers and creators. Moreover, Braille meets the criteria set out by the ODs regarding inscription on the RL insofar as it is an element within the meaning of Article 2, is inscribed on the national inventory of more than one States Party following the widest possible participation of creators and bearers and their free, prior and informed consent and arguably contributes to the visibility of ICH and its significance contributing to cultural diversity.

The final requirement for a potential inscription of Braille on the RL is criterion R.3 of the ODs. It demands the elaboration of safeguarding measures that protect and promote a given element at national level. While the German entry is silent on any safeguarding measures in place or envisaged for the usage of Braille indicating a significant shortcoming for a potential nomination submission by this States Party,¹¹¹ the French entry features an extensive list of measures for the safeguarding of Braille. For example, art, literary and film creations celebrating Louis Braille and his eponymous writing system which contribute to raising awareness and promoting knowledge about Braille; commemorative events and Braille dictation and mathematics competitions as well as Louis Braille's home-turned-museum which serve educational as well as experiential, immersive learning purposes about Braille.¹¹² The French entry moreover envisions future safeguarding measures calling, *inter alia*, for strategic and political measures including Braille training in teacher training or the creation of a Louis Braille literary prize to support and promote Braille publishing houses. Additionally, the entry calls on all Member States of the World Blind Union to inscribe Braille as ICH element on their respective national inventories referencing Germany's example.¹¹³ This has further fostered the

¹¹¹ However, the first Periodic Report of Germany elaborates that an inscription on the national inventory requires safeguarding measures prior to inscription. It can thus be inferred that some safeguarding measures of Braille usage are in place in Germany. See Germany, "[Periodic Report \(Convention\)](#)", Question 7.1 [Accessed 28 April 2025].

¹¹² Fiche d'inventaire du patrimoine culturel immatériel en France, "[L'apprentissage et l'usage du braille](#)", 20-24. See also Articles 13-14 2003 Convention.

¹¹³ Fiche d'inventaire du patrimoine culturel immatériel en France, "[L'apprentissage et l'usage du braille](#)", 25. At the time of writing, the inscription of "The Learning and Using of Braille" on the national inventory of ICH of Portugal is under review, having been initiated by the Portuguese Association of Typhology, Equity and Inclusion

ambition to inscribe Braille on the RL as it “should be defined in terms of respect for the dignity of humanity”.¹¹⁴

4.4. Multinational Inscription as the Way Forward?

The Committee encourages States Parties to submit joint nomination files where an ICH element is found across borders or in multiple States Parties. The usage of Braille seems predestined for a multinational submission due to its global presence and usage.¹¹⁵ Organising such a submission however might prove challenging on account of national inscriptions on inventories and safeguarding measures being required prior to inscription. Yet, another avenue for a potential inscription on the RL might be through the successful nomination by one States Party, which is subsequently extended to further States Parties upon fully satisfying all criteria as set out above and pursuant to point 1.6 of the ODs.

However, at the time of writing no nomination file by any States Party appears to have been submitted to the Committee to inscribe Braille usage on the RL.¹¹⁶ Still, the benefit of an inscription on the RL would lie in increased respect for Braille usage as cultural expression and heritage, global awareness raising and mutual appreciation of this shared ICH element as well as likely facilitating international cooperation, including regarding good practices in safeguarding Braille usage at the national level. It might moreover promote the learning and usage of Braille by current as well as new users supporting its continuity. Further, it might strengthen the identity formation of individuals as well as groups of Braille users across borders at international level. In turn, this would likely strengthen the conceptual shift towards Braille as a discrete tactile writing system exemplifying human cultural diversity, rather than an accessibility feature for persons with visual impairments at international level.

5. Deepening the Concept of Cultural Heritage to Encompass Disability: Braille as a Starting Point?

upon the invitation of French counterparts. See Centro de Experiência Viva - Museu de Tiflogia, “[Informação sobre a Candidatura Universalista da “Aprendizagem e Uso do Braille” a Património Imaterial da Humanidade](#)” [Accessed 13 June 2025]; Património Cultural, “[Aprendizagem e Uso do Braille](#)” [Accessed 13 June 2025].

¹¹⁴ Fiche d’inventaire du patrimoine culturel immatériel en France, “[L’apprentissage et l’usage du braille](#)”, 25.

¹¹⁵ Point 1.5 Operational Directives.

¹¹⁶ UNESCO Intangible Cultural Heritage, “[Files 2025 under process](#)” [Accessed 25 March 2025].

Taking the above into consideration, an expansive view of ICH allows not only the inclusion of Braille as a tactile writing system as ICH element under the 2003 Convention, but also opens a pathway to recognising new “other groups” as creators and bearers. Regarding Braille specifically this pertains, *inter alia*, to persons who are blind, visually impaired and deafblind as Braille users. By extension, however, this also applies to persons with disabilities more broadly giving effect to the participation aspect of the right to participate in the cultural life, i.e. the right to choose one’s own cultural identity and to engage in one’s own cultural practices.¹¹⁷ The ensuing obligations of States Parties to safeguard recognised ICH elements under the 2003 Convention at national level, albeit often through soft law measures, can thus contribute to fostering and protecting cultural identities and cultural practices of persons with disabilities. Although it is useful here to recall the clarification of the Committee on the Rights of Persons with Disabilities that “disability is one of several layers of identity”,¹¹⁸ the 2003 Convention can be seen as one instrument to gradually realise the right of persons with disabilities to their cultural identity(-ies) as enshrined in Article 30(4) CRPD. Moreover, it demonstrates how the 2003 Convention indeed forms “the closest linkage yet between the right to cultural identity and cultural heritage protection law”.¹¹⁹

Recognising and safeguarding Braille as ICH element under the 2003 Convention at national level – and potentially at international level – also supports “the enrichment of society”¹²⁰ and enables societies “to benefit from cultural heritage”.¹²¹ In this connection, it contributes to realising the right to know and understand one’s own culture (for Braille users) as well as that of others (for non-Braille users). Importantly, in this way it addresses the access dimension of the right to participate in cultural life, which in part is also encapsulated in Article 30(2) CRPD, as well as adds to cultural diversity.

This is further substantiated when considering the recognition of Braille as ICH element as a form of effecting the contribution aspect of the right to participate in cultural life and

¹¹⁷ This right also includes to freely identify or not with one or several communities and importantly to change that choice. This also allows both persons with and without visual impairments to identify as Braille users and to change that choice over time or in context. See ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 15(a).

¹¹⁸ Committee on the Rights of Persons with Disabilities, *General comment No. 6 on equality and non-discrimination*, 26 April 2018, UN Doc. CRPD/C/GC/6, para. 9.

¹¹⁹ Blake, “Taking a Human Rights Approach to Cultural Heritage Protection,” 224.

¹²⁰ Article 30(2) CRPD.

¹²¹ ESCR Committee, *General Comment No. 21 Right of everyone to take part in cultural life*, para. 15(b). See also O’Keefe, “The “Right to Take Part in Cultural Life” under Article 15 of the ICESCR,” 908-915.

pertains more to the creators and bearers, and particularly to persons who are blind, visually impaired or deafblind. The right of everyone to be involved in creating the “spiritual, material, intellectual and emotional expressions of the community” undeniably facilitates the creation of greater cultural diversity. This right is also explicated for persons with disabilities in Article 30(2) CRPD which formulates the positive obligation of States Parties to create “opportunities to develop and utilize [the] creative, artistic and intellectual potential” of persons with disabilities. The recognition of ICH elements of persons with disabilities under the 2003 Convention then is one measure, or rather one instrument, through which States Parties can fulfil their obligations and gradually realise the right to participate in cultural life of persons with disabilities in full.

Yet, the benefit is not confined to persons with disabilities but rather enriches the cultural diversity of humankind forming an integral part of the common heritage of humanity. The 2003 Convention thus has the potential to bridge the right to participate in cultural life of persons with disabilities and their contribution to the common heritage of humanity, i.e. cultural diversity, through the recognition and safeguarding of ICH elements. Braille appears a case in point illustrating this potential of the 2003 Convention to be “[t]he link between cultural heritage, cultural diversity and cultural rights”.¹²² Importantly, it deepens our understanding of ICH and the manifold ways in which humans give meaning and engage in cultural practice feeding into a greater appreciation of the diversity of humans and subsequently of cultural diversity encompassing persons with disabilities and their cultural identities and practices.

The recognition of Braille as ICH element by Germany and France respectively has moreover shown that the participatory approach embedded in the 2003 Convention, even if imperfect, fosters the engagement and participation of “other groups”, such as persons with visual impairments, in cultural life. This can strengthen agency and self-identification as creators and bearers of ICH elements of new social groups and individuals, but importantly also contributes to a larger shift in viewing certain elements and practices from a new angle, an angle of cultural heritage and practice rather than one of accessibility. This supports thinking of persons with disabilities as participants in cultural life on an equal basis with others and can contribute to breaking with marginalising trends. In other words, it is one instrument facilitating the enjoyment of the full suite of human rights of persons with disabilities including cultural

¹²² HRC, *Report of the independent expert in the field of cultural rights*, Farida Shaheed, 21 March 2011, UN Doc. A/HRC/17/38, para. 21.

rights and specifically the right to participate in cultural life. This also tallies with the general principles of “full and effective participation and inclusion in society”¹²³ and “respect for difference and acceptance of persons with disabilities as part of human diversity and humanity”¹²⁴ set out in the CRPD as well as the general obligations of States Parties under the CRPD.¹²⁵

6. Concluding Remarks

The 2003 Convention has undoubtedly contributed to the broadening of the concept of cultural heritage as understood in international law by acknowledging its inherent dynamic nature and immaterial dimensions. Embedding a more subjective approach to the identification and meaning-giving of ICH elements emphasising the representativeness of human cultural heritage rather than its objectively outstanding value have contributed to more elements being identified, recognised, inscribed and ultimately better safeguarded at national level. In turn, this has contributed to recognition and safeguarding of greater cultural diversity within States Parties as well as to awareness raising and promotion of ICH elements at international level through the inscription on the RL.

Viewing Braille as an expression of human cultural diversity meaningfully adds to our understanding of ICH elements. It deepens our understanding of cultural heritage by including Braille not as an accessibility measure or as another human script but one that expresses cultural diversity in a new dimension by adding a *tactile* writing system to the many visual ones created by humans. Importantly, the recognition of ICH elements created and borne by, *inter alia*, persons with disabilities, supports avoiding false assumptions of homogeneity of “disability culture”,¹²⁶ and instead affords a more nuanced approach to the right to take part in cultural life on an equal basis with others and with that the right to choose one’s own cultural identity and cultural practices.

¹²³ Article 3(c) CRPD.

¹²⁴ Article 3(d) CRPD.

¹²⁵ Article 4(1), (2) and (3) CRPD.

¹²⁶ Beudaert, “Fifty shades of Braille: motivations, challenges and cultural significance in visual impairment,” 359.