

# Legal and institutional domestication of the 2003 UNESCO Convention on Intangible Cultural Heritage in South Korea

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# Legal and institutional domestication of the 2003 UNESCO Convention on Intangible Cultural Heritage in South Korea<sup>1</sup>

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## ABSTRACT

This study examines the legal and institutional changes that have occurred in the Republic of Korea since 2005 in response to the Convention for the Safeguarding of the Intangible Cultural Heritage. Since 1962, the Republic of Korea has designated and protected intangible cultural properties, with the system initially established through the implementation of the Cultural Property Protection Act. The legal framework, which had remained largely unaltered since 1962, underwent a substantial revision in 2016 and was transformed into the National Heritage Act in 2024. This study will examine the characteristics of the intangible cultural property system under the regime of the 1962 Cultural Property Protection Act. It will then analyse legal and institutional

modifications that have occurred within the 1962 Act system since 2005. It will demonstrate that these changes were the consequence of an initiative to accept the unfamiliar concept of the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage in parallel with the existing concept of intangible cultural property.

## Keywords

Cultural Property Protection Act of South Korea and Japan, Preservation and Promotion of Intangible Cultural Property Act, National Heritage Act, Folk Materials (or Folk Cultural Property), Heritage Community, Community Items.

## Introduction

The purpose of this article is to review the impact of the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (hereafter 'UICH'), to which the Republic of Korea (hereafter 'Korea' or 'South Korea') acceded in 2005, on South Korea's intangible cultural heritage system with a focus on the legal and institutional changes.

South Korea has designated and protected certain properties as 'intangible cultural property' (hereafter 'ICP' or 'ICPs') since it enacted the *Cultural Properties Protection Act* (hereafter 'CPPA') in 1962. Following Korea's accession to the 2003 UICH in 2005, the CPPA system encountered challenges with regard to the conceptual framework,

the objects and the policy direction to which it pertains. Consequently, it underwent substantial modifications. CPPA, largely unaltered since 1962, was broadly amended in 2015, undergoing a substantial revision. In addition, it led to the enactment of a new law, the *Preservation and Promotion of Intangible Cultural Properties Act* (hereafter 'PPICP'), in 2015. The revised CPPA and PPICP of 2015 not only greatly expanded the scope of designation and management of ICPs but also brought about a major change in the legal and policy perspective of the ICP in Korea. The above two laws resulted from an effort to reconcile or expand the notion of 'intangible cultural properties' from the 1962 CPPA to the somewhat incongruent concept of 'intangible cultural heritage' from UICH.

Korea's ICP system has undergone considerable changes at the practical level pertaining to designation, management and research. Criteria were established for the designation and evaluation of 'living customs' and 'folk knowledge', which were newly included in the ICP categories. The aforementioned two categories necessitate disparate criteria for the designation values, as well as different management and research methodologies, which the CPPA has hitherto maintained. Thus, the opening of the National Intangible Heritage Center in 2013, under the Cultural Heritage Administration, and the establishment of the Korean Intangible Heritage Promotion Center, under the Korean Heritage Agency for researching, promoting and supporting intangible cultural properties, were major changes in the ICP system.<sup>2</sup> In essence, these institutional alterations were designed to establish an administrative structure for the designation and protection of new ICP categories that align with the UICH's definition. Nevertheless, despite this modification, ICP remained associated with the definition of 'cultural property' that had been in use since 1962, as were other categories of cultural property. In June 2024, the *National Heritage Act* was amended to replace the term 'cultural property' with 'heritage'. Additionally, the amendment established 'intangible cultural heritage' (hereafter 'ICH') as a category distinct from 'cultural heritage and natural heritage' under the 'heritage' category.

This study will examine the characteristics of the intangible cultural property system within the 1962 CPPA regime. Subsequently, it will analyse legal and institutional modifications that have occurred within the 1962 Act since 2005. It will demonstrate that these changes were the consequence of an initiative to accept the unfamiliar concept of UICH in parallel with the existing concept of ICP.

## **Establishment and characteristics of the Korean CPPA system**

### ***Folk materials and ICPs of the 1962 CPPA***

Northeast Asian countries such as South Korea, China, Japan and North Korea have responded to the implementation of the UICH<sup>3</sup> by enhancing existing institutions and establishing new ones. These changes were not uniform and varied considerably, contingent upon the extent of comprehension regarding the implications of UICH and the ethnic and political context in each country. When South Korea acceded to the UNESCO Convention,

the UICH was perceived to be essentially analogous to the ICP under the CPPA system (Hahm 2020). Before 2016, Korea's ICP institution was derived from the CPPA enacted in 1962. Consequently, it was postulated that UNESCO's endorsement of the UICH embraced the Korean ICP and CPPA system. However, there was a discrepancy between the CPPA's definition of ICP in Article 2.2 as an 'intangible cultural product of theater, music, dance, craftsmanship, and others that have great historical or artistic value in Korea' and the criteria for designation and value of ICP set forth by the UICH.

Indeed, from the enactment of the CPPA in 1962 until its amendment in 2016, the category of cultural properties analogous to UICH was 'folk materials' within the CPPA system. The 1962 CPPA divided cultural properties into four categories: tangible cultural properties, intangible cultural properties, monuments and folk materials. The definition of folk materials in the CPPA before 2016 was as follows: 'Customs or practices related to food, clothing, shelter, livelihood, beliefs, annual events, etc., and the clothing, utensils, houses, etc. used for them, which are essential for understanding the changes in national life' (underlined by the author). The initial part of the underlined phrase pertains to intangible folk materials, whereas the latter half of the phrase – 'the clothing ... used for them' – is associated with tangible folk materials. The specific categories of the designation are as follows: (a) residential lifestyle; (b) dress lifestyle; (c) dietary lifestyle; (d) annual events; (e) folk games; (f) folk entertainment; (g) folk performances; (h) folk beliefs; (i) folk ceremonies; (j) folk tools; (k) legends, tales, proverbs, riddles; and (l) others (Korea Cultural Heritage Administration 1965, 185–186).<sup>4</sup> These categories encompass the majority of the categories of ICH as proposed by the UICH, including: (a) oral traditions and expressions, including language as a vehicle of the ICH; (b) performing arts; (c) social practices, rituals and festive events; (d) knowledge and practices concerning nature and the universe; and (f) traditional craftsmanship.

In this sense, the UICH's definition of ICH may be perceived as aligning with 'folk materials' of the CPPA. However, given the way Korea's CPPA has been administered over the past half-century, the concept of designating certain aspects of national life as a cultural property is not a familiar one to Koreans. 'Folk materials', which was established as a category of cultural properties by the CPPA in 1962, was renamed 'folk cultural properties'

in 2011, and subsequently 'folk cultural heritage' in 2024. The 1962 CPPA, including the definition of folklore materials, is a literal translation of the Japanese *law for the Protection of Cultural Properties* of 1954. Japan renamed 'folk materials' to 'folk cultural properties' in 1975, long before Korea did so in 2011.

Despite the fact that the legal provisions are literally identical, there is a crucial discrepancy in the manner in which folk materials are managed in Korea and Japan. The CPPA, enacted in 1950 in Japan, introduced new categories of 'intangible cultural properties' and 'buried cultural properties', which were incorporated into the existing *National Treasure Preservation Act*. Subsequently, the 1954 amendment introduced a new category of cultural property, designated as 'important folk materials' (Bunkachou 2001; Sekine 2014). The Japanese and Korean definitions of 'folk materials' were largely similar, with only a few minor discrepancies. Following these definitions, Japan maintained a distinction between tangible and intangible folk materials. A designation system was established for the preservation of tangible folk materials, in a manner analogous to that of tangible cultural properties. However, in contrast, as for intangible folk materials, a record system was established rather than a designation system. This reflects the inherent nature of intangible folk materials because, unlike tangible folk materials, they cannot be preserved as they 'naturally occur and disappear' (Nam 2009, 317–318). In Korea, however, the term 'folk materials' exclusively encompassed tangible items such as houses, clothing and religious objects. Additionally, the intangible elements considered 'intangible folk materials' in Japan were also designated as 'intangible cultural properties' in Korea. The definition of folk cultural properties in the 1962 CPPA, which encompassed both tangible and intangible folk materials, underwent a revision in 2016, and its scope was limited to tangible folk materials.

As previously mentioned, however, intangible folk materials that represent the lives of the people, such as residential lifestyles, were not excluded from the category of CPPA. Rather, they were designated as ICPs to be 'protected'. A review of the initial set of 'important intangible cultural properties' designated in 1964 reveals that the majority of the categories pertained to (d) annual events, (e) folk games, (f) folk entertainment, (g) folk performances, and (i) folk ceremonies. Examples of these early designations include *Yangju Byeolsandae-nori*, *Namsadang-nori*, *Tongyeong Ogwangdae* and *Goseong*

*Ogwangdae*. Indeed, numerous early important intangible cultural properties, including the *Gangneung Dan-o* festival (2008), *Ganggangsulae* (2009), *Namsadangnori* (2009), *Nongak* (2014), Tug-of-war (2015) and *Tae-dan* (2022), were already designated as UNESCO Intangible Cultural Heritage of Humanity.

### **Limitations of ICP under the CPPA system**

However, a challenge emerged when various folk rituals, ceremonies and games that had diffused across regions over an extended period were designated as ICPs, not as folk materials.<sup>5</sup> This is because ICPs are, by definition, a category that places critical emphasis on high levels of technique and artistry, rather than on the 'living culture' of UICH. From 1962 to 2009, the Korean CPPA defined ICPs as 'intangible cultural products of theater, music, dance, craftsmanship, and others that have great historical or artistic value in Korea'. This definition added 'dance' to the Japanese 1950 CPPA's definition of ICPs. The categories of 'play' and 'ceremonies' were not included until 2010. The addition of these categories may be attributed to the necessity of expanding the designated categories on an institutional level following Korean accession to the UICH in 2005. Consequently, this resulted in the retroactive legitimisation of the practice of designating folk games and ceremonies as ICP in Korea.

Before the CPPA adopted the UICH categorisation in 2016, it was necessary to demonstrate that folk games, entertainment and performing arts, frequently embedded within annual events or ceremonies, could be designated as ICP. To demonstrate their suitability for designation as ICP, they tended to be represented or even reproduced in a more exaggerated form, with particular emphasis on ritualistic technique and artistry.<sup>6</sup> Moreover, it was incumbent upon the applicant to demonstrate that the technique and performances in question possessed a high degree of historical and artistic value. This was nevertheless the case, even though the 2010 amendment added the categories of 'play' and 'ceremonies' to the definition of ICP.

The 1999 revision of the CPPA introduced a more inclusive approach to ICPs by revising its definition to 'great historical and artistic value or academic value'. However, a new general definition of 'cultural property' was added in Article 2.1, defining it as 'a man-made or naturally occurring national, ethnic or global heritage

of great historical, artistic, scientific or scenic value'. Thus, the recognition of historical, artistic, scientific and scenic value at the national, ethnic and global levels became a prerequisite for designation as a cultural property. Consequently, the CPPA has been criticised for emphasising only 'the configuration of cultural identity at the national level and the characteristics of local culture as a subunit of national identity' (Lee 2009). Nevertheless, Korea's ICPs have incorporated the role of intangible folk cultural properties (or intangible folk materials) in practice. This encompasses folk performances and ceremonies indigenous to each region, as well as folk cultures, which can be regarded as popularised techniques and arts that are not of a high level.

Thus, since the enactment of the CPPA in 1962, the definition of ICP in Korea has not included the notion of community as an entity that transmits and re-creates ICH. By definition, Korean ICP, which emphasises the historical or artistic value of techniques and artistry, differs from the 2003 UICH definition of ICH, which emphasises the notion of a cultural product that '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'. In addition, the notion of community culture, which is not reducible to 'national culture', as underlined in the 2003 UNESCO Convention, but is involved in the cultural identity of local communities, was not in line with the direction of change in Korea's CPPA. Specifically, since the 1990s, Korea's CPPA has sought to promote national, ethnic and global values as universal values in its cultural property policy. Consequently, the notion of UICH was more foreign

to Korea than to countries without an ICP system.

## Domestication of the 2003 UNESCO Convention

### *Amendment to the CPPA in 2015*

Korea acceded to the 2003 UICH in 2005 and the Convention entered into force in 2006. Changes in domestic law to reflect the UICH came approximately ten years later with the revision of the CPPA in 2015 and its enactment in 2016. In the revised CPPA, the definition of ICP in Article 2.2 was amended to replace the phrase 'of great historical or artistic value' with 'intangible cultural heritage that has been transmitted through generations and falls under any of the following categories'. Following the definition of ICP, Article 2.2 lists a total of seven specific categories of the ICP. This is a considerable expansion from the previous definition, which was limited to theatre, music, dance, play, ceremonies and craftsmanship. Table 1 shows the comparison with UICH's categories. The numbers on the left of each category in the right-hand column represent the order in which the categories are written in Article 2.2 of the 2016 CPPA.

The 2016 amendment provides a legal basis for the designation of annual festivals, folk performances and folk rituals not covered by the existing definition of ICP since the implementation of the CPPA in 1962. However, it was vague, making it difficult to determine what to designate among the various annual festivals, folk performances, folk rituals, and even the numerous oral traditions and expressions scattered throughout the country. In particular, the 2016 CPPA definition of ICP as

**Table 1**  
Comparison between uich's and cppa's icp categories

UICH 2003	Revised CPPA 2016
Oral traditions and expressions, including language as a vehicle of the ICH	④ Oral traditions and expressions
Performing arts	① Traditional performing arts
Social practices, rituals and festive events	⑤ Traditional lifestyles such as food, clothing and shelter ⑥ Social ceremonies, including folk beliefs ⑦ Traditional games, festivals, artistic skills and martial arts
Knowledge and practices concerning nature and the universe	③ Traditional knowledge of Korean medicine, agriculture, fisheries, etc.
Traditional craftsmanship	② Traditional skills in crafts, art, etc.

'intangible cultural heritage that has been handed down from generation to generation' was a type of tautology in the definition of intangible cultural heritage as being 'handed down from generation to generation'. Therefore, a more specific definition was necessary to identify and protect ICPs in reality. This need led to the implementation of the *Preservation and Promotion of Intangible Cultural Properties Act* (hereafter 'PPICP') in conjunction with the 2016 amendment of the CPPA.

### **Enactment of the PPICP and its implications**

The PPICP was enacted to protect intangible cultural properties independently from the other cultural properties such as tangible cultural properties, monuments and folk materials. The existing CPPA established the principle of conservation, management and use of cultural properties as 'preservation of original form (原型)'. The PPICP, on the other hand, prescribes the principle of 'maintaining the typical form (典型)' as the principle of preservation and promotion of ICPs, stipulating that the skills and arts of ICPs should be learned and realised according to their typical form.<sup>7</sup> In addition, Article 2.2 of the PPICP states that the typical form 'shall be defined by presidential decree as the essential characteristic that constitutes the value of the Intangible Cultural Property in question', leaving the notion of the typical form open to academic and administrative debate.

These changes are closely related to the UICH's definition of ICH, which emphasises that ICH does not have a fixed prototype but is something that communities have constantly re-created 'in response to their environment, their interaction with nature, and their history'. UICH also regards the purpose of safeguarding ICH as the promotion of cultural diversity and human creativity. Therefore, the Convention clearly states that only ICH that 'is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups, and individuals, and of sustainable development' will be considered for the designation. Since the 1990s, however, Korea's CPPA, by definition, has become more nationalistic.

For example, Article 1 of the 1962 CPPA states that 'the purpose of this law is to preserve cultural properties and to use them to promote the cultural improvement of the people and to contribute to the development of human culture'. The sentence is the same as the purpose of the Japanese *law for the Protection of Cultural Properties*

of 1950. However, this provision was amended in 1999 to read: 'The purpose of this law is to preserve cultural properties for the inheritance of national culture and to make them available for use, thereby contributing to the cultural improvement of the people and the development of human culture.' Accordingly, the purpose of preserving cultural properties is the inheritance of national culture.

The PPICP, newly enacted in 2016, lists (a) the cultivation of national identity, (b) the inheritance and development of traditional culture, and (c) the realisation and enhancement of the value of ICPs as essential elements for the designation of ICPs. This gap between the CPPA's ICP and the UICH's ICH is also evident in the 2016 PPICP. In particular, Hahm (2020) pointed out that the 2016 revision of the law still failed to address the issue of safeguarding 'traditional communities'. According to Hahm, the ICH Law 'did not take seriously the difference between ICP [of PPICP] and ICH [of UICH] and lumped these two dimensions together and put them under one legal framework', which made it impossible for the notion of community to be reflected in the PPICP.

However, the revised PPICP in 2022 adds the notion of 'heritage community (전승공동체)' to the definition in Article 2, along with 'holder (보유자)' and 'holding organisation (보유단체)' of the CPPA system, which refers to persons or organisations that can represent the techniques and artistic skills. According to the definition, the heritage community is 'a community that shares intangible heritage regionally or historically, has a certain bond and identity, and voluntarily realizes, enjoys, and transmits intangible (cultural) heritage'. With the 2022 amendment, the CPPA's designation of ICP is almost identical to the ICH of the UICH.

### **National Heritage Act and three types of heritage**

However, with the introduction of the UICH, the concept of ICP has diverged considerably. This raises the question of whether it was appropriate to protect, or even to promote, ICP within the CPPA framework alongside other cultural property categories such as 'tangible cultural property', 'monuments' and 'folk cultural property'. The preservation of objects and the safeguarding of living human activities require completely different approaches and policies. In 2024, the CPPA was abolished and replaced by the *Cultural Heritage Conservation and Promotion Act*. The newly enacted *National Heritage Act* (hereafter 'NHA') is the parent law for regulating three categories of heritage:

cultural, natural and intangible. The implementation of the NHA in 2024 marked the end of the CPPA regime, which had been in place since 1962. The most critical change was not only the name change from 'cultural property' to 'cultural heritage', but also the change from the four sub-categories of 'cultural property' (tangible cultural properties, ICPs, monuments and folk materials) established by the CPPA in 1962 to three categories: cultural heritage, natural heritage and intangible heritage, each managed by a subordinate law: the *Act on the Preservation and Promotion of Cultural Heritage*, the *Act on the Preservation and Utilization of Natural Heritage* and the *Act on the Preservation and Promotion of Intangible Heritage*, respectively.

According to the definition in Article 3 of the NHA, 'cultural heritage' is 'a tangible cultural heritage that is a product of our history and tradition and represents the uniqueness of culture, the identity of the nation, and the changes in national life'. According to Article 2 of the *Act on Preservation and Promotion of Cultural Heritage*, 'cultural heritage' includes 'tangible cultural properties', parts of 'monuments', and 'folk cultural properties', among four categories of the CPPA. In the existing 'monuments' category of the CPPA, the natural heritage of the NHA includes: (a) animals (including their habitats, breeding grounds and migration sites); (b) plants (including their natural habitats); and (c) landforms, geology, minerals, caves, biological products, or special natural phenomena of the great historical, scenic or scientific value of the CPPA's 'monument' category. 'Natural heritage' also includes mixed heritage as 'natural objects such as animals, plants, landforms, and geology, or the cultural heritage of their interaction with the natural environment' as defined in Article 3.3 of the NHA. The *Act on the Preservation and Utilization of Natural Heritage* classifies 'natural heritage' as (a) animals; (b) plants; (c) topography, geology, biological products or natural phenomena; (d) nature reserves; (e) natural landscapes; (f) historical and cultural landscapes; and (g) complex landscapes.

Finally, Article 3 of the NHA defines 'intangible heritage' (hereafter 'IH') as 'an intangible cultural heritage that has been handed down from generation to generation and is constantly recreated through the interaction of communities and groups with history and the environment'. In 2016, the CPPA added the phrase 'is constantly recreated through the interaction of communities and groups with history and the environment' to the 2016 CPPA's definition of ICP.

This brings it closer to the concept of ICH, as defined by the UICH. In addition, Article 7. 1 (as the basic principle of the protection policy), Article 2 ('Fully preserve and transmit the tangible and intangible values of national heritage') and Article 6 ('Respect the unique history and regional diversity and contribute to the revitalization of diverse communities and regional development') were added to highlight the values implied by every heritage, as well as the universal values of diversity, community and regional development.

However, the term 'national' heritage has nationalistic overtones. Moreover, the definition of national heritage as 'cultural, natural, and intangible heritage of national, ethnic, or global significance, man-made or natural, of great historical, artistic, scientific or scenic value' presupposes that all national heritage is 'national, ethnic, or global' and 'of great historical, artistic, scientific, or scenic value'. In addition, Article 3 of the PPICP, as basic guiding principles presupposing the preservation of typical forms, always states that every ICP should include: (a) the cultivation of national identity; (b) the inheritance and development of traditional culture; and (c) the realisation and enhancement of the value of intangible heritage. Of course, (c) (the realisation and enhancement of the value of intangible heritage) leaves open the possibility that the 'value of intangible heritage' may be newly recognised in the contemporary context. However, Article 3 is not an independent condition but is still limited by Articles 1 and 2. Also, in the end, the state recognises and determines its value.

## Major changes since the 2016 amendment to the CPPA

As discussed earlier, after acceding to the UICH in 2005, the Korean Government completely revised the CPPA in 2015 and enacted a new law, the PPICP, in 2016 to designate and protect the new ICP categories required by the UICH, which was revised in 2022. Then, in 2024, the *National Heritage Law* was enacted to divide the existing 'cultural properties' category into the three 'heritage' categories of cultural heritage, intangible heritage and natural heritage, which had different policies and methodologies depending on the nature of the object and the purpose of designation. This section of the article examines the specific institutional changes that have occurred in the process of designating and safeguarding ICHs, following the legislative changes since 2016.

### **Community items and new supportive institutions**

The 2016 amendment to the CPPA introduced substantial revisions to the existing conceptualisation of ICP in Korea. First and foremost, ICP was critically altered, being redefined as 'an intangible cultural heritage that has been handed down from generation to generation'. Furthermore, the category of designation has been substantially expanded from 'theater, music, dance, play, ceremonies, and craftsmanship' to encompass (a) traditional performing arts; (b) traditional skills in crafts, art, etc.; (c) traditional knowledge of Korean medicine, agriculture, fisheries, etc.; (d) oral traditions and expressions; (e) traditional lifestyles such as food, clothing and shelter; (f) social ceremonies, including folk beliefs; and (g) traditional games, festivals, and artistic skill and martial arts.

Furthermore, the number of designated 'community cultures' has increased, following the 2003 UNESCO Convention. To illustrate, from 2016 to August 2024, a total of 26 items were designated. Of these, 19 items are collectively referred to as 'community items (공동체종목)' in Korea, lacking a designated 'holder' or 'holding organisation' for ICP: *Jeda* (Traditional Tea Making), *Ssireum* (Traditional Korean Wrestling), *Haenyeo* (Women Divers), *Kimchi Damgeugi* (Kimchi Making), *Jeyeom* (Traditional Salt Making), *Ondal* (Underfloor Heating), *Jang Damgeugi* (Korean Sauce and Paste Making), *Eosal* (Fishing Weir), *Hwalssogi* (Archery), *Insam Jaebae* and *Yakyong Munhwa* (Cultivation of Ginseng and Its Medicinal Application), *Makgeolli Bitgi* (Makgeolli Making and Sharing), *Tteok Mandeulgi* (Tteok Making and Sharing), *Getbol Eoro* (Tidal Flat Harvesting), *Hanbok* Lifestyle, *Yut nori* (Playing Yut), and Traditional Holidays (*Seol* and *Daeboreum*, *Hansik*, *Dan-o*, *Chuseok*, *Dongji*). Following the criteria for ICP designation before 2016, only five of the 26 items have high-level technique and artistry-oriented holders or holder organisations: *Nakhwajang* (Pyrography), *Bulbokjang Jakbeop* (Ritual Process of Placing Objects Inside Buddhist Statues), *Sambae Jjagi* (Hemp Weaving), *Sageongjang* (Sutra Copying), and *Jeju Keungut* (The Grand Shamanistic Ritual, Jeju Island). The 2016 revision also resulted in a notable rise in the number of community items – that is, fields of 'lifestyle customs' or 'traditional knowledge' that lack a designated holder or holding organisation.

Nevertheless, the 2016 PPICP's definition of ICP maintained substantial continuity with its previous

conceptualisation. The 2016 CPPA defines 'cultural properties' as 'a man-made or naturally occurring national, ethnic, or global heritage of great historical, artistic, scientific, or scenic value'. It establishes the value of cultural properties, including tangible cultural properties, ICPs, monuments and folk cultural properties, in terms of their historical, artistic, academic or scenic value, and their relationship to the nation, the ethnic group and the world. However, an analysis of the ICPs designated since 2016 indicates that the community in question, as referenced in the designation, is not a nation or an ethnic group, but rather a family or a community that serves as the re-creator of the ICH. It should be noted, however, that most cultural elements re-created by communities are not exclusively or particular to a specific region or small community. Instead, they are widely recognised as representative of Korean culture in its entirety.

Since 1970, holders of ICPs have been eligible to receive monthly financial support from the Korean Government, as well as to have access to educational or performance facilities such as educational halls. In such instances, the government may offer direct or indirect assistance to the designated individuals or organisations. If there are numerous holders or organisations with unspecified details, such as for community items, direct government support is not a viable option. Consequently, the government's approach to providing support has undergone a notable transformation in line with the growth in the number of community items.

Currently, the CPPA and the NHA stipulate that the Korean Intangible Heritage Promotion Center be established under the Korean Heritage Agency. The Center's mission is to provide support for community items among the national intangible heritage and for Korean items designated as UNESCO Intangible Cultural Heritage of Humanity.<sup>8</sup> The support process is designed for relevant organisations in each region to apply for projects related to community items, including performances, exhibitions, festivals, rituals, research, education and experiences. Additionally, it encompasses the production of promotional content, such as ICT and video, and product design. Following a review process, the Center will select the projects to be funded. Consequently, in contrast to existing intangible cultural properties, the government provides indirect support for community items to promote their revitalisation.

Another considerable change has been the establishment of the National Intangible Heritage Center under the Cultural Heritage Administration in 2013. Previously, the National Research Institute of Cultural Heritage was responsible for researching ICP, in addition to tangible cultural properties, namely the categories of buried, artistic and architectural cultural properties. However, the establishment of a separate institution, the National Intangible Heritage Center, was predicated on the recognition that the approach to ICPs should be distinct from that of the tangible cultural properties sector, which is primarily focused on restoration and preservation. As an extension of this policy interest, a separate branch of the National Intangible Heritage Center, currently located in South Korea's southwest region, is scheduled to be established in the southeast region by 2025.

### ***New value assessment indicators for 'knowledge and lifestyle customs'***

As indicated in an earlier section, the enactment of the CPPA in 1962 led to the designation of 'folk materials' (or 'folk cultural properties' since 2011), which are products of folk culture, as categories of ICP that prioritise the value of high-level technique and artistry. These include (d) annual events, (e) folk games, (f) folk entertainment, (g) folk performances, and (i) folk ceremonies. However, as discussed previously, the concept of ICP has continued to evolve with the introduction of the UICH. This evolution has increased the number of community items designated as ICP without holders or holding organisations. This shift has been associated with the advent of the notion of communities as an entity that transmits and re-creates

ICH, a concept not addressed in the preceding CPPA but underscored in the UICH.

Community items that are widely shared ICH unspecified by holders or holding organisations were categorised into two fields in the ICH designation process: (1) lifestyle customs, and (2) traditional knowledge. However, the *Regulations on the Investigation and Review of the Designation of National ICPs and the Recognition of Holders* (Ordinance No. 583 of the Cultural Heritage Administration), which was implemented in December 2020, established new evaluation indicators for both fields. Because the PPICP was implemented in 2016, already considerably expanding the scope of designation to reflect the designation categories of UICH, it is somewhat belated that the evaluation indicators were established in 2020. Table 2 presents a comparison of the newly established indicators of 'knowledge and lifestyle customs' and the existing indicators for the investigation of ICP in 2020.

First, within the category of 'knowledge and lifestyle customs', technical and artistic quality was removed from the evaluation indicators within the 'transmission value' category. Technical and artistic qualities comprise two elements: (a) the level of formal, content and expression beauty; and (b) the functional utilisation and value. In lieu of this, the score for representativeness, which comprises two elements – (a) the level of uniqueness, and (b) the functionality as a traditional Korean culture – was modified.

On the other hand, within the 'transmission environment' category, the removal of 'persistence of the form of ICP' and 'frequency and scope of performance'

**Table 2**  
Comparison of evaluation indicators between two ICP categories

		<b>General category of ICP</b>	<b>'Knowledge and lifestyle customs' categories of ICP</b>
Transmission value		Historicity (20 points) Scholarship (15 points) Technical/Artistic (15 points) Representativeness (20 points)	Historicity (20 points) Academic (15 points) <del>Technical/Artistic (15 points)</del> Representativeness (30 points)
Transmission environment	Socio-cultural value	Continuity in the form of the ICP (5 points) Contribution to the cultural identity of relevant communities and groups (10 points) Contribution to cultural diversity and creativity (5 points)	<del>Continuity in the form of the ICP (5 points)</del> Contribution to the cultural identity of relevant communities and groups (15 points) Contribution to cultural diversity and creativity (5 points)
	Sustainability	Frequency and scope of performance (5 points) Vitalisation of transmission facilitated by transmission agents (5 points)	Frequency and scope of performance (5 points) Vitalisation of transmission facilitated by transmission agents (15 points)

from the evaluation indicators is notable. It is not feasible to conduct an adequate evaluation of these two indicators, given that community items belong to ICH that is typically practised in diverse forms and ways across different regions rather than adhering to a certain prototype. Instead, the points allotted for 'contribution to the cultural identity of the relevant community/group' and 'activation of the transmission by the transmission entity' were increased. 'Contribution to the cultural identity of relevant communities and groups' is composed of (a) the extent to which it contributes to cultural identity; and (b) the extent to which it contributes to the expression of cultural diversity and creativity. 'Vitalisation of transmission facilitated by transmission agents' is defined as 'the size of the traditional knowledge organisation and the extent to which it is active in internal and external transmission activities'. This indicator is used to evaluate the sustainability of the group in question. These three indicators are also crucial regarding the ICH, a concept that the UICH frequently highlights.

As a result of the revision of the evaluation criteria in December 2020, several lifestyle customs and folk knowledge items were designated as ICP. In 2021, *Getbol Eoro* (Tidal Flat Harvesting), widely observed along the West and South sea coasts of South Korea, was designated as an ICP. In 2022, *Hanbok* Lifestyle and *Yut nori* (Playing Yut), which are known to all Koreans, were designated as ICPs. In 2023, five types of traditional holidays were designated as ICPs, namely: *Seol* and *Daeboreum*, *Hansik*, *Dan-o*, *Chuseok* and *Dongji*. All these events fall under the category of lifestyle customs and traditional knowledge, and their designation was enabled by the December 2020 reorganisation of the evaluation criteria.

These items represent a variety of folk cultures practised throughout the Korean Peninsula until the 20th century. The CPPA's designation of ICP in 1962 was a response to the loss of competitiveness and the disappearance of traditional skills and artistic forms due to colonialism and modernisation during the first half of the 20th century. The post-2020 change to designate a broader range of folk cultures across the Korean Peninsula may be intended to protect the vanishing ethnic cultures of the 20th century or be a pre-emptive move to recognise shared heritage in response to conflicts with neighbours or international attention. In essence, the aforementioned alterations were not implemented by replacing or eliminating the extant indicators; rather, they were introduced by establishing

new categories and additional indicators. Consequently, the 1962 CPPA regime was not abandoned; rather, an effort was made to integrate the UICH concept of ICH into the existing CPPA system for ICP.

## Summary and recommendations

Since the enactment of the CPPA in 1962, Korea has been engaged in the preservation of intangible cultural heritage classified under the designation of ICP. Following a lengthy period of relative stability, the Korean CPPA system underwent a substantial transformation with the accession of Korea to the UICH Convention in 2005. This article examines the legal and institutional changes that have occurred over the past two decades in the process of Korea's adoption of UNESCO's ICH.

Since shortly after its accession, Korea has been actively engaged in UICH. In the initial phase of its engagement with UICH, Korea established the International Information and Networking Center for Intangible Cultural Heritage in the Asia-Pacific Region (UNESCO Category 2 institution) in 2011. Subsequently, in 2013, the National Intangible Heritage Center was established as an independent entity from the National Research Institute of Cultural Heritage to enhance research and support for ICP in Korea. However, the concept of UICH, as initially conceived, was entirely distinct from the existing CPPA system for the protection of ICP. This resulted in modifications at multiple levels.

First, since 1962, the CPPA has defined ICP as 'intangible cultural products of theater, music, dance, handicrafts, and others that have great historical or artistic value in Korea'. However, various folk ceremonies, performing arts and plays were also designated as ICPs. This became legally possible in 2010 when plays and ceremonies were added to the definition of ICP. This change can also be regarded as a response to the introduction of the UICH in 2005. More specifically, the scope of the designation of ICP was expanded by the revision of the CPPA in 2016. The 2016 amendments to the CPPA divided the five categories proposed by the UICH into seven categories. The PPICP, which was enacted in 2016 along with the revision of the CPPA, is a major change in the implementation of the UICH. The CPPA departed from the basic principle of protection under the CPPA of 1962, which was 'preservation of the original form' and proposed the preservation of 'typical form', defined as 'the essential characteristic that constitutes the value of

the ICP in question', as the basic principle. The concept of typical forms has been criticised for its lack of clarity and the extent to which changes in the form of ICP can be acceptable. However, it is important in that it has initiated the debate around the value of cultural properties, which has been taken for granted.

This change is linked to the emergence of the 'community' as an entity that transmits and re-creates ICH as proposed by the UICH. Since 2006, the number of designations of community items without a specific holder or holding organisation of ICP has increased considerably. Most items currently listed as UNESCO Intangible Cultural Heritage of Humanity in Korea were recently designated as community items of ICPs. As the number of community items without a specific holder or holding organisation has increased, the traditional top-down support system has had to change. Support for community items has shifted to a bottom-up approach through the Korean Heritage Agency's open call for entries. In addition, the PPICP, when revised in 2022, added the concept of 'heritage community' as a new entity for the transmission of ICPs. The specific designation method was also changed, and in 2020 a new investigation indicator for the designation in the category of 'knowledge and lifestyle customs' was added. Whereas the previous ICPs were evaluated based on functional and artistic values, and continuity of form, the 'knowledge and lifestyle customs' category prioritises 'representativeness', 'contribution to the cultural identity of the relevant community or group' and 'revitalization of the transmission by the transmitting entity'.

The introduction of UICH, which is foreign to the existing CPPA, was not done by repealing the existing CPPA, but by adding the ICH concept of UICH to the CPPA. This meant that the concept of UICH, which is different from the existing Korean concept of ICP, was accepted in parallel with the existing concept of 'cultural properties'. This eventually led to the implementation of the NHA in 2024, which established three categories of heritage: tangible,

natural and intangible heritage. The implementation of the NHA can be regarded as a crucial step forward in thinking about and expanding the concept of cultural heritage. However, as the vocabulary of national heritage suggests, 'national heritage' is defined as 'national, ethnic, or global heritage, man-made or natural, of great historical, artistic, scientific, or scenic value'. It also implies 'national, ethnic or global heritage' and 'historical, artistic, scientific or scenic value'. The principle for the protection of intangible heritage is also defined within 'the preservation of typical forms', which are the essential characteristics that constitute the value of ICP. However, the basic principles of protection and promotion are (a) the cultivation of national identity, and (b) the inheritance and development of traditional culture, thus maintaining the nationalistic trend that has been strengthened in the CPPA since the 1990s.

Since the introduction of the UICH, many Koreans have become interested in community culture or 'everyday culture' that is not reduced to 'ethnicity', high-level technique or artistry. This shift has facilitated a critical examination of the harmful effects of the modernisation discourse and nationalist ideology that have shaped Korean society for about a century and a half. However, because ethnic customs of everyday life are still an important component of ethnic identity in Northeast Asia, including in Korea, international controversies continually arise whenever cultural heritage sites are designated. For example, the designation of the *Nongak* Dance of the Korean People in China as a UNESCO Intangible Cultural Heritage of Humanity in 2009 prompted a strong backlash in Korea. Similarly, when the *Gangneung Dan-o* festival in Korea was designated as UNESCO Intangible Cultural Heritage of Humanity in 2005, it triggered a comparable backlash from China. Ultimately, it is imperative for Northeast Asian countries, including South Korea, to acknowledge that the primary role of the ICH system, as proposed by the UICH, is to overcome ethnic-based essentialism by promoting reflection on the 'values' that connect the past, present and future. 🇰🇷

## ENDNOTES

1. This research was supported by Research Funds of Mokpo National University in 2024.
2. For further information, please refer to <https://www.nihc.go.kr/eng/> and <https://www.kh.or.kr/kha/eng>.
3. Few studies in Korea have looked at this response process. As a notable example, Kim and Nam (2016) analyse the compatibility of the Korean approach with international norms and investigate the implicit challenges for the implementation of the Convention. Additionally, Kim (2021) elucidates that Korea implemented the Convention by amending the *Cultural Properties Protection Act* and enacting the *Preservation and Promotion of Intangible Cultural Properties Act* in 2015. These changes were made with the aim of reducing discrepancies between the provisions of the international convention and the Korean domestic legislation.
4. At the first meeting of the Committee on Cultural Properties held on 8 May 1962, specific 'designation criteria' and 'designation items' were determined.
5. This issue was analysed by Nam (2009) as 'the transformation of folk materials into intangible cultural properties'.
6. Oh (2016) analysed the process of overemphasising and strengthening the ritualistic technique and artistry elements of various annual events in the region in order to have the Beopseongpo Dan-oje registered as an Important Intangible Cultural Property.
7. The notion of 'typical form' has been debated. For example, Kwon (2017) points out that the introduction of the typical form presupposes the possibility of certain changes in cultural forms, abandoning the principle of assuming and maintaining the original form inherited from the past. However, he argues that the definition of 'essential values' of typical form should not be prescribed by the government or a group of experts but should first come from the individuals or communities that practice them.
8. In Korea, all items listed as UNESCO Intangible Cultural Heritage of Humanity were designated as community items in the Important Intangible Cultural Properties, except for those designated earlier in Korea.

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