

Food as Heritage and Multi-Level International Legal Governance

Lucas Lixinski*

Abstract: This article focuses on the issue of framing of food in international law, as a means to highlight the specific dimensions of food that are the focus of food as heritage under the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. The specific example of Mexican traditional cuisine is used as a prism through which to analyze regulatory choices across a range of organizations in the United Nations System, yielding a number of frames: food as heritage, food as a human right, food as indigeneity, food as biodiversity, and food as a regulatory object. The frames are natural consequences of the mandates of the bodies addressing food, and the article argues that food as heritage needs to be more clearly engaged with other dimensions of food in international law, lest food becomes just a tourist attraction under the intangible heritage regime.

Keywords: Food, Mexican cuisine, framing in international law, biodiversity, human right to food, Food and Agriculture Organization

INTRODUCTION

A lot can be said about the ways in which food and the law intersect. A plethora of legal regimes interact with the way we produce, store, prepare, and consume food. Perhaps the latest frontier of food regulation is food as heritage, which implies its description and framing as a cultural phenomenon rather than merely as a biological one. In other words, the majority of encounters between food and the legal system think of food through its biological existence and technical make-up and it being necessary for human biological existence. In international law, food as biology invokes regimes like international environmental law, international transport law, international human rights law, international trade law, and international intellectual property law (the latter, in particular, representing techniques for channeling this biology, like the protection granted to plant varieties and even patenting of

*University of New South Wales Law, Sydney, Australia; Email: l.lixinski@unsw.edu.au

genetic material).¹ They focus on matters like biodiversity,² biosafety,³ the right to adequate standards of living,⁴ phytosanitary standards for food imports and exports,⁵ and the protection of plant varieties and genetically modified organisms,⁶ respectively and to name but a few aspects. In these interactions, much like in other areas of international legal governance, humanity's biological existence (and the requirements thereto) take precedence over cultural dimensions.⁷

Among these multiple regimes and ways of legally framing food, and our relationship with it, cultural heritage law fits uncomfortably (if at all), as it has relatively little to say about food as biology and focuses instead on food as a cultural human experience. To be sure, safeguarding food as a cultural phenomenon usually contributes to its protection in other domains,⁸ but it is more of an indirect connection, and privileging culture tends to push biology into the background. And yet, increasingly, the body of international heritage law has engaged with food. The early experiences of cultural heritage with food have to do with the Globally Important Agricultural Heritage Systems (GIAHS) initiative,⁹ discussed in more detail below. For now, suffice it to say that this initiative focused primarily on agricultural landscapes as tangible heritage worth protecting, in their convergence between culture and nature (which has intangible elements that cannot be divorced from the physical existence of the landscape). Here, like in the other international legal regimes, the connection to nature and biology was key.

But food has also been framed as a primarily cultural phenomenon.¹⁰ Under the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (CSICH), a number of food manifestations have been listed as representative of the intangible heritage of humanity.¹¹ Under this treaty, food is entirely a cultural

¹On food and intellectual property law, in addition to numerous contributors to this issue, see, e.g., Broude 2015; Ubertazzi 2017.

²Convention on Biological Diversity, 5 June 1992, 1760 UNTS 79 (CBD).

³Cartagena Protocol on Biosafety to the Convention on Biological Diversity, 7 June 1992, 1760 UNTS 79.

⁴International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 UNTS 3, Art 11 (ICESCR).

⁵World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures, 15 April 1994, 1867 UNTS 493.

⁶International Convention for the Protection of New Varieties of Plants, [2005] OJ L192, 64.

⁷A notable parallel is the international law of genocide, which has excluded cultural aspects in the drafting of the Convention on the Prevention and Punishment of the Crime of Genocide, 12 September 1948, 78 UNTS 277. The stakes are significantly lower when speaking of food, but the idea is the same. For a discussion of how genocide law tends to exclude culture, see Novic 2016.

⁸One potential exception is cultural whaling, which many believe to be causing the depletion of whale species.

⁹Globally Important Agricultural Heritage Systems (GIAHS), <http://www.fao.org/giahs/en/> (accessed 4 December 2018).

¹⁰See also Csergo in this issue.

¹¹Convention for the Safeguarding of Intangible Cultural Heritage, 17 October 2003, 2368 UNTS 3 (CSICH).

phenomenon, and it warrants rethinking the possible relationships between international law and food. If food is framed as a cultural (rather than a biological) object for legal purposes, does it advance compelling interests in advancing objectives like food security? In other words, does thinking about food as intangible cultural heritage (ICH) help the regulation of food in international law? Or, rather, is it that food regulation helps ICH safeguarding in international law?

This article grapples with these questions. It shows that food as ICH does not seem to be too mindful of how food is regulated by other regimes and what other aspects of food are at stake in its regulation. This posture reflects an inward-looking logic of heritage treaties, in which the logic of the “authorized heritage discourse” (AHD) means that heritage treaties safeguard heritage as an end in itself, without accounting for its biological or even commercial dimensions.¹² In the end, heritage loses by not connecting to other regulatory frameworks. I therefore argue that the United Nations Educational, Scientific and Cultural Organization (UNESCO) needs to better coordinate its activities with those of other international bodies engaging with food as a regulatory object, otherwise it risks framing food only as a pawn in pursuing tourism-related goals.

In order to argue this thesis, I show how multiple regimes for food, because they pursue multiple different goals and differently tailored regulatory means, create the possibility of conflicting outcomes when it comes to safeguarding food and practices around it. In practice, though, no major clashes have arisen, in no small part because heritage legal regimes (and the CSICH, in particular) are insulated from other regulatory engagements with food. In this way, this article is not only a study about food as heritage, and international heritage law, but also a study about the engagement of multiple regulatory regimes and, to some extent, global administrative law.¹³ I deliberately avoid dealing with intellectual property (IP) mechanisms in any depth since my intention is to map less obvious ways of intersecting heritage and other legal regimes and because the connection between IP and heritage is well studied.¹⁴

Methodologically, in order to make my case, I will focus on the Mexican cuisine element, added to the Representative List of the Intangible Heritage of Humanity (Representative List) under the CSICH. I chose Mexican cuisine because it is one of the early inscriptions of food in the CSICH lists. Further, the inscription’s emphasis on best food safeguarding practices (discussed below) helps unpack the way food connects to broader cultural contexts. Finally, there is a strong element of Indigenous heritage in this manifestation, which adds another layer of thinking about multilevel food governance and food as a cultural manifestation.

¹²Smith 2006.

¹³Kingsbury, Krisch, and Stewart 2005.

¹⁴Lixinski 2013a.

In what follows, I will first briefly introduce food as intangible heritage more generally as well as the governance system under the CSICH, with a focus on food heritage in the CSICH Representative List, in general, and Mexican cuisine, in particular. After that, I will focus on a number of other international bodies that have regulated elements of Mexican cuisine highlighted by the nomination file, like the United Nations Food and Agricultural Organization (FAO), the Convention on Biological Diversity (CBD), and the international human rights law angle.¹⁵ The discussion on human rights will cover the two covenants—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—as well as the Indigenous peoples' rights perspective through the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).¹⁶

CSICH: FOOD AS HERITAGE

The CSICH is the key international instrument for the safeguarding of intangible heritage. While a full examination of its mechanisms is outside the scope of this article,¹⁷ it is worthwhile stressing the status of the CSICH *vis-à-vis* the rest of international heritage law before discussing food as heritage under the CSICH. The relationship between the CSICH and the rest of international law operates both on a legal-formalistic level and on a substantive/heritage management level. With respect to the latter, the CSICH, alongside the very notion of ICH, is meant to overhaul the way we think about heritage, what it is, why it needs safeguarding, and for whom. ICH is meant to be a holistic concept, in which the material remnants of the past matter less as ends in themselves, and the key to heritage is the connection between people and the culture they live within and practice. In other words, ICH is living culture, created and changed in direct response to the cultural and natural environment where a community lives. Food is, in this sense, a perfect candidate as it is lived and experienced every day. Further, the CSICH promotes heritage, at least nominally, for the benefit of communities rather than for states.¹⁸ Promoting heritage for communities means relinquishing expert and state control over heritage and its meanings, which allows for ICH to be “constantly recreated,” a requirement in its legal definition in Article 2.1 of the CSICH.

The CSICH, in addition to defining ICH, also sets out the basic parameters of the legal-formalistic relationship between the CSICH and the rest of international heritage law as well as other parts of international law. Article 3 states:

¹⁵CBD.

¹⁶International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171 (ICCPR); ICESCR; United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UN GAOR, UN Doc. A/RES/61/295, 13 September 2007 (UNDRIP).

¹⁷But see Lixinski 2013a.

¹⁸Even if it falls short in actuality. See Lixinski 2013a.

Article 3—Relationship to other international instruments

Nothing in this Convention may be interpreted as:

- (a) altering the status or diminishing the level of protection under the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage of *World Heritage properties with which an item of the intangible cultural heritage is directly associated*; or
- (b) affecting the rights and obligations of States Parties deriving from any international instrument relating to *intellectual property rights* or to the *use of biological and ecological resources* to which they are parties. (Emphases added)

From a broader perspective, the relationship to the World Heritage Convention in Article 3(a) means allowing intangible elements to be taken into account in the definition of world heritage sites, which, in the food context, is key when thinking about the GIAHS initiative.¹⁹ But more important for our purposes is Article 3(b), which sets out the relationship between the CSICH and other domains of international law, which are particularly important to the international regulation of food (at least if defined as nature). Therefore, thinking about food as heritage does not in any way preclude the regulatory action of other instruments. But food as heritage has specific content, which deserves some scrutiny before getting to the specific case of Mexican cuisine.

When thinking about food as ICH, a number of food practices have been added to the Representative List (Article 16 of the CSICH). These food practices, importantly, cover different domains of ICH, which are described in Article 2.2 of the CSICH as:

- 2. The “intangible cultural heritage” ... is manifested inter alia in the following domains:
 - (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
 - (b) performing arts;
 - (c) social practices, rituals and festive events;
 - (d) knowledge and practices concerning nature and the universe;
 - (e) traditional craftsmanship.

There are at least eight culinary practices listed as ICH,²⁰ and Table 1 summarizes their fit with the domains of intangible heritage. The table shows that food practices are usually listed as “knowledge and practices concerning *nature* and the universe,”²¹ even if other domains are also mentioned in most cases. One notable exception is the Neapolitan *pizzaiuolo*, the latest addition to the ICH lists in terms of food heritage. The fact that nature is part of this domain shows the relationship between the cultural and biological elements of food, which is consistent with other engagements between food and international instruments.

¹⁹Convention Concerning the Protection of the World Heritage and Natural Heritage, 16 November 1972, 1037 UNTS 151.

²⁰Some of them discussed in Maffei 2012b.

²¹CSICH, Article 2.2 (emphasis added).

Table 1. Food-based manifestations of ICH on the Representative List of Intangible Heritage of Humanity

Country(ies)	Year of inscription	Official name of ICH	Oral traditions and expressions, including language as a vehicle of ICH	Performing arts	Social practices, rituals, and festive events	Knowledge and practices concerning nature and the universe	Traditional craftsmanship	Other(s)
Mexico	2010	Traditional Mexican cuisine— ancestral, ongoing community culture, the Michoacán paradigm				X		
France	2010	Gastronomic meal of the French	X		X	X		
Cyprus, Croatia, Spain, Greece, Italy, Morocco, and Portugal	2010 (changed 2013) ²²	Mediterranean diet	X		X	X	X	
Japan	2013	Washoku, traditional dietary cultures of the Japanese, notably for the celebration of New Year	X		X	X	X	
Republic of Korea	2013	Kimjang, making and sharing kimchi in the Republic of Korea			X	X		
Democratic People's Republic of Korea	2015	Tradition of kimchi making in the Democratic People's Republic of Korea			X	X		
Belgium	2016	Beer culture in Belgium			X	X	X	
Italy	2017	Art of Neapolitan 'pizzaiuolo'	X	X	X		X	

It is also worth noting that craftsmanship is a domain of only five of the eight manifestations of heritage, which can be read as de-emphasizing the role of the people preparing the food and, rather, focusing on the act of eating. That said, it is at odds with both the nominations of kimchi, considering both countries (North

²²The 2013 amendment or re-inscription added Cyprus, Croatia, and Portugal to this multinational nomination.

and South Korea) have domestic law on ICH that emphasizes the role of master craftspeople and their status as “living human treasures.” Social rituals (collective) are emphasized instead of craftsmanship (more individualized) across all nominations, except for Mexican cuisine (even if Mexican cuisine is portrayed ultimately as part of a collective social endeavor, it is one that is more based on technique than ritual, from this perspective of the nomination). The emphasis on social rituals seems to be more open-ended in terms of how food is practiced, as opposed to craftsmanship that may refer just to preparation. Lastly, among these nominations of food as heritage, it is also worth noting that most of them are gendered, with the exception of the French gastronomic meal and the Japanese *washoku*.²³ The role of women as particular historical and/or current bearers of ICH is emphasized throughout the nominations. The gendering is sometimes mentioned in relation to the human rights compatibility of the ICH manifestation but always ultimately with a positive conclusion, speaking of the elevation of the status of women brought about by the listing.

The importance of the recognition of culinary practices as ICH is acknowledged in all of the nominations. The French gastronomic meal speaks more of the importance of the listing for the recognition of the category of ICH in France, as opposed to built or world heritage (therefore, food helps the CSICH), but the other nominations speak of the benefits that the CSICH can bring to the safeguarding of food practices themselves (thus, the CSICH helps food). Importantly, the majority of the nominations of food heritage frame food as a cultural phenomenon and nothing else. The Mediterranean diet and Mexican cuisine are two notable exceptions in acknowledging the engagement of food as ICH and other domains. The Mediterranean diet interacts with health regimes, where the Mediterranean diet first received international attention,²⁴ as well as with biodiversity. In fact, the attention given to the Mediterranean diet by the World Health Organization (WHO) and the FAO is a badge of honor in the nomination file. Mexican cuisine, in turn, puts emphasis on the importance of this practice for biodiversity and environmentalism more generally, including Mexico’s status as a mega-biodiverse nation, from where the rich culinary tradition stems. North Korea’s kimchi nomination also stresses the engagement of food safety and other scientific bodies related to food in the ICH process.

In their 2016 iteration, the Operational Directives for the Implementation of the CSICH consider food security to be part of “inclusive social development” under the CSICH.²⁵ More specifically, the Directives urge states to “ensure the

²³For a discussion of gender and intangible cultural heritage (ICH), see Hertz 2002.

²⁴Da Silva 2016.

²⁵Operational Directives for the Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage Adopted by the General Assembly of the States Parties to the Convention at its Second Session (UNESCO Headquarters, Paris, 16–19 June 2008), amended at its third session (UNESCO Headquarters, Paris, 22–24 June 2010), its fourth session (UNESCO Headquarters, Paris, 4–8 June 2012), its fifth session (UNESCO Headquarters, Paris, 2–4 June 2014), and its sixth session (UNESCO Headquarters, Paris, 30 May to 1 June 2016), para. 177, http://www.unesco.org/culture/ich/doc/src/ICH-Operational_Directives-6.GA-PDF-EN.pdf (accessed 21 May 2017) (ODs).

recognition of, respect for and enhancement of those farming, fishing, hunting, pastoral, food-gathering, food preparation and food preservation knowledge and practices, including their related rituals and beliefs, that contribute to food security and adequate nutrition and that are recognized by communities, groups and, in some cases, individuals as part of their intangible cultural heritage.”²⁶ In so doing, the Directives engage with legal measures in other areas related to food security, and, while they do not specifically mention international law, the connection may be implied.²⁷ Thus, the CSICH’s perspective on food can be adjusted to other legal norms also affecting food, which are discussed below in this article.

In these nominations, and, therefore, in the CSICH system, food is emphasized as a means of thinking about the universe and as a social ritual and practice around nature. At least in theory, the CSICH regime allows communities themselves to speak on behalf of food (that is, to be the agents that articulate the voice of the meanings of food), even if their views are filtered by states, via the listing process that asks states to obtain a community’s consent prior to the nomination. The law of these states comes first in defining and authorizing food. From a regulatory point of view, thus, food can be heritage but only inasmuch as it serves some broader social and cultural context. Thus, food is not the central element of the regime. A closer analysis of Mexican cuisine can help unpack some of these ideas, and bring others to the fore, in order to set up the analysis of the place of food in other international legal frameworks.

Mexican Cuisine at UNESCO

As indicated above, traditional Mexican cuisine was added to the Representative List of ICH in 2010.²⁸ This section engages in a description of the element, based on a close reading of the nomination file and associated materials, so as to place Mexican cuisine in the context of food heritage and to tease out other regulatory tensions arising from the different interests and objectives articulated on the basis of the nomination. The nomination focuses primarily on “[c]ollectives of cooks and other practitioners devoted to raising crops and rescuing traditional cuisine.” Specifically, the nomination focuses on the Mexican cuisine in Michoacán, one of the states in the Mexican federation, or at least the official title of the nomination refers to the “Michoacán paradigm,” even if a number of other states in Mexico are also mentioned.

In many respects, the nomination file focuses more on the safeguarding of traditional cuisine than on the cuisine itself, which is in line with the idea of ICH not as the product of a cultural process but, rather, as the cultural process itself. That said, the emphasis on the “safeguarding paradigm based on the participation of groups

²⁶ODs, para. 178.

²⁷ODs, para. 178(a–c).

²⁸Nomination File no. 00400, Doc. 5.COM, 2010, <https://ich.unesco.org/en/RL/traditional-mexican-cuisine-ancestral-ongoing-community-culture-the-michoacan-paradigm-00400> (accessed 4 December 2018).

of collectives of cooks, producers and other practitioners,” which is to be applied throughout the country, makes the nomination feel more like a candidate for the inventory of best safeguarding practices (Article 18 of the CSICH) than one for the Representative List. The element is in fact characterized as “the rescue model,” in the sense of being the model to revitalize traditional Mexican cuisine around the country, based on a pilot in certain pockets in the state of Michoacán.

Traditional cuisine is identified as falling in the domain of practices about nature and the universe, as indicated above, on the basis of a “symbiosis among cookery, cosmogony and environment,” highlighting the ritualization and Indigenous aspects of the cultural practice. But the cuisine is also described as being based on certain staples (corn, beans, and chili), in addition to being highly ritualized across Mexican history (starting from Mesoamerican civilizations). The connection to Indigenous peoples is important in articulating the historical continuity of the practice as well as the connection to a sense of community that is important under the definition of intangible heritage in the CSICH.

The entire food chain is emphasized—“from planting and harvesting to cooking and eating”—as well as the collective participation of peoples. Importantly, here, food is culturally displayed as a collective endeavor of the community rather than as the individual accomplishment of certain persons. In this respect, it also falls squarely within the normative preferences of the CSICH. A tension in this collectivization is the appeal to the “authenticity” of the methods of preparation of traditional Mexican cuisine. The notion of authenticity is foreign to the CSICH system, but it has been imported through other heritage management practices. The use of the concept of authenticity, while attributing value to heritage, is essentially a means of controlling it and one that can be easily manipulated against other stakeholders. In the context of ICH, which is conceptually living heritage, authenticity can also have the effect of freezing it in time and preventing its evolution.²⁹ In the context of Mexican cuisine, authenticity is meant to establish historical roots and, thus, attribute value to the heritage. In fact, the original nomination file made even stronger reference to “authenticity,” but it was toned down at the request of the ICH Committee.³⁰ Nonetheless, authenticity must not be overtly relied on.

Beyond the preparation methods, equally important (if not more so) is the environmental and biodiversity dimension of Mexican cuisine. The focus on biological diversity, in the form of “autochthonous ingredients domesticated thousands of years ago,” makes the food similarly “authentic,” while showcasing the unifying threads of the food practices and their connection to Mexican cultural identity. Importantly, it also reflects Mexico’s status as a mega biodiverse country and its connection to Indigenous peoples. In fact, Indigenous peoples in Mexico connect corn, one of the basic staples, to the origins of humankind and consider it “the vehicle for interaction between people and the deities, as well as

²⁹Lixinski 2014a.

³⁰I am very thankful to Chiara Bortolotto for this insight. See also Bortolotto 2013.

with the rest of the community.” Therefore, the staple is both biologically and culturally significant, the latter through its symbolism.

In terms of the purposes of the nomination, it seems that one of the key objectives is developmental. Using heritage as a tool to promote development is not an uncommon practice, particularly in the Americas.³¹ And, here, different types of development are involved in the safeguarding process of traditional Mexican cuisine. On a more superficial level, the nomination speaks of economic development through the reactivation of production chains, which create more jobs, improve training, lead to growth in cultural tourism through inclusion of traditional cuisine in tourism routes “and, on the whole, better quality of life to the communities.”³² The idea of promoting greater tourism and economic input from the outside is also common to the Mediterranean diet nomination, which, in many respects, has been taken over by interests from the tourism industry.³³ Additionally, the nomination file also speaks of food security for Mexico, deeply anchored in its ancestral history, and environmental sustainability. Thus, at least in this respect, the international process of heritage listing is used as an anti-globalization move, promoting domestic products and outputs against foreign influences. The same can be said of the French gastronomic meal, and Japanese washoku, the latter also stressing the importance of relying on traditional culinary traditions for public health reasons (recognizing the growing rates of obesity among the population).

The safeguarding of traditional Mexican cuisine is proposed principally through education in the processes of production of food, via courses and demonstrations around the country. After cementing safeguarding in Michoacán, safeguarding plans include establishing other “culinary hubs” around the country as well as the valuing of local cuisines in specific states where identity values are more at risk of disappearing. Cook-centered initiatives are central, particularly locally based cooks in the multiple communities. Here, women are central, and this is the key gendered dimension of this heritage. Women are central in the preparation of food and in the transmission of the knowledge across generations. They are the central individuals whose free, prior, and informed consent is offered to support the nomination. Mexican cuisine emphasizes the connection between food governance and indigeneity, environmentalism, nationalism, and development. The developmental dimension is particularly acute in the Mexican nomination, unlike in other food ICH manifestations. Food is decidedly, and quintessentially, a way of thinking about the universe now and historically. Communities are the key practitioners, but as selected and filtered by the state.

The connection to agriculture is also central in the nomination of Mexican cuisine, more so than in most other food manifestations of ICH on the Representative List.

³¹Lixinski 2013a.

³²Nomination File no. 00400, Doc. 5.COM, 2010, <https://ich.unesco.org/en/RL/traditional-mexicancuisine-ancestral-ongoing-community-culture-the-michoacan-paradigm-00400> (accessed 4 December 2018).

³³Da Silva 2016.

Traditional Mexican cuisine also shows how issues of control over food are articulated, particularly through the language of food security. The language of food security is central to many of the international regulatory efforts around food, even if they focus more on biological elements, rather than cultural ones. Perhaps no organization can demonstrate the notion of food as a regulatory object in the same way as the FAO. To its point of view, we move next.

FAO: FOOD AS A REGULATORY OBJECT

The FAO was created in 1945 as a United Nations (UN) specialized agency. Its key objective is “achieving food security for all.”³⁴ According to the FAO Constitution, which predates the food security terminology, this key objective translates as:

- raising levels of nutrition and standards of living of the peoples under their respective jurisdictions;
- securing improvements in the efficiency of the production and distribution of all food and agricultural products;
- bettering the condition of rural populations;
- and thus contributing towards an expanding world economy and ensuring humanity’s freedom from hunger.³⁵

These objectives translate into a series of functions related to science and technology related to nutrition, food, and agriculture (Article 1 of the FAO Constitution). The term “culture” is not mentioned at all in any of the FAO constitutive instruments, defining the organization as one concerned with the scientific, technological, and economic aspects of food and agriculture. That said, the GIAHS initiative (now called a program) started in 2002, bringing heritage into the vocabulary of the FAO: “[The] GIAHS Programme promotes public understanding, awareness, national and international recognition of Agricultural Heritage systems.”³⁶ The GIAHS is not a program specifically on food but, rather, focuses on agriculture. As such, it can allow itself to be divorced from much of the cultural context around food preparation and consumption and focus only on the production of staples and their relationship to cultural diversity and heritage protection systems.³⁷

By privileging nature, the GIAHS interacts more with tangible heritage under the World Heritage Convention than it does with other UNESCO instruments (in fact, the World Heritage Centre is one of the key partners in the GIAHS program).³⁸ But that does not necessarily mean that it interacts with natural heritage.

³⁴“About FAO,” *Food and Agriculture Organization*, <http://www.fao.org/about/en/> (accessed 4 December 2018).

³⁵Food and Agriculture Organization (FAO) 2015.

³⁶GIAHS.

³⁷Koohafkan and Altieri 2011.

³⁸Koohafkan and Altieri 2011.

Rather, it interacts with the separate category of “cultural landscapes,” which can be found in Article 1 of the 1972 World Heritage Convention as “combined works of nature and man [sic],” even if it is in actuality treated as a separate category, to the extent that it means nature as modified by human action, thus blending culture and nature and being a mixed category of world heritage sites in the practice of the World Heritage Committee.³⁹ As such, the possible engagement between the GIAHS and food as ICH is somewhat limited, but it happens in instances where intangible heritage related to farming is safeguarded, like the Hudhud chants of the Ifugao, which are sung (partly) in connection with rice production in rice terraces (protected as cultural landscapes and as a GIAHS).⁴⁰

Nevertheless, the recognition of agricultural heritage systems is an important regulatory step in acknowledging the cultural influence on food processes, just on a different part of the food cycle. The GIAHS seeks to “safeguard the social, cultural, economic and environmental goods and services these [agricultural heritage systems] provide to family farmers, smallholders, indigenous peoples and local communities” and, in doing so, integrating sustainable development approaches.⁴¹ Indigenous peoples, local populations, and ethnic groups are seen as being key to the success of the program,⁴² since they cultivate the more unique agricultural landscapes and are thus more likely to be represented in those landscapes listed for their uniqueness (or, to use the terminology of the World Heritage Convention, their “outstanding universal value”).

GIAHS examples include rice terraces; multiple cropping systems; understory farming systems; nomadic or semi-nomadic pastoral systems; ancient irrigation, soil, and water management systems; complex multilayered home gardens; below sea-level systems; tribal agricultural heritage systems; high-value crop and spice systems; and hunting-gathering systems.⁴³ What is key to the GIAHS program is the engagement of local communities and other local stakeholders, which, in many respects, aligns with the key principles of the CSICH, thus sharing this commonality with food heritage under the CSICH lists. Another commonality with the CSICH is that a listing mechanism is available under the GIAHS program. FAO member countries or other stakeholders (including communities themselves and other non-state actors) can develop a proposal to nominate GIAHS sites, as long as there is the participation of the relevant communities and their prior and informed consent.⁴⁴ The following are the categories in which sites can be considered for inscription:

³⁹Whitby-Last 2008.

⁴⁰Hudhud chants of the Ifugao (Philippines), Nomination File no. 00015, Doc. 3.COM, 2008, <https://ich.unesco.org/en/RL/hudhud-chants-of-the-ifugao-00015> (accessed 4 December 2018).

⁴¹GIAHS.

⁴²Koohafkan and Altieri 2011.

⁴³Koohafkan and Altieri 2011.

⁴⁴GIAHS.

- food and livelihood security;
- agro-biodiversity;
- local and traditional knowledge systems;
- cultures, value systems, and social Organizations; and
- landscape and seascape features.⁴⁵

In addition to articulating the characteristics of the specific site within one or more of these categories, a management plan needs to be presented, which sets out the actions needed to ensure the sustainability of the relevant agricultural system.⁴⁶

It is important to note that, much like the CSICH, the GIAHS program relies on listing as a means to value and give visibility to heritage practices. The FAO thus replicates a heritage mechanism as a useful tool to promote food security-related objectives. An important difference between the GIAHS list and the CSICH lists is that, in the GIAHS program, communities themselves can directly access the mechanism, without needing to be filtered by the state and/or expert organizations.⁴⁷

Related to the GIAHS, and traditional Mexican cuisine, in particular, the FAO also often engages with Indigenous peoples directly and indirectly. In fact, the FAO has a specific policy on Indigenous peoples,⁴⁸ which focuses on promoting “biological and cultural diversity as the underpinnings of food and livelihood security as well as quality of life.”⁴⁹ In a relevant section, the FAO policy specifies that

[g]reater participation in development processes is a cornerstone of indigenous peoples’ rights. For projects that involve or affect indigenous peoples, FAO will facilitate the inclusion of representatives of indigenous peoples in its consultations and programming cycles, in accordance with the principle of “free, prior and informed consent”.⁵⁰

Therefore, the FAO policy on Indigenous peoples also shares the requirement of community involvement with the CSICH. And, combined with the GIAHS program, it seems that, in spite of its original mandate, which did not include cultural considerations, the FAO’s governance has come a long way in thinking about the need to involve local stakeholders in decision making, at least with respect to agriculture.

Overall, the FAO activity in this area emphasizes food as a means to promote the livelihoods of people (human rights approach) and the connection to food security, nutrition, and health, with a particular focus on staples or agricultural processes.

⁴⁵For a full explanation of the criteria, see FAO, “Globally Important Agricultural Heritage Systems (GIAHS): Selection Criteria and Action Plan,” http://www.fao.org/fileadmin/templates/giahs_assets/GIAHS_test/07_News/News/Criteria_and_Action_Plan_for_home_page_for_Home_Page.pdf (accessed 4 December 2018).

⁴⁶FAO, “GIAHS.”

⁴⁷For a critique of expertise in this context, see Lixinski 2013b.

⁴⁸FAO 2010.

⁴⁹“Indigenous Peoples,” *Food and Agriculture Organization*, <http://www.fao.org/indigenous-peoples/en/> (accessed 4 December 2018).

⁵⁰FAO 2010.

While this approach might suggest a scientific take on food, the FAO is in fact more open to some of its cultural dimensions, particularly with respect to Indigenous peoples, which becomes relevant in the context of food ICH like traditional Mexican cuisine. In the FAO, particularly in the GIAHS context, communities get to speak on their own behalf, without being filtered by states (which can be a result of the less political nature of the FAO, compared to UNESCO). Traditional systems are emphasized as the rules governing the food cycle over the domestic law of the member states. From a regulatory point of view, thus, heritage systems are subordinated to the objective of feeding the world in a sustainable way, as opposed to being an end in themselves. A similar approach of seeing heritage or cultural objectives as secondary to biological survival can be observed in many other fora where food is regulated in international law. Some of them even take it a step further and put human benefits front and center, by focusing on the staples as ends in themselves. One key example is the CBD, which is the object of the next section.

CBD: FOOD AS BIODIVERSITY

The CBD is one of the outcomes of the 1992 United Nations Conference on Environment and Development, also known as the Rio Earth Summit. The CBD was drafted between 1988 and 1992 under the stewardship of the United Nations Environment Programme.⁵¹ The main driver of the treaty is sustainable development and the need to fit the use of biological resources into the framework of sustainable development.⁵² At the time of writing, the CBD has 196 states parties, making it one of the most widely ratified treaties in the world. The CBD establishes a Conference of the Parties (COP), created by Article 23, and a Secretariat (SCBD), created by Article 24, which in combination are the international framework in charge of considering international legal governance of biological diversity for our purposes. Under Article 23.4(g), the COP can create any subsidiary bodies needed for the implementation of the CBD's objectives, which "are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies."⁵³

Related to the pursuance of these objectives, a joint UNESCO-SCBD program entitled Linking Biological and Cultural Diversity was established by the COP in 2010. The key objectives of the program are:

- to build bridges between ongoing work on biodiversity and cultural diversity;
- to promote synergies and information sharing among already existing programs, projects, and activities;

⁵¹"History of the Convention," *Convention on Biological Diversity*, <https://www.cbd.int/history/> (accessed 4 December 2018).

⁵²"History of the Convention."

⁵³CBD, Art. 1.

- to further explore conceptual and methodological issues related to the links between biological and cultural diversity and the role of Indigenous peoples and local communities in enhancing those links;
- to promote the collection, compilation, and analysis of information from on-the-ground activities linking biological and cultural diversity from, among others, biosphere reserves and world heritage sites and from the experiences provided by Indigenous peoples and local communities;
- to support and foster learning networks on bio-cultural approaches, linking grassroots and community initiatives with local, national, regional, and global policy processes; and
- to raise awareness about the importance of biological and cultural diversity in resource management and decision-making processes as well as for the resilience of socio-ecological systems.⁵⁴

Much like the GIAHS program examined above, the connection between biodiversity and heritage is done primarily through cultural landscapes and the World Heritage Convention system. More overtly than the GIAHS program, though, the UNESCO-SCBD program acknowledges the importance of intangible elements of heritage far more centrally.⁵⁵ At least part of the reason for this closer engagement with ICH is the fact that the CBD, unlike the FAO instruments, has a specific provision on Indigenous peoples (Article 8(j)),⁵⁶ thus merging cultural and natural to a much greater extent in its key normative instrument than the FAO does. This provision, having to do with Indigenous traditional knowledge, speaks of the importance of maintaining Indigenous knowledge systems (in addition to benefit sharing and free, prior, and informed consent). Therefore, particularly for food ICH manifestations like traditional Mexican cuisine, grounded on indigeneity, the appeal of the CBD is fairly obvious.

The activity of the CBD also intersects, importantly, with nutrition. Even before the program linking biological and cultural diversity, the COP approved a decision creating a “[c]ross-cutting initiative on biodiversity for food and nutrition.”⁵⁷ This decision urges governments “to integrate biodiversity, food and nutrition considerations into

⁵⁴“About the Joint Programme,” *UNESCO-SCBD Programme*, <https://www.cbd.int/lbcd/about> (accessed 4 December 2018).

⁵⁵“About the Joint Programme.”

⁵⁶CBD, Art. 8: “In-situ Conservation. Each Contracting Party shall, as far as possible and as appropriate: ... (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.”

⁵⁷“Decision Adopted by the Conference of the Parties to the Convention on Biological Diversity at Its Eighth Meeting, Decision UNEP/CBD/COP/DEC/VIII/23, 15 June 2006.

their national biodiversity strategies and action plans,”⁵⁸ while, at the same time, invoking cooperation among a number of other international bodies, most notably the WHO.⁵⁹ Some of the elements of this initiative include the participation of cultural agents, most notably Indigenous peoples and local communities. In the documentation of relevant knowledge, for instance, Article 8(j) of the CBD is expressly mentioned (even if not UNESCO). Likewise, with respect to the part of the initiative on conservation and the promotion of the wider use of biodiversity, the importance of Indigenous and local communities, as well as the preservation of their “local socio-cultural traditions and knowledge,” is said to play a critical role. There is, therefore, a definite space for food ICH manifestations to be considered in this realm and to contribute to biological diversity. But the linkages need to be made more explicitly.

The last section of the initiative’s framework document outlines key partners, and it includes a plethora of international organizations, such as the FAO, the WHO, the UN Standing Committee on Nutrition, the World Food Programme, and the United Nations Children’s Fund, among others. But no mention is made of UNESCO in this context. While it is true that this initiative predates the formal UNESCO-SCBD cooperation, it still serves as a reminder of the need to promote explicit linkages between nature and culture, particularly in the domain of ICH.

The CBD’s treatment of food frames governance in this area by focusing on food as staples, species that deserve conservation. This is a worthwhile angle, but, with the exception of Article 8(j) of the CBD, not much is being done to include cultural elements. Rather, the scientific aspects of food are front and center in this regulatory response. Hence, the cooperation with UNESCO, and the ICH organs, in particular, is essential. In the CBD regime, experts get to speak on behalf of food, and international law seems to prevail in dictating how food is governed (probably as a consequence of expert rule more generally in international law).⁶⁰ The dimension of food that is more clearly emphasized is that of food practices as vehicles to maintain cultivation of a diversity of species, and, in this sense, cultural heritage can be used to help nature. So far, in the CBD practice, it seems that cultural heritage means primarily Indigenous traditional knowledge (in spite of the language of the provision referring to communities more broadly as well), which suits traditional Mexican cuisine well, but other forms of ICH can also help promote diversity. While the CBD is tied to Article 8(j)’s reference to Indigenous and local communities, cooperation with other bodies may expand its mandate.

The CBD’s engagement with Indigenous peoples can perhaps be broadened with the assistance of international human rights instruments. The right to food is enshrined in the ICESCR as well as the right to participate in cultural life.⁶¹ The merger of these

⁵⁸“Decision Adopted by the Conference of the Parties,” para. 5.

⁵⁹“Decision Adopted by the Conference of the Parties,” para. 6.

⁶⁰For a discussion of expertise in international law, see Kennedy 2016. Specifically with respect to expert rule in international heritage law, see Lixinski 2013b.

⁶¹ICESCR.

two rights, alongside minority protections in the ICCPR,⁶² could be a helpful way of bringing food as culture closer to food as nature in international legal governance.

INTERNATIONAL HUMAN RIGHTS LAW: FOOD AS A HUMAN RIGHT

International human rights law, in addressing food, usually refers to it in terms of the right to food and in tying food to survival. Because the purpose of this article is to examine food as a cultural manifestation, the right to cultural identity is also important for our purposes. The two major general instruments in international human rights law are the ICESCR (164 parties at the time of writing) and the ICCPR (168 parties at the time of writing). While drafted under the auspices of the UN, they also create their own implementing bodies, the Committee on Economic, Social and Cultural Rights (CESCR) and the Human Rights Committee (HRC), respectively.

More directly relevant for our purposes, the ICESCR protects the right to food in Article 11:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, *including adequate food* ...
2. The States Parties to the present Covenant, recognizing *the fundamental right of everyone to be free from hunger*, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - a. To improve methods of *production, conservation and distribution of food* by making full use of *technical and scientific knowledge*, by *disseminating knowledge of the principles of nutrition* and by *developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources*;
 - b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an *equitable distribution of world food supplies* in relation to need. (Emphases added)

This provision mandates engagement with food as a matter of biological survival, a basic human need. In a human rights instrument, this approach is to be expected in view of the minimum standards approach of human rights law. The CESCR's General Comment 12 on the Right to Adequate Food mentions the connection between the adequacy of food and food security, on the one hand, and the need to determine "adequacy" against cultural conditions, among others.⁶³ Similarly, cultural acceptability of food (or the "non nutrient-based [sic] values attached to food and food consumption") is to be taken into account when interpreting the basic normative content of Article 11 of the ICESCR.⁶⁴ Therefore, and unsurprisingly, the

⁶²ICCPR.

⁶³CESCR, General Comment 12: The Right to Adequate Food (Art. 11), Doc. E/C.12/1999/5, 12 May 1999, para. 7.

⁶⁴CESCR, General Comment 12, para. 11.

human right to food is more inclined to consider culture as part of food than most other international legal governance strategies. That said, this connection to culture seems to have eluded the practice on the right to food, if authoritative commentary is to be used as a guide.⁶⁵ In other words, the connection between food and culture remains elusive in the human right to food as well. Likewise, Article 15 of the ICESCR—the single provision on cultural rights in the Covenant—has been interpreted in relation to food practices only in fairly general terms.⁶⁶ These largely unexplored relationships have the effect of weakening the possibilities of human rights law's contribution to food governance, at least in a cultural context.

The ICCPR's Article 27, a provision on minority rights, may be of some assistance in this realm, at least inasmuch as it creates a more easily enforceable right for some cultural groups to have their own culture protected. There is in fact some limited practice considering food as part of the culture of minorities that needs to be protected.⁶⁷ However, much like the rights under the ICESCR, these rights also are subject to limitations in the name of the rights of others or other concerns, including public health and the environment, which can be problematic particularly in the case of migrant communities who wish to engage in culinary practices that sit uneasily with concerns of the receiving society (which is not the case for listed ICH, which is authorized as the ICH of the nominating state). The same logic can be applied to minorities whose culture is not entirely recognized by the state, including Indigenous peoples.⁶⁸ That said, the lining up of health, biological, and cultural priorities with respect to food may in fact assist cultural food practices. In other words, the proponents of food ICH manifestations would do well to align themselves, in their nomination files and safeguarding processes, with other interests for the conservation of the specific food heritage since, in the event of a conflict, the cultural aspects are unlikely to prevail over other interests.

Food, in international human rights law, is emphasized as a human right. But international human rights law, with its individualistic angle, allows individuals to speak on behalf of food far more successfully than communities.⁶⁹ The voices of communities can still be heard, but only as they are filtered through individuals. Even if some concessions are made to food as a cultural process in international human rights law, they remain under-articulated, and food is primarily seen as an element of biological survival. From a regulatory point of view, it means that cultural aspects of food do not particularly matter, except inasmuch as they facilitate the production of food and nutritional standards. One notable exception in this realm is the protection of food as an interest of minorities, but, even then, the connections still require more development. This connection is particularly worth

⁶⁵Saul, Kinley, and Mowbray 2014.

⁶⁶Maffei 2012a.

⁶⁷Maffei 2012a.

⁶⁸Maffei 2012a.

⁶⁹Lixinski 2014b.

exploring further in the context of the traditional Mexican cuisine, given its ties to Indigenous rights. The subsection below examines the framework of Indigenous human rights in the context of food.

UNDRIP: Food as Indigenous Identity

The UNDRIP was adopted by the United Nations General Assembly in 2007, with the purpose of recognizing and advancing the rights of Indigenous peoples. It states in Article 1 that Indigenous peoples are entitled to the full gamut of rights under international human rights law, both individually and collectively. The right to food is not directly mentioned in the UNDRIP. That said, Article 21 talks about the right to the improvement of the economic and social conditions of Indigenous peoples, without discrimination, and including a number of specified dimensions, “*inter alia*.” The open-ended nature of this provision, and its purpose with respect to economic and social conditions, would allow for the right to food to be found there. Particularly important are also the right of Indigenous peoples “to be secure in the enjoyment of their own means of subsistence and development,” which includes the right to engage in traditional and other economic activities (Article 20), as well as the right to land tenure in Article 26.⁷⁰ The UNDRIP also protects Indigenous peoples’ right to development (Article 26) and their right to control their traditional knowledge and heritage (Article 31).

These provisions, taken together, can be interpreted as protecting not only the right to food in its most fundamental sense (the provision of food for biological survival) but also the control of food processes and the cultural dimensions associated with food practices and food as heritage. That said, the rights in the UNDRIP, in so far as it is only a declaration, are not directly binding upon states, and the food-related dimensions of Indigenous peoples’ rights are still to be tested, to the best of my knowledge. Further, the connection of Indigenous rights to culture, and, particularly, cultural heritage, has been criticized as eroding other possibilities for Indigenous emancipation,⁷¹ and one must be wary of relying too much on the language of international human rights in this context.

Indigenous human rights under the UNDRIP emphasize food as development or livelihood (to the extent that the right to food can be implied in these rights), in the absence of an express provision on this right. This absence of the right to food seems to imply that, in the Indigenous context, no one is speaking on behalf of food from a regulatory perspective. Food is just a fact of life, needed for (cultural) survival. The cultural dimensions of food, even though they can be seen as permeating the entirety of Indigenous peoples’ rights, are not central to thinking about food; rather, food is thought of as traditional knowledge and resources, which are not necessarily cultural but, rather, proprietary at their strongest. More specifically,

⁷⁰Knuth 2009.

⁷¹Engle 2010.

traditional knowledge and resources are more often than not conceived as part of the intellectual property legal spectrum (or intellectual property-like), which thinks of these resources as cultural only inasmuch as they spring from human intervention or creativity, but this protection focuses on the knowledge as an object, rather than as cultural heritage, which is the connection between the thing and people.

CONCLUSIONS

Food as heritage is only one dimension (fairly limited) of the regulatory regimes around food. It emphasizes different aspects of food from other instruments, and it is probably not best placed to protect many of them. Its focus is on the culture backgrounds of the biological elements, and it renders them almost beyond the reach of the CSICH. Importantly, though, there do not seem to be many direct clashes among the different regimes, as most of them seem to be oriented towards a human rights-centered version of regulating food, whether it is its production, consumption, or ritualization.

That said, the bodies created by the CSICH would do well to follow the lead of the World Heritage Centre, for instance, and the UNESCO Secretariat more generally, by engaging with other international bodies in the realm of food more directly in their action. There is incipient action in this regard, as the latest version of the CSICH Operational Directives shows, but that is still to be tested. As it stands, food as ICH remains largely an isolated and fairly discrete way of thinking about food as an object of international legal attention, and it misses a fairly complex web of interrelationships, which this article has attempted to depict. Should ICH bodies not engage with other international regulatory fora in this realm, food listings may come across as hollow and be easily co-opted for short-term tourism gains, as opposed to the long-lasting diversity-maintaining and diversity-enhancing aspirations of the nominations and treaties under which these nominations are made. Only by connecting with how food is regulated as biology can food as culture be more than a tokenistic nod to a practice or a way to attract consumers that will contribute little to food ICH's safeguarding. This is particularly the case for traditional Mexican cuisine, but it seems to apply to most other food manifestations of ICH as well. The compartmentalization of nature and culture that seems to happen in the packaging of most food practices, particularly food as heritage, can only lead to further fragmentation of international food governance, and the greater risk here is that UNESCO ICH initiatives, while seeking to add important dimensions, will fall by the wayside.

BIBLIOGRAPHY

Bortolotto, Chiara. 2013. "Authenticity: A Non-Criterion for Inscription on the Lists of UNESCO's Intangible Cultural Heritage Convention." In *Final Report of the 2013 International Research Centre for Intangible Cultural Heritage in the Asia-Pacific Region Meeting on ICH*, 73–79. Osaka, Japan: International Research Centre for Intangible Cultural Heritage in the Asia-Pacific Region.

- Broude, Tomer. 2015. "A Diet Too Far? Intangible Cultural Heritage, Cultural Diversity, and Culinary Practices." In *Protecting and Promoting Diversity with Intellectual Property Law*, edited by I. Calboli and S Radavan, 472–93. Cambridge, UK: Cambridge University Press.
- Da Silva, Antônio José Marques. 2016. *Diaita Nostra: Patrimoines Alimentaires, Identité et Gouvernamentalité en Méditerranée*. Évora: Universidade de Évora.
- Engle, Karen. 2010. *The Elusive Promise of Indigenous Development: Rights, Culture, Strategy*. Chapel Hill, NC: Duke University Press.
- FAO. 2010. *FAO Policy on Indigenous and Tribal Peoples*. Rome: FAO. <http://www.fao.org/docrep/013/i1857e/i1857e00.htm> (accessed 4 December 2018).
- FAO. 2015. *Basic Texts of the Food and Agriculture Organization of the United Nations*. Rome: FAO.
- Kennedy, David. 2016. *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy*. Princeton, NJ: Princeton University Press.
- Kingsbury, Benedict, Nico Krisch, and Richard B. Stewart. 2005. "The Emergence of Global Administrative Law." *Law and Contemporary Problems* 68: 15–61.
- Knuth, Lidija. 2009. *The Right to Adequate Food and Indigenous Peoples: How Can the Right to Food Benefit Indigenous Peoples?* Rome: FAO.
- Koohafkan, Parviz, and Miguel A. Altieri. 2011. *Globally Important Agricultural Heritage Systems: A Legacy for the Future*. Rome: FAO.
- Hertz, Ellen. 2002. "Le matrimoine." In *Le musée cannibale*, edited by Marc-Olivier Gonseth, Jacques Hainard, and Roland Kaehr, 153–68. Neuchâtel: GHK Editions.
- Lixinski, Lucas. 2013a. *Intangible Cultural Heritage in International Law*. Oxford: Oxford University Press.
- Lixinski, Lucas. 2013b. "International Cultural Heritage Regimes, International Law and the Politics of Expertise." *International Journal of Cultural Property* 20, no. 4: 407–29.
- Lixinski, Lucas. 2014a. "A Tale of Two Heritages: Claims of Ownership over Intangible Cultural Heritage and the Myth of 'Authenticity'." *Transnational Dispute Management* 11, no. 2: <https://www.transnational-dispute-management.com/article.asp?key=2099> (accessed 4 December 2018).
- Lixinski, Lucas. 2014b. "Heritage for Whom? Individuals' and Communities' Roles in International Cultural Heritage Law." In *International Law for Common Goods: Normative Perspectives on Human Rights, Culture and Nature*, edited by Federico Lenzerini and Ana Filipa Vrdoljak, 193–213. Oxford: Hart Publishing.
- Maffei, Maria Clara. 2012a. "Food as a Cultural Choice: A Human Rights to Be Protected?" In *Cultural Heritage, Cultural Rights, Cultural Diversity: New Developments in International Law*, edited by Silvia Borelli and Federico Lenzerini, 83–106. Leiden: Martinus Nijhoff.
- Maffei, Maria Clara. 2012b. "Culinary Traditions as Cultural Intangible Heritage and Expressions of Cultural Diversity." In Borelli and Lenzerini, *Cultural Heritage, Cultural Rights, Cultural Diversity*, 223–50.
- Novic, Elisa. 2016. *The Concept of Cultural Genocide: An International Law Perspective*. Oxford: Oxford University Press.

Saul, Ben, David Kinley, and Jacqueline Mowbray. 2014. *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases and Materials*. Oxford: Oxford University Press.

Smith, LauraJane. 2006. *The Uses of Heritage*. London: Routledge.

Ubertazzi, Benedetta. 2017. "EU Geographical Indications and Intangible Cultural Heritage." *International Review of Intellectual Property and Competition Law* 48, no 5: 562–87.

Whitby-Last, Kathryn. 2008. "Article I Cultural Landscapes." In *The 1972 World Heritage Convention: A Commentary*, edited by Francesco Francioni with Federico Lenzerini, 51–62. Oxford: Oxford University Press.