

PROTECTION FOR INTANGIBLE CULTURAL HERITAGE AS A VIABLE TOURIST PRODUCT: MALAYSIA AS A CASE STUDY*

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Abstract

The realisation of the importance of intangible cultural heritage (ICH) has led governments around the world to protect these resources in order to promote tourism. Malaysia, in this respect, is not exceptional. Having ratified the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage in 2013, Malaysia is bound to identify and define the various elements of the ICH present in its territory and ensure its protection. It is the purpose of this article to discuss the protection available for ICH that could be developed further to attract tourists. In particular, the article seeks to examine the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and the existing heritage laws in Malaysia. The existing laws refer to the National Heritage Act 2005 as well as the States' heritage enactments that provide for the preservation of cultural heritage resources at both federal and state levels. The problems to be addressed include, inter alia, lack of proper understanding on the nature of ICH and the narrow interpretations and scope of ICH. This article concludes with some recommendations for legislative reform to better protect ICH and ensure the rapid development of tourism in Malaysia.

Keywords: Intangible cultural heritage, preservation, tourism product, safeguarding, cultural tourism

Introduction

The tourism industry has become one of the largest growing sectors in the world, contributing Gross Domestic Product (GDP) to many countries including Malaysia (United Nations Educational and Scientific Organization [UNESCO], 2008). Whilst there are various types of tourism products and activities available for tourists, cultural tourism has been promoted as an alternative tourism product in response to the demands of tourists who are looking for some form of cultural heritage experience, whether tangible or intangible (World Tourism Organization [UNWTO], 2012). If properly managed, cultural tourism has the potential of enhancing and preserving cultural heritage by strengthening local people's identity and self-esteem, bringing revenue and investment to sites as well as revitalising traditional crafts and historic building (UNESCO, 2008). In reality, however, there are numerous cases of how unplanned tourism has irreversibly damaged the frail and delicate cultural resources, and eroded communities' cultural values (UNESCO, 2008). For this reason, the United Nations Educational and Scientific Organization (UNESCO) has worked in earnest to assist its Member States in the preparation and implementation of measures for an efficient protection and promotion of their cultural heritage (United Nations Educational and Scientific Organization [UNESCO], 2011).

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Among these measures, the introduction of the Convention for the Safeguarding of the Intangible Cultural Heritage marked a significant milestone in the development of cultural heritage policies (UNESCO, 2011). As the name suggests, the Convention is the first international instrument to focus on providing a legal and administrative framework to safeguard ICH. It was adopted on 17th October 2003 and came into force almost three years later on 20th April 2006 (World Intellectual Property Organisation [WIPO], 2016). The Convention's rapid entry into force somehow demonstrates the growing realisation among the international community of the importance of protecting ICH resources, particularly during the period of rapid socio-cultural change and international economic integration (UNESCO, 2008). To date, it has been ratified by 166 States (United Nations Educational and Scientific Organization [UNESCO], 2016).

As a State Party to the Convention, Malaysia is thereby bound by the provisions of the Convention and shall take the necessary measures to ensure the safeguarding of the ICH present in its territory (*Convention for the Safeguarding of the Intangible Cultural Heritage, art. 11(a)*). It is the purpose of the article to explore the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and examine the available legal protection for ICH in Malaysia at both federal and state levels. In doing so, several issues and gaps in the existing laws will be addressed including, inter alia, lack of educational and training programs within the communities and groups concerned, narrow interpretations of the scope of cultural heritage and lack of general policy aimed at integrating the safeguarding of ICH into planning programs.

The article has been organised in the following way. After this introductory part, the article begins by giving an overview of heritage laws in Malaysia. This is then followed by discussions and analysis of the provisions, issues and gaps in the existing heritage laws. Finally, it summarises the main findings and concludes with some recommendations for legislative reform to better protect ICH and ensure rapid development of tourism in a country.

Overview of Heritage Laws in Malaysia

Previously known as the Treasure Trove Ordinance 1951, the Treasure Trove Act 1957 (Act 542) was the first statutory law enacted by the Malaysian Government to provide protection for heritage following Malaya's independence in 1957 (Yusoff, Dollah, & Kechot, 2011). It dealt with matters concerning tangible heritage assets that are found hidden in, or in anything affixed to, the soil or the bed of a river or of the sea (*Treasure Trove Act 1957, s. 2(1)*). Almost two decades later, the Antiquities Act 1976 was passed to provide for the control and preservation of ancient and historical monuments, archaeological sites and remains, antiquities and historical objects in the Peninsular Malaysia (*Antiquities Act 1976, long title & preamble*).

These two legislations, however, were heavily criticised for their failure to afford adequate protection for intangible heritage resources (Yusoff et al. 2011). To remedy the situation, the then Minister of Culture, Arts and Heritage, YB Dato' Seri Utama Rais Yatim had proposed a stand-alone Heritage Bill in March 2004 (Wan Ismail & Shamsuddin, 2005). The long-awaited National Heritage Act 2005 was finally published in the Gazette on 31 December 2005 and came into force throughout Malaysia on 1 March 2006. It repealed and replaced the Treasure Trove Act 1957 and

the Antiquities Act 1976 with more comprehensive provisions for the conservation and preservation of national heritage, natural heritage, tangible and intangible cultural heritage, underwater cultural heritage, treasure trove and related matters (*National Heritage Act 2005, preamble & s.125(1)*).

Bearing in mind that heritage preservation is listed under the Concurrent List, both Parliament and State Legislatures in Malaysia have legislative power over matters pertaining to cultural heritage protection issues (*Federal Constitution, list III of the Ninth Sch.*). Be that as it may, so far, only five out of thirteen states have legislated specific enactments and ordinance on this matter. In 1988, Johore and Malacca have both passed the Yayasan Warisan Negeri Enactment 1988 and the Preservation and Conservation of Cultural Heritage Enactment 1988 respectively. The State of Sarawak then followed suit and enacted an ordinance known as the Sarawak Cultural Heritage Ordinance 1993. It was gazetted on 13 December 1993 and came into effect on 1 July 1994. Several years later, Sabah introduced the Cultural Heritage (Conservation) Enactment 1997 which came into force on 1 September 1997. Penang was the last State to legislate its own enactment on heritage preservation. The State of Penang Heritage Enactment 2011 received royal assent on 27 June 2011 and was published in the Gazette two months later.

An Analysis of Heritage Laws in Malaysia

1. Failure to Adopt Legal and Administrative Measures in the Malaysian states

Despite having similar purposes, each of Malaysian heritage laws has a different scope and category of heritage resources to be governed thereunder. Administered by the National Heritage Department, it is needless to say that the National Heritage Act 2005 has encompassed a wide range of heritage resources ranging from the National heritage to underwater cultural heritage (Ramli, Suhaimi, Salehuddin, Zahari, & Abdul, 2015; *National Heritage Act 2005, preamble*).

As far as state heritage enactments and ordinances are concerned, it is important to stress that the majority of them were enacted in the twentieth century where far too little attention has been paid to the importance of safeguarding ICH around the world. Hence, it is not a surprise to find that aside from the State of Penang Heritage Enactment 2011, no attempt was made by the remaining State Legislatures to offer protection for intangible form of cultural heritage (*State of Penang Heritage Enactment 2011, preamble*). Having said that, as a State Party to the Convention for the Safeguarding of the Intangible Cultural Heritage, it is the responsibility of both Federal and State Governments of Malaysia to ensure the availability of legal and administrative measures aimed at managing and safeguarding ICH in their territories (*UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, art.11(a) and art.13(d)*). This is particularly important given the fact that heritage preservation falls under the Concurrent List (*Federal Constitution, list III of the Ninth Sch.*).

Nevertheless, it is interesting to note that section 1(2) of the Sarawak Cultural Heritage Ordinance 1993 allows the Federal Government to declare any cultural heritage other than antiquities, ancient and historical monuments, records and

archaeological sites as heritage items under the Federal law, i.e. the National Heritage Act 2005. To put it another way, in view of the fact that ICH is not included in the ambit of protection for heritage resources in Sarawak, the Federal Government may declare it as heritage items under the National Heritage Act 2005. On this point, it is argued that, in the event that efforts to provide legal protection for ICH in other states of Malaysia failed, this provision may serve as an alternative for the relevant State Legislatures to safeguard such resources.

2. Narrow Interpretation and Scope of Protection

Theoretically, the term 'intangible cultural heritage' is used in the Convention for the Safeguarding of Intangible Cultural Heritage to refer to 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 (*UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, art. 2(1)*). Article 2, paragraph 2 of the Convention further classifies different domains of ICH which includes, inter alia:

- a. oral traditions and expressions;
- b. performing arts;
- c. social practices, rituals and festive events;
- d. knowledge and practices concerning nature and the universe; and
- e. traditional craftsmanship.

As mentioned earlier, in so far as Malaysian heritage laws are concerned, the National Heritage Act 2005 and the State of Penang Heritage Enactment 2011 are the only statutes which offer protection for ICH in Malaysia. According to section 2(1) of the National Heritage Act 2005, intangible cultural heritage refers to any form of expressions, languages, lingual utterances, sayings, musically produced tunes, notes, audible lyrics, songs, folk songs, oral traditions, poetry, music, dances as produced by the performing arts, theatrical plays, audible compositions of sounds and music, martial arts, that may have existed or exist in relation to the heritage of Malaysia or any part of Malaysia or in relation to the heritage of a Malaysian community. Likewise, this provision applies mutatis mutandis to the interpretation of the same term in the State of Penang Heritage Enactment 2011 (*State of Penang Heritage Enactment 2011, s.2*).

It was observed however that the above interpretation appears to have narrowed the scope as to what is protected under the law (Mustafa & Abdullah, 2013). Although an object under the National Heritage Act 2005 encompasses both tangible and intangible heritage, the terms instruments, objects and artefacts are nowhere mentioned in the interpretation of ICH (*National Heritage Act 2005, s.2(1)*). In fact, the said interpretation seems to suggest that ICH is only confined to oral transmission as opposed to the Convention's definition of the same term (Mohd Hussein, Mohd Nor, & Abdul Manap, 2011).

Moreover, while community participation plays an important role in safeguarding ICH, both of the National Heritage Act 2005 and the State of Penang Heritage Enactment 2011 surprisingly do not include social practices, rituals and festive events

in their interpretation provisions (*UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, preamble & art.15*; Abdullah, 2008). This is contrary to the scope of ICH that the Convention intends to cover and safeguard. The absence of such terms has accordingly put them at stake, particularly when the demands of cultural tourism are getting higher due to the implementation of the Malaysia Year of Festivals (MyFEST) campaign by the Malaysian government to boost the tourism sector and promote various festivities and cultural element in Malaysia (Ministry of Tourism and Culture Malaysia Official [MOTAC], 2014).

3. Lack of proper understanding on the nature of intangible cultural heritage.

Both UNESCO and National Heritage Act 2005 adopt the inventory system as a mode of identifying heritage items that fall within the domain of their protection (*UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, art.12*). As a result of the process, the Malaysian National Heritage Department has identified five groups of 'intangible cultural heritage' (Malaysia Department of National Heritage [JWN], 2015), i.e.

- a. performing arts (theatre, music and dances);
- b. customs and cultural practices which include traditional games, self-defense arts, food culture and traditional medicines;
- c. language and literature (oral tradition, Malay manuscripts);
- d. fine arts; and
- e. living persons.

Since the implementation of the Act, traditional dances from the diverse ethnic races have been designated as 'national heritage' including those from the Malay ethnic group such as *Boria, Zapin Dance, Gamelan, Dikir Barat Makyung, Wayang Kulit, Bangsawan, Dondang Sayang, Joget Melayu, Tarian Singa atas Tiang, Rodat, Ghazal, Bongai* and *Ulik Mayang*. For the Indian, Sikh and Chinese ethnic races, dances like *Bhagra* (Sikh), *Bharata Natyam* (Indian Community) and Ceremonies Drums (Chinese Drums) have been included in the list. For the categories of customs and cultural practices, items such as traditional musical instruments (*Dabus* and *Kompang*), traditional songs (*Wau bulan*) and traditional costume (*Ikatan sampung*) are made part of the list. Equally listed are performances of the indigenous peoples such as *Datun Julud, Sewang, Ngajat, Sumazau, Gendang Melayu Sarawak, Jo'oh* and *Magunatib*. Not forgotten, in the area of language and literature are *Syair, Tulisan Jawi, Misa Melayu, Pengap, Bahasa Melayu, chingay* and manuscripts such as *Peribahasa & Hikayat Pelanduk Jenaka*. In the area of fine arts we can see items such as *Batik Malaysia, Tekat, Anyaman Tepas, Anyaman Mengkuang and Labu Sayong*. (Malaysia Department of National Heritage [JWN], 2016).

In recognition that ICH practitioners play a substantial role in the continued existence of the cultural heritage, five individuals have been conferred the title 'live treasures' since 2015 (Malaysia Department of National Heritage [JWN], 2015). It is hoped that with the conferment, these individuals will continue to develop the skills with the aim of transmitting them to younger generations.

It has been noted by many commentators that inventorying is the initial step to identifying and acknowledging the existence of the cultural heritage. Inventorying is also no small feat as most of the ICH is in the form of oral history, personal to the holders of the ICH. Recording requires some form of persuasion for those with intimate knowledge of the ICH to participate in the process. From our past field study in the state of Sarawak, it is observed that the state government, museums, archives, have been recording ICH of the *Iban* tribes of the Sarawak. The languages of the *Bidayuh* tribe are also being reduced into dictionary in order to save them from perishing. One main obstacle remains. Culture is alive and is constantly evolving, being influenced by the surrounding environment. This is acknowledged in the Convention itself -- "constantly recreated by communities and groups in response to their environment" (*UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, art.2(1)*).

The issue is how you preserve something which is alive and continuously evolving. Even if these cultural heritage is being recorded, which version is eventually protected? The recorded version? On this issue, one gives the impression that only the recorded version represents the authentic version. It may also entail the foregone conclusion that ICH is stagnated or frozen in a time capsule (Blakely, 2015). Whilst in actuality ICH is continuously being performed and interpreted by the ICH practitioners.

That constitutes the main point of departure between ICH with physical artefacts. Physical artefacts can visibly be described with certainty as they are not changing. These artefacts can easily be preserved as it is a matter of taking specific measures towards the physical materials. It is also easy to order for the repatriation of physical artefacts if they are found to be in the possession of others. This is not true of ICH. ICH is fluid, dynamic and constantly evolving according to times. ICH is non rivalrous. The use of ICH by one party will not deprive others from equally consuming it. What others do is simply making a copy/copies of the ICH whilst the original one will still be subsisting. Consequentially, how do we deal with the repatriation of ICH when the original copies are not affected in any manner through the process of copying? The ensuing question is that can rules developed for physical artefacts be applied without any difficulties to ICH which are essentially intangible. For some the distinction between physical and non physical may be marginal. However, in the context of ICH, a more comprehensive guidelines should be developed to fit the nature of ICH which are essentially intangible.

4. Absence of Heritage Impact Assessment and Archaeological Impact Assessment Provisions

The development of tourism infrastructure as well as the increased tourist influx may have unintended consequences. Therefore, under Article 13(a) of the Convention, each State Party is obligated to ensure the safeguarding, development and promotion of the ICH present in its territory by implementing a general policy designed to integrate the safeguarding of such heritage into planning programs. One of the possible options is to adopt heritage impact assessment (HIA) or archaeological impact assessment (AIA) as part of an environmental impact assessment (EIA) in Malaysian planning programs.

Theoretically, EIA refers to a study to identify, predict, evaluate and communicate information about the impacts on the environment of a proposed project and to detail out the mitigating measures prior to project approval and implementation (Department of Environment Malaysia [DoE], 2007). It is made compulsory on activities or projects which are considered by the Minister as having the possibility of causing adverse effects to the environment (Mustafa, 2011). When applied to heritage resources however, EIA frequently produces disappointing results as it disaggregates all the potential cultural heritage attributes and assesses impact on them separately through distinct receptors (International Council on Monuments and Sites [ICOMOS], 2011).

Unlike EIA, HIA employs a different methodology which specifically focuses on the Outstanding Universal Value (OUV) and attributes that convey that OUV (ICOMOS, 2011). It examines the possible negative and positive impacts on the full range of cultural heritage resources of an area, which may result from the proposed development project or activity and provide recommendations to meet the desired standards in handling change at heritage properties (Rogers, 2016). AIA, on the other hand, is a study conducted in response to a development proposal that may disturb, endanger or destruct archaeological sites. The primary role of AIA is to help the government and private sector to make better decisions in managing archaeological resources by evaluating the significance of the affected sites, analysing all possible impacts of the proposed project on the sites and proposing relevant measures to mitigate unacceptable impacts and maximize those which are beneficial (Ministry of Forests, Lands and Natural Resource Operations, 2016). While HIA and AIA are both viable mechanisms to be integrated in planning programs, it is believed that that the former is wider in scope and will ensure a better balance to be struck between the safeguarding of ICH and the requirements for land use and development.

Unfortunately, the importance of HIA and AIA has received scant attention by the Malaysian government. Up to now, the Malaysian legislations are silent on the requirement of HIA and AIA studies as part of the EIA process in Malaysia (Mustafa et al. 2013). This has certainly caused cultural heritage, both tangible and intangible, to be put at risk. Notable examples can be seen in the case of Candi No.11 in Lembah Bujang and historic Raffles house in Penang. The former is an ancient Hindu temple, believed to be more than 1,000 years old. It was torn down in 2013 to make way for a residential project by housing developers who claimed to have no knowledge about the historical significance of the stone edifice (Murad, 2013). Similarly, the latter was recently bulldozed in February this year to redevelop the land into a hotel and office lots. Such demolition has destroyed the only building in George Town associated with Sir Thomas Stamford Raffles, a famous figure in the early modern history of Malaysia, Indonesia and Singapore (James, 2016). Such losses could have been avoided if the HIA and AIA studies were made mandatory in all planning projects in Malaysia.

5. Insufficient Provisions to Manage, Preserve and Protect Intangible Cultural Heritage

The Convention imposes a duty on the states to take the necessary measures aimed at ensuring the viability of the ICH in its territory. Such measures include 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 ICH (*UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, art.2(3)*). In this respect, it is worth noting that section 60 (1) of the National Heritage Act 2005 and section 38(2) of the State of Penang Heritage Enactment 2011 place an obligation on the owner or custodian of a heritage object in the form of an intangible heritage to take all necessary steps to develop, identify, transmit, cause to be performed and facilitate the research on the ICH according to the guidelines and procedures as may be prescribed by the Minister or the State Heritage Commissioner (*National Heritage Act 2005, 124(2)(f)*; *State of Penang Heritage Enactment 2011, s. 38(1)*).

Having said that, no guidelines and producers for the conservation and preservation of ICH have been issued so far. The only available guideline is the 'Guidelines for Conservation of Heritage Building' established by the National Heritage Department. Other than that, no guidelines or procedures have been prescribed in respect of any other categories of heritage resources.

It must be further noted that, the rules and offences provisions under the National Heritage Act 2005 and the State of Penang Heritage Enactment 2011 seem to focus on tangible cultural heritage rather than on its intangible form. For instance, whilst an object is defined under the National Heritage Act 2005 to cover both tangible and intangible cultural heritage, the offences in respect of heritage object is only applicable to those who destroys, damages, disfigures, disposes or alters a tangible cultural heritage without a permit issued by the Commissioner (*National Heritage Act 2005, ss.2(1) & 113*). More so, no reliable provisions can be found in the Malaysian heritage laws to prevent any unauthorised commercial exploitation of ICH. This has certainly called the need to clarify and strengthen measures to address problems and issues surrounding ICH in Malaysia (Mohd Hussein et al. 2011).

6. Lack of provisions on improper and unauthorised use of Intangible Cultural Heritage

Both the National Heritage Act 2005 and UNESCO Convention call for the conservation of national heritage in order to save them from being perish. The central notion behind conservation is sustaining the existing heritage items for the future generation (Macmillan, 2008). Whilst the idea of conservation itself is laudable, but it is not sufficient in the context of ICH which is facing the danger of being improperly and illegally used by others. In the State of Sarawak for example, fake and unauthentic cultural products, including items which are 'labelled as cultural artefacts' are openly sold and distributed to the public. Traditional tattoo designs are made available for tourist even if they are being used outside the traditional community and may even be considered as offensive to the beliefs of the traditional ICH holders. Music and performances 'touted' to be of a certain traditional ICH are openly showcased in public events. Cheap t-shirt or other souvenir items carrying tattoo designs of the *Iban* sold at the street in Kuching may not necessarily authentic (Abdul Ghani Azmi, Ismail, Abd Jalil, Hamzah, & Daud, 2015). These musical performances and dances may be modernised, mixed and adulterated with other elements to make them more suitable to tourist taste or reflective of national policy such as national unity. Cheaper versions of the cultural products may also be made in neighbouring countries. These types of

usages amount to a misrepresentation and distortion of the cultural heritage (Ahtoi, 2004). Though the Convention espouses a holistic, multifaceted approach toward the protection of intangible cultural heritage, yet, it is deficient in many sense.

This is where intellectual property protection comes in, complementing heritage laws (von Lewinsky, 2008; Blakely, 2015). Although inventorying and recording are the preliminary steps to restrain unauthorized use of ICH, and to stop the ICH from being loss as a result of lack of practices, yet it is not a full stop gap measures against such unauthorized use. Heritage laws focus on conservation and preservation and whilst intellectual property focuses on controlling reproduction (Inawat, 2015). Both seek different objectives, yet both are relevant.

To that extent, Malaysia should closely follow the evolution of draft model laws on traditional cultural expression by the World Intellectual Property Organisation (WIPO).³ At the domestic front, Malaysia should also strengthen the existing intellectual property laws to arm the ICH practitioners with a powerful weapon against the improper and unauthorized use including penal provisions for usage of ICH outside the traditional context which may offend the feelings of the ICH holders as has been envisaged in other countries (Ismail, & Abdul Ghani Azmi, 2015). Erin (2005) and Peter Yu (2008) explore the means in which intellectual property laws could be strengthened to give better support to the expectation of the ICH practitioners.

Conclusion and Recommendation

Cultural tourism has been promoted as a tourism product throughout the world to meet the tourist demands for some form of cultural heritage experience, whether tangible or intangible (UNWTO, 2012). In view of the adverse effect that cultural tourism activities may pose, Malaysia, as a State Party to the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage shall take the necessary measures to ensure the safeguarding of the ICH present in its territory (*UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, art. 11(a)*).

The foregoing discussions suggest that the available legal protection for such heritage in Malaysia is not without flaws. The main limitation of the Malaysian heritage laws is the failure to adopt appropriate legal and administrative measures in the states of Malaysia. Apart from National Heritage Act 2005 and the State of Penang Heritage Enactment 2011, no attempt was made by the remaining State Legislatures to offer protection for intangible form of cultural heritage. Other problems involve lack of general policy aimed at integrating the safeguarding of ICH into planning programs, a lack of provisions on improper and unauthorised use of ICH and narrow interpretation and scope of ICH

These findings thus highlight the need to strengthen measures to safeguard and address issues surrounding ICH in Malaysia (Mohd Hussein et al. 2011). Greater efforts are required particularly from the Federal and State governments to adopt appropriate legal measures and make the necessary amendments to the existing heritage laws to better protect ICH and ensure the rapid development of tourism. This inter alia includes the following:

³ The Draft Model Law is available online at <http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_19/wipo_grtf_ic_19_4.pdf>

- a. In so far as the states of Johor, Malacca, Sabah and Sarawak are concerned, amending the current scope of protection in the respective state enactments and ordinance to include ICH. Alternatively, the relevant State Legislatures may provide a provision authorizing the Federal government to declare ICH as heritage item under the National Heritage Act 2005.
- b. With respect to the remaining states in Malaysia, it is highly recommended that a specific enactment on heritage preservation to be passed by the State Legislatures, covering both tangible and intangible cultural heritage resources.
- c. As far as the National Heritage Act 2005 and the State of Penang Heritage Enactment 2011 are concerned, amending the interpretation provision for ICH to also cover the terms social practices, rituals, festive events, instruments, objects and artefacts in order to correspond with the definition provided by the Convention.
- d. Provide a provision requiring the adoption of heritage impact assessment (HIA) or archaeological impact assessment (AIA) as a mandatory part of an environmental impact assessment (EIA) in Malaysia.
- e. Provide a more comprehensive guideline on the conservation of ICH, taking into account its non-physical nature
- f. Provide enforcement powers to the ICH practitioners to restrain the commercial unauthorized use of their ICH including usage which offends the sanctity of these cultural practices

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