

| Korean Cultural Property Protection Law with Regard to Korean Intangible Heritage

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This essay focuses on the enforcement of the Cultural Property Protection Law (C.P.P.L.) in Korea which is described in detail. Its purpose is to examine the problems raised by placing intangible heritage under the auspices of the C.P.P.L. The Korean government enacted the progressive law known as the C.P.P.L. and has administered it for the past forty years. Accordingly, intangible heritage in Korean society has successfully continued to be introduced and transmitted, and the national culture protection policy has been promoted by the government since the mid-twentieth century. Consequently, growing recognition of this policy has made it possible for many institutions, including graduate schools, to adopt intangible heritage as accepted and standard school subject matter. Although the law revealed the uniform standard of the transmitters and discouraged undesignated intangible heritage, its importance was widely recognized. This phenomenon required an institutional measure.

Numerous problems produced by legislative protection of intangible heritage have been exposed and discussed recurrently in Korea. It is a fact that the law has been revised several times. I believe that problems were caused by the enforcement of the C.P.P.L., rather than, as it seemed, by the government's inappropriate administrative system. As 'culture' is broader and more complicated than many other areas, it was risky to administer and protect under the progressive law from the very beginning. However, with the advent of the modern age, many cultures faced extinction as they were distorted artificially in the wave of Westernization. As a result, it did not take people too long to realize that they had to make a real effort to protect their own cultures, and they created legal protection systems for intangible heritage to deal with the risk. Unfortunately, these institutional protection policies did not prove successful, as is the case in Korea. As mentioned above, I will discuss the problems resulting from the enforcement of Cultural Property Protection Law and describe the protection of intangible cultural property and the definition of transmission.

Protection and transmission of intangible cultural property

Protection and preservation are terms used to maintain the original form of cultural property with a view to its transmission. They are not only mutually related, but it seems difficult to distinguish between. *Bojeon* means either 'preservation' or 'conservation.' It relates officially to tangible cultural heritage. Its purpose is to maintain the existence of certain cultural forms. For instance, sculpture, architecture and crafts are

included in these cultural forms, since they can be permanently preserved without noticeable change. On the contrary, *Boho* protection, relates to intangible cultural heritage. For example, dance, music, ritual, and plays are included in intangible cultural heritage, since they were created by human necessity and it is impossible to preserve them permanently. They are the result of expressions performed by people temporarily. This is why temporary expressions are not considered to be objects requiring preservation. It is possible for culture transmitters to protect their performing arts on a daily basis, but it is unlikely that we can preserve them unchanged. Although tangible and intangible culture are preserved or protected by humanity, they have distinctive characteristics. Intangible culture cannot be preserved since it is the consequence of momentary human action. While, tangible heritage cannot be transmitted, it can be preserved in one way or another. Intangible heritage continues to be transmitted while undergoing constant change.

Intangible culture heritage exists in the form of cultural products and is expressed in terms of time and space. Therefore, intangible heritage can be discussed within the category of previously organized tradition. Tradition is dynamic and evolving since it is a cultural framework through which people have to select social standards. It immediately starts to function by the basic means of the transmission order of culture and as a decisive factor defining cultural standards. The ultimate purpose of people selecting their own tradition is to measure existing life.

Intangible heritage is refined from traces of the past and has relevance to the present. This

explains why intangible heritage is seen to be the cultural framework of a nation. This is also the basis of community as intangible heritage is produced, enjoyed and transmitted through the historical process. Consequently, it functions as an educational theory affecting the future in a transmitter's present life and is often considered the foundation of new creation. Conclusively, as we can find the genuine meaning of intangible heritage only through the time link composed of past, present and future, which its important core lies in transmission.

It is more important to hand down intangible heritage to future generations than to record it. Nevertheless, an accurate record must precede an accurate transmission. They are not separable, but inevitably related. In the meantime, intangible heritage in civilized modern life is being videotaped, reproduced by sound recordings, and photographed and filmed with the aid of sophisticated technology. This does not mean that this modern technology can bring past heritage back to life and protect it. It functions only as a means of consolidating historical records.

Background and management of the legislative protection of intangible cultural property

The Korean government enacted the Cultural Property Protection Law (C.P.P.L.) in 1962 and has protected and encouraged the law with both direct and political interest in the development and protection of the national culture. Its purpose is to protect and revitalize the foundations of Korean national culture. Looking back on the past, Korean society faced three major challenges related to the transmission of national culture all through the

twentieth century. The three problems are the obliteration of the national culture during the period of colonization by Japan, the advent of the paradigm of Westernized cultural, social and educational policy after Korea became an independent country, and disdain for traditional culture according to city-centred planning, industrialization, and modernization. Radical social and cultural change stimulated cultural nationalists to investigate and protect the national culture opposed to the imperialism of Japan, and inspired people with their nationalism as well. This movement shared a mutual interest, which was cultural protection, with the government since then and was simultaneously accelerated by the dictatorial government taking advantage of the cultural protection policy for its own sake. As a result, the law was promulgated and the institutional instrument for cultural protection took on a practical form.

The Korean government selects intangible properties of great value which are vulnerable to degradation and extinction, and designates them as major intangible cultural property for protection. Their original forms will be transmitted intact by being designated as significant intangible cultural property. Major intangible cultural property designated by the government includes music, dance, drama, plays and ceremonies (rituals and festivals), martial arts, handicraft techniques, and food. There are 109 more specific items, 215 holders, 291 assistant instructors and 2458 master artists currently designated by the law.

The duty of the Intangible Cultural Property Committee is to organize the committee in charge of designating of intangible cultural

property. This committee conducts all work on research, study, designation, cancellation, promotion, and enhancement of intangible cultural heritage. The committee is composed of ten committee members and fifty technical members. All of the appointed committee members and technical members are experts in their fields, whether they be folklore, anthropology, history, literature, religion or architecture. Each member of the committee serves a two-year term. A substituting member serves the rest of the term left by a former member. This organization has complete autonomy to prevent the government from influencing or tarnishing the process and to help maintain objectivity in management. According to the committee's decision, technical members are responsible for investigating and researching valuable intangible cultural heritage and reporting it to the committee. When there is an official request from an individual or group to which performers belong, technical members are dispatched to research and study all material relevant to the subject matter. Subsequently, the technical members' report on the outcome, data, and recommendations are submitted to the committee. The committee decides on designation after examining possible intangible cultural property based on the investigation or research reports.

Major designated intangible cultural property is divided into performing art form items and handicraft items for efficient management and administrative convenience; likewise, they are also classified into items performed by an individual or by a group. The classification of 'performing art form items' includes the performance of intangible cultural heritage formed by artistic performance

talent, whereas the classification of handicraft items includes technical intangible cultural heritage produced by skilled artisans. For the purpose of the administrative classification system, a designation number is assigned once the intangible cultural heritage has been designated as significant intangible cultural property. The name of a specific region where designated intangible cultural property originated is attached to the name of the designated item to highlight its regional character.

Transmitters of important intangible cultural property are selected by the committee according to the following classifications: an honorary holder, a holder, an assistant instructor, a master artist, or a trainee respectively. The transmission genealogy is systematized. People incapable of accomplishing transmission activities and teaching due to poor health or to their advanced years among holders are selected as honorary holders. The government supports them financially within a budget. By selecting honorary holders, new successors are recognized as holders, which helps transmission activities. The holders, as chief transmitters, are required to transmit the designated cultural properties to the next generation and to develop and propagate them. Assistant instructors are devoted to transmission activities assisting holders. They are selected among competent master artists by the government. In case of a holder's death or being an honorary holder, they have priority to be selected as new holders. Master artists are required to complete transmission education from holders during a determined period of time. Master artists playing a leading role as transmitters continue to train their performing arts and techniques.

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Trainees are the people who holders and transmission education assistants are required to teach. They are selected from among young and talented performers, and after training they become master artists if they pass through evaluation of the transmission education. A scholarship student selected from among trainees is appointed as a scholarship trainee.

The Transmission Centre was built to help transmitters of important intangible cultural property conduct transmission education. The Transmission Centre was built on the basis of traditional architecture style considering the quality of items and regional characteristics. Transmission trainee programmes consist of theory and artistic skills applied with foresight to the step-by-step progression of the intangible cultural property system. Traditional and modern methods are combined in the programmes. It is necessary for trainees to learn an appropriate approach, as transmitters of intangible cultural property, from their teachers by adopting traditional methods which include being appointed as an apprentice. Modern methods help reinforce effective scientific analysis. The government gives financial support for the management of the Transmission Centre, the supply of transmission textbooks, and trainee programmes. The progress of trainees is assessed on a regular basis. Internal and external appraisers and administrators from the Bureau of Cultural Property conduct unbiased and objective evaluations by means of written testing and actual performance. If trainees fulfill the requirements of a five-year training programme, they are qualified for evaluation. A transmission programme certificate is awarded to them if they pass the evaluation.

Among the transmitters of major intangible cultural property, people who have received a degree from accredited universities are scarce, since they dedicate themselves to learning skills and performing arts and have been afforded relatively few opportunities to attend university. The government encourages transmitters to keep developing their skills, as well as their performance experience, and shows them respect for devoted efforts by treating transmission training identically to credits awarded by universities. Thus, this system helps them secure teaching positions in universities without any obstacles. The 140 credits necessary for a university degree are given to honorary holders and holders. The 70 credits required for graduating from a junior college are awarded to assistant instructors and master artists. This policy on credits only applies to high school graduates.

The government provides transmitters with several benefits to boost their transmission activities and performing careers, as well as to raise overall social status, which can contribute practically to their own financial stability. The government purchases works classified as 'handicraft items' from transmitters within a budget. Transmitters are provided with free health insurance for family members. Transmitters living in poverty receive a special stipend. In cases of special family events, such as weddings or funeral ceremonies, transmitters receive financial aid, as well as official government support for their performance and exhibitions.

In the event that forms of the original of important intangible cultural property are severely damaged and degraded in the process of

transmission after designation, the committee can cancel designation through an inspection conducted by the committee. The committee can cancel designation due to the absence of a transmitter following his/her death.

Transmitters' artistic skills and performing arts have a tendency to vanish upon their death. It is necessary to preserve their skills and performance in the form of photographs and video or cassette tapes, etc. Collected documents are permanently preserved in the national archives. Holders and corresponding organizations hold public meetings open to everyone once a year.

Problems raised by the Cultural Property Protection Law

Problems raised by the Cultural Property Protection Law (C.P.P.L.) have mounted up over a long period of time. Although revision and modification of the law have been repeated to resolve them, problems remain.

Names of designated items of important intangible cultural property override the original or traditional names used by transmitters, and some designated names contain regional characteristics. For example, from the name of *nongak* (farmers' band music), we can figure out that it is not an original term, but a general term widely used by people today. Originally, *nongak* was called *poongmul*, *durae*, *maegu*, or *poongjang*, depending on respective regions. Recently, traditional terms regarding regions have been relegated to history by the use of standardized terms.

Shamanism-related performances exhibit a propensity towards standardization and fixation once they are designated as cultural property. Many relevant factors account for this change. Sacred traditions and religion are ignored and soon replaced by brilliant works focused on outer beauty. Shamans call Kut, which is not requested by people, 'performing ritual'. These performances are different from purification and sacredness since they are performed according to arranged time and space criteria from the very outset. They are not impressive any more and are more concerned about beautiful outward display and pageantry than with their original purpose. In fact, Kut (Shamanic ritual) is a mixture of arts including drama, dance, music, plays, and rituals. In the light of the multi-medium nature of the Kut, it is likely to create a modern art style suitable for our progressive reality. However, there is an element of uncertainty related to future transmission if Kut loses its religious function. Emphasis on the artistic factor of Kut is of grave concern, since it is derived from religion.

Kut items designated as important intangible cultural property are group rituals performed mainly by village communities. First of all, these rituals are based on group festivals and emphasize the pleasure derived from plays. Once they are designated, erosion invariably of upon the original function as a community ritual containing religious factors, with people frequently emphasizing artistic factors. Here is evidence that demonstrates that the protection policy adopted by the Korean government is not balanced. There are reported cases that some designated property is inappropriate due to misconception of the original form from the very beginning of designation

research, even to the extent of intentional damage to potential property and the addition of new factors. Furthermore, while researchers place high value on the artistic aspects of performance, they do not even discuss the religious essence. As the government provides researchers with financial aid and enough time to inspect items exhaustively for designation research, the result is pretty obvious. In instances where there are many candidates for similar items, it is not difficult to identify some cases which took a noticeably short time to be decided. This has occurred in light of the reality that the analysis process and the research documentation process take a great deal of time to complete.

Oral transmission without any documentation was the main conveyor of intangible cultural property; as a result, personal character affected the transmission of property. As a consequence of designation, the recognition of designated performances as ‘the original’ has become widespread, causing and reinforcing a lack of variety. For instance, a conflict between designated and undesignated Shamanism has surfaced. When we discuss the transmission of Kut, *munseo* pertaining to Shaman and the resultant differences between designated and undesignated Shamanism *munseo* evoke disparity. The number of Shamans who want to learn undesignated Shamanism decreases due to misconception of undesignated *munseo*. The effect of this phenomenon facilitates the extinction of certain *munseo*. *Munseo* reflects Shamans’ abstract conceptions and thought. Kut bears impromptu characteristics depending on space and time, as well as certain *munseo*, which have been transmitted in various ways according to regions

and Shamans’ pedigree within the same culture. Undesignated Shamanism starts to disappear, with this phenomenon reinforcing a minimal variety of performance transmission. At present, the apparent conflict propagates the belief that designated Kut maintain an original status and enable the misconception of undesignated ones. Eventually they will erode into extinction as a result of this phenomenon. This conflictual structure of a ‘right’ or ‘wrong’ duality has been created and brings about problems on general transmission. As is generally known, designating transmitters of intangible cultural heritage as holders is to confirm that their performing arts are valuable in traditional culture, and necessitates protection of their performing arts and skills. Moreover, holders and transmitters are public figures and important intangible cultural property belonging to the nation and the people. Their talents are never considered as personal. Claiming that their skills and arts maintain originality, thus ignoring undesignated intangible cultural heritage, has caused problems. In the current state of affairs, illegal connections between holders and their students are revealed in contests, including national classical music and dance. To be a holder, assistant instructors and master artists are so competitive that intense conflict is accelerated. Subtle emotional conflict exists between a holder and his/her students since a holder must nominate an official student by his/her will. In these circumstances, transmission education becomes less important.

Elder, more experienced shamans are interested in achieving designated status as holders. Accordingly, a lot of shamans are infected with the disease (an imbalance of

ambition), causing changes in their unconsciousness. For instance, undesignated village Kut held annually and in various regions are performed in order to be designated as major intangible cultural property. The result of this disease upon performance is a distortion of the original form, in favour of changes made to the performance directed at impressing committee members who may be in attendance.

Important intangible cultural property designated by central government represents the nation, while intangible property designated by regional government represents a specific region. Institutional regulations to distinguish between such cultural property are not clearly evident. Each of the cultural property committees has its own outlined constitution, but they are quite independent and they do not seem to share information or opinions.

Once a Shaman's Kut is designated as important intangible cultural property, the next step is commercialization. Many believe it is natural that cultures lacking competitive power cannot survive by economic theory alone. The commercialization of Shamanism rituals is developing secretly thanks to responsible administrative organization. Experts studying Shamanism, as well as Shamans in charge of Shamanism rituals are willing to help with this process. There is no doubt that materialism has invaded the sacred. The effect of commercialization has not been entirely negative on Shamanic practice in Korea. It is with appreciable benefit that Shamanism rituals became recognized as performing arts after being designated as important intangible cultural

property, compared to past mistreatment of Shamanism groups in society.

Conclusion

The obliteration of national culture during the time of colonization by Japan, the advent of the paradigm of Westernized cultural, social and educational policy after Korea became an independent country, and disdain for traditional culture according to city-centred development policy cumulatively necessitated the creation of cultural protection laws in Korea. The Korean government enacted the law known as the Cultural Property Protection Law and has administered it for the past forty years. Accordingly, intangible heritage in Korean society has successfully contributed to its continued introduction and transmission. Problems related to the Cultural Property Protection Law have accumulated over the past four decades. Although revision and modification of the law have been repeated to resolve them, the problems that remain include: the extinction of original names; the standardization and fixation of art forms; the loss of function; the diminishing variety and loss of undesignated cultural property; holder discontent; administrative disorganization – designated by central government as important intangible cultural properties and designated by regional government as intangible cultural property; and commercialization.

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