



RESEARCH ARTICLE

## Legislative and International Protection of Intangible Heritage in the Sultanate of Oman and its Intellectual, Cultural, and Political Extensions in North and East African Coasts

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ARTICLE INFO	ABSTRACT
Received: Sep 29, 2024	The Sultanate of Oman has an important intellectual and traditional heritage that falls within the political, cultural and civilizational positions towards the global and regional situations prevailing at the end of the nineteenth century and the beginning of the twentieth century. It emerged through the expansion that this thought experienced in North and East Africa, where Zanzibar was an intellectual and journalistic pole characterized by closeness to visions and writings. Which was looking into ways to advance the Arab and Islamic nation under foreign colonialism. The Sultanate also worked to preserve its intangible cultural heritage from extinction in the face of many challenges such as globalization, modernity, and foreign intellectual and cultural invasion. The Sultanate joined many international agreements concerned with this heritage, such as the Convention for the Safeguarding of the Intangible Heritage in 2003.
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### INTRODUCTION

There is no doubt that preserving the nation's heritage is an urgent necessity for nations and peoples, due to the vital role heritage plays in achieving cultural identity and proving identity not only for the glorious past but also for the present and the future, simultaneously. And noting that heritage is not limited to landmarks such as forts, castles, towers, and walls; it extends to everything that affects the nation through intangible expressions, including a collection of ancient folk arts known as folklore — which vary in the Sultanate according to different governorates, and sometimes even according to different states — such as folk songs, sea songs, work songs on ships, and many other arts, including sword arts, bush arts, and horse arts. And we must not forget the stories and tales, traditional sciences, popular beliefs, folk proverbs, marriage customs, and various occasions, along with the inherited methods of performing them, which the nation has passed down through the ages.

And this is what the legislator clarified in his explanation of the concept of cultural heritage, in Article (1/G), stating that it includes: (everything of cultural heritage significance, whether material or immaterial, including antiquities, historical cities, traditional villages, neighborhoods, literature, and languages).

From this standpoint, we understand that heritage holds immense importance for nations and peoples to reflect on their past, not just the tangible and material aspects, but also to contemplate their intangible heritage at the same time.

With this heritage, both tangible and intangible, humans have uncovered many historical facts about their homeland, including the archaeological graves of Bat in the Wilayat of Ibri, which tell us much about the Bat civilization over five thousand years ago. If it weren't for the presence of this heritage among us, and much more; the impact would have faded, and the origin and history would have been lost. Therefore, governments needed to establish the necessary laws to preserve this asset and to reinforce them with penalties and measures to achieve this national objective.

### **The importance of the research**

The importance of the research is highlighted in several aspects

1- It deals with the phenomenon of intangible heritage, which is an intangible moral matter, and therefore it is necessary to address everything that poses a threat to this heritage, due to the real danger it poses to the entity of society and its individuals, and this legacy may not be documented specifically. Therefore, its loss has a difficult psychological impact on many due to the memories and feelings associated with it. Therefore, to what extent are legal texts in their current form appropriate to preserve this immortal legacy, and then the extent of the need to enact effective legal texts to limit the loss of this legacy and the fading of its meanings.

2- The topic is relatively new, and still needs a lot of studies and research. Few references have addressed such a topic with research and study, and this is what we notice from the lack of previous studies, whether Arab or national, on this topic from a legal perspective.

### **Research Problem**

Intangible cultural heritage is one of the important topics in the history of any country, as it expresses its spirit, heritage and legacy, and it also expresses the degree of homogeneity among its people and their harmony in years of good and bad.

The following question arises: Are the laws related to preserving intangible heritage in the Sultanate sufficient to preserve this immortal heritage or not, and are the international agreements concerned with this matter sufficient to fill any legislative deficiency that works to preserve this heritage and the sublime meanings it carries that have a profound impact on every Omani. If we assume that local customs are sufficient in this regard, we cannot deny that customs, although they are an unwritten law, proving them is accompanied by many complications, especially in light of an issue related to the citizen's entity, feelings and emotions. Hence, it was necessary to have and enact more effective legal texts, combat everything that would cause the loss of this immortal heritage, and establish the necessary mechanisms to preserve it.

### **Research Objectives**

This project aims to

1- Identify the nature of intangible cultural heritage in the Sultanate of Oman, its various forms, the factors that lead to its preservation and the impact of such heritage on the citizen's entity.

2- The extent to which legal texts in their current form are appropriate to preserve this immortal heritage and then the extent of the need to enact effective legal texts to limit the loss of this heritage and the fading of its meanings.

## **AUTHORS' CONTRIBUTIONS**

AM

The nature of intangible cultural heritage

International Legal Protection of Intangible Cultural Heritage

MA

The intellectual and political extension in Oman, Zanzibar, and the East African coast at the beginning of the twentieth century.

RA

The impetus for protecting intangible cultural heritage

MT

Participated in the design of the study

## **SECTION 1**

### **The nature of intangible cultural heritage**

The concept of intangible cultural heritage is relatively recent; this term was not well-known to some extent, but today it is considered an essential part of humanity's heritage.

Heritage has several concepts and definitions, and there is no unified term for it, like most social science terms that are influenced by variables and scientific, political, and intellectual backgrounds. However, it is undoubtedly an extension of the ancestors in the descendants, and the continuation of what the children and grandchildren inherited from the parents and grandparents, meaning it is a starting point towards the future. In the following, we will address the definition of this heritage in Omani jurisprudence and law.

### **The first requirement / The juristic definition of intangible cultural heritage**

It is well-known that heritage has several definitions, making it difficult to provide a comprehensive and definitive one. This is like any other term whose definition is influenced by a multitude of political, social, scientific, and other factors that change over time and place.

The term "cultural heritage" is composed of two words: "heritage," which linguistically means inherited wealth, whether it is monetary, tangible, or intangible, such as copyrights and patents. Cultural inheritance can also be in the form of money, such as artifacts and manuscripts. It can also be natural, like the elements that make up natural heritage. 1

1. The Basic Arabic Dictionary for Arabic Speakers and Learners, Arab Organization for Education, Culture and Science, Larousse Printing, p. 1150 mentioned in Dr. Hassan Hamida – Course on Cultural Heritage Protection – Lectures Delivered to master's Students – University of Blida – Faculty of Law – Academic Year 2021/2022 – P. 6.

The word "cultural" is derived from "thaqaf," which is the plural of cultures, encompassing the sciences, knowledge, arts, and everything that nations have achieved in the fields of literature, thought, art, industry, and customs. 2

From a terminological perspective, cultural heritage is what the ancestors have left for others in various aspects and fields of life, such as culture, history, literature, civilization, art, traditions, customs, and norms. 3

Heritage is everything that has come to the heir or has been inherited from ancestors, consisting of valuable items and original traits. It is also a collection of opinions, patterns, and cultural habits passed down from one generation to another. 4

Some researchers define intangible heritage as "the essence of what generations have inherited from each other, generation after generation. It is what the ancestors left behind to serve as a lesson from the past, and a guide from which children draw lessons to bridge the gap from the past to the present."

Some others defined it as "a melting pot for creative expression and a driving force for vibrant cultures." 5

Some others defined it as various cultural creations, whether traditional or popular, emerging from the community and transmitted through traditions, such as proverbs, folk tales, popular music, crafts, arts, rituals, and celebrations. 6

The researcher believes that intangible cultural heritage is nothing but the genetic code of each person, encompassing practices, knowledge, skills, and cultures expressed through industries, tools, and places. This heritage has been and continues to be a shield for people in facing globalization and its repercussions in erasing the spiritual identity of peoples and destroying their cultural diversity, paving the way for their isolation and cutting off the means of dialogue between them and other peoples.

2. Previous reference – p. 6

3. Previous reference – p. 7

4. Adomato Magazine – Issue 34-2016 – The Role of International and Regional Organizations in Protecting, Managing, and Promoting Cultural Heritage – Yasser Hashim Imad Al-Hayaji

5. Referenced in Dr. Nada Zuhair Said Al-Fail - Previous reference, p. 557

6. Abdelilah Youshibi and Tahami Debon - The Role of International and Regional Organizations in Protecting and Preserving Cultural Heritage - Journal of Human and Natural Sciences - Volume 4, Issue 1, p. 247.

## **The second requirement**

### **Definition of intangible cultural heritage in Omani law**

It is stated in paragraph Z of Article One of the Omani Cultural Heritage Law No. 35/2019: "Cultural heritage: everything of cultural heritage significance, whether tangible or intangible, including antiquities, historical cities, traditional villages, old neighborhoods, literature, and languages."

The definition of intangible cultural heritage in paragraph N of the same article states: "Intangible cultural heritage includes practices, customs, traditions, forms of expression, knowledge, or skills, along with related instruments, objects, artifacts, or cultural spaces, inherited from generation to generation and created by communities, groups, or individuals."

And upon referring to Article 10 of the law, we find that it states, "Cultural heritage is not considered intangible cultural heritage if it includes tools, pieces, manufactured items, and cultural spaces that are not linked to practices, forms of expression, knowledge, or skills that are considered intangible cultural heritage." "

Article 31 of the Omani Heritage Protection Law states (The ministry shall conduct a general survey of the intangible cultural heritage in the Sultanate, collect relevant information and data, refine, inventory, document, and publish it according to the standards and fields it specifies, in cooperation and coordination with various entities, particularly the following:

A – Customs, traditions, norms, and forms of oral expression.

B – Musical arts and folk arts.

C – Social practices and folk rituals in celebrations, mourning, and other occasions.

D – Skills related to handicrafts.

E – The knowledge and practices passed down through generations regarding their understanding of nature and the universe, treating diseases using medicinal herbs, how to obtain water, how to live in unique environmental conditions, and documenting the inherited knowledge about the sea and land.

We conclude from the above that intangible cultural heritage is nothing, but a collection of materials passed down through generations, without being the exclusive property of certain individuals, which serves as an incentive and a method for subsequent generations to draw creativity, respect for national identity, revive cultures, and recall the virtues of ancestors in the present.

The definition confirms the understanding that groups and communities, and sometimes individuals, are the true bearers of intangible cultural heritage according to the concerned community. The community is also the key actor responsible for preserving its intangible cultural heritage. And this has begun to generate a new set of relationships between countries, local communities, and others. Secondly, the definition emphasizes the idea that culture is alive and evolves because it is passed down from generation to generation. Thirdly, the definition reaffirms the United Nations' commitment to international human rights instruments that include the rights of women, children, migrant workers, indigenous peoples, minorities, and others. 7

The definition also emphasizes the importance of cultural rights. Finally, the definition applies the understanding that intangible cultural heritage is interdisciplinary and touches on all aspects of life (not just cultural aspects) in any community. This is also confirmed by the clear connection between intangible cultural heritage and sustainable development.

In the Sultanate of Oman, the intangible cultural heritage arts vary according to the different governorates and sometimes even within the same governorate. These include folk songs, sea shanties, work songs on ships, Al-Razha, Al-Razfa (in all its types and forms), Al-Liwa, Al-Azi, Al-Tahloola, Al-Taghrooda, Al-Wanna, Zafat Al Arees (the groom's procession), Zafat Al Arous (the bride's procession), Al-Habbout, Al-Rabouba, Al-Nana, and many other arts, including sword arts, bush arts, and horse arts. We also cannot overlook the stories and tales, traditional sciences, folk beliefs, proverbs, marriage customs, and various occasions, along with the inherited methods of performing them, which the nation has passed down through the ages as an expression of its culture. 8

7. Previous reference – p.16

8. Lawyers of Oman (mohamoon-om.com)

The intangible cultural heritage of Oman includes what is transmitted orally or expressed through movement, such as languages and dialects, customs and traditions, rituals, beliefs, popular practices, celebrations, popular and religious holidays, professions, crafts, games, riddles, puzzles, proverbs, folk tales, orally transmitted poetry, singing, and music in its various forms such as rural, Bedouin, and military, as well as performance arts and folk dances like Al-Razha, for example, but not limited to these. The Sultanate is rich in many of these terms, such as Al-Razha, Al-Azi, Al-Bar'ah, Al-Midan, and others. 9

## SECTION TWO

**The intellectual and political extension in Oman, Zanzibar, and the East African coast at the beginning of the twentieth century.**

The Omanis have an important intellectual heritage that falls within the political, cultural, and civilizational stances towards the prevailing global and regional conditions at the end of the 19th century and the beginning of the 20th century. This intellectual thought particularly emerged through its extension in North and East Africa, where Zanzibar was an intellectual and journalistic hub that was characterized by its alignment with the visions and writings that sought ways to uplift the Arab and Islamic nations in the face of foreign colonialism.

That period witnessed a strong civilizational and cultural interaction with the pioneers of reform in the Arab and Islamic world, who found in the writings and theories of Jamal al-Din al-Afghani, Muhammad Abduh, and Rashid Rida the compass that should be followed.<sup>10</sup> The Omanis also played an important role in uniting the ranks of Muslim movements aimed at resisting settler colonialism and defending the Arab and Islamic identity against the missionary and proselytizing movements that were prevalent in the Arab and Islamic world during the same period.

The newspapers and periodicals published, especially along the East African coast and Zanzibar played an important role in promoting Omani heritage and spreading enlightenment ideas while preserving Arabism and Islam (first requirement). Strong relationships were established between Omani writers, scholars, and reform leaders in the Arab and Islamic world, leading to the formation of a reform axis extending from Oman and Zanzibar to Algeria and Tunisia due to the convergence of positions and the diligent work to unify reform efforts in the Arab and Islamic world (second requirement).

9. The Sultanate's efforts in preserving intangible cultural heritage (1) - Al-Watan Newspaper (alwatan.com)

10. Ahmed Amin, *Leaders of Reform in the Modern Era*, Cairo, 1960, p. 45.

### **The first requirement**

#### **The pioneering role of Omani cultural and political newspapers and journals published in Zanzibar, Oman, and the East African coast at the beginning of the twentieth century.**

Several Omani newspapers and journals emerged in the early twentieth century in Zanzibar and the East African coast, where the tense political situation in the East African region contributed to the establishment of newspapers that monitored, reported, documented events, addressed, and directed public opinion both domestically and regionally.

The Omani press on the East African coast, especially in Zanzibar, is considered an important documentary element of Omani cultural history. The circumstances in which it emerged were fertile for various political, intellectual, and social discussions and analyses. This period was associated with events linked to World War I and the interwar period, which resulted in numerous economic, financial, and social crises.

This period was characterized by the emergence of a new cultural discourse shaped by the efforts of reformers and enlightenment figures in Oman and beyond, expressed through journalism, historical, jurisprudential, and literary writing, including poetry and cultural writings. The appearance of Omani newspapers in the early twentieth century was one of the significant events, and these newspapers were published in more than one language alongside Arabic, including Swahili, English, and Urdu. Some of the newspapers published in exile belonged to different political parties, such as the Zanzibar Arab National Party, which was established in 1917 and headed by Ali bin Mohsen al-Brouani, and the Arab Youth Union in 1923. These parties and political groups differed in their ideological directions but united in a fundamental goal represented by the call for reform. Their interests varied and encompassed all political, cultural, and religious aspects.<sup>11</sup>

Among the most prominent reformers and innovators who wrote in Omani newspapers were Sheikh Ahmed Al-Harhi, Sheikh Al-Khatib Hashel Al-Maskari, Sheikh Nasser Al-Rawahi, Sayyid Saif Al-Busaidi, and others who took on the editing of those newspapers. The field of journalism played a significant cultural and intellectual role.

11. Huda Al-Zadjali, *The Omanis and Their Cultural and Intellectual Impact in East Africa 1870-1970*, Omani Association of Writers and Authors, Muscat, 2021, p. 333.

Many issues of Omani newspapers, especially those published in Zanzibar, were sent into Oman through subscriptions and ships. They were carried on the backs of camels, which transported them from the port of Sur to other Omani regions, and then the ships continued their journey to Bombay in India. These newspapers also reached some Arab countries and other capitals like Istanbul and Paris, and they were followed by many politicians and newspaper enthusiasts, which indicates their success and spread. 12

The newspapers published (Outside Oman) (in exile), especially in Zanzibar, were significantly distinguished, and they were pioneers in the emergence of journalistic activity in East Africa and Zanzibar compared to the rest of the Gulf countries. These newspapers multiplied, exceeding twelve in number, including daily, weekly, and bi-monthly publications. The publication of newspapers was not limited to Arabs; it varied with the diversity of races. There were even newspapers specifically for the Indian commercial community, published by the Indian National Association from 1916 to 1922, which appeared in Britain. 13

As shown by several specialized studies, these newspapers, in their editorial line, sought to achieve the following objectives: 14

1- Protecting political interests and safeguarding the Omani Empire by defending its interests and voicing its concerns in the African diaspora and within Oman, in addition to its commitment to affirming its presence and delivering political, intellectual, and cultural messages to opposing forces in the region.

2- Working on spreading the values of tolerance and openness among different cultures, ideas, and trends.

3- The notable pioneering and reformative role of newspapers in the literary and cultural renaissance and the political, social, and economic interests of East Africa, and raising awareness among Muslims about their religious and worldly matters and the dangers threatening them during that colonial period, and how to confront them and the values and principles that should be adhered to preserve their Arab and Islamic identity.

12. Ibrahim Al-Zain Saghiroun, *Omani Contribution in Cultural and Intellectual Fields*, Literary Forum, No. 28-29/2002, p. 207.

13. Huda Al-Zadjali, *The Omanis and Their Cultural and Intellectual Impact in East Africa 1870-1970*, previous reference, p. 332.

14. Al-Khudr Abdul-Baqi Muhammad, *The Interests of Omani Journalism in East Africa*, The International Omani Conference in East Africa, December 11-13, Muscat, Sultan Qaboos University, 2012, p. 10.

As for the detailed content and topics addressed by these newspapers, they were diverse, including the status of women in Islam. These newspapers focused on the social role of women, supporting their education and advocating for equality between women and men. Among these was an article in the "Al-Falaq" newspaper on 6/5/1939 titled "Education and Women," which stated: "Teach women, above all, the religion of Islam, the religion of modesty, chastity, honesty, courage, and all noble

virtues, so that they instill these values in their children's hearts, raising them on virtue and keeping them away from all vile behavior." 15

These newspapers also focused on educational issues aimed at social and political upbringing, with content for mobilizing and guiding public opinion according to the requirements of the stage and the circumstances in which Oman and East Africa live. They provided intellectual and literary analyses, elevated public taste, and aimed to activate the energies of Omani writers in East Africa by allowing space for their diverse contributions in various literary genres, and by publishing the creative developments of Omani intellectuals in the world of authorship and publishing.

It focused on following international events and news, keeping readers informed about political developments in neighboring countries, especially the emergence of some tensions in the relations between the Omani Empire and certain regimes in the region. It undertook the dissemination of Omani culture and civilization, Arab and Islamic culture, giving the region an Islamic character, and emphasizing the Omani role and its tributaries in the civilizational renaissance of the nation as tributaries with an Islamic reference that complement other Islamic tributaries and intellectual schools. It also focused its efforts on promoting the Arabic language and providing means to help Africans acquire and learn it, while highlighting the intellectual communication between the enlightened elite of the early Omani press and the issues of the Islamic nation and their counterparts in the Arab and Islamic world, and their positive interaction with them. 16

These newspapers also worked on highlighting the common issues between the Omani people and the other peoples of the East African coast, emphasizing the Islamic bond as the strongest ties of friendship and the deepest roots of convergence between peoples, while faithfully documenting the events and political situations in East African regions as well as the situation within Oman and the issues of citizens such as farmers. For example, the newspaper "Al-Falaq" adopted this aspect to address their issues.

15. Ibrahim Al-Zain Saghiroun, *Omani Contribution in Cultural and Intellectual Fields*, previously cited, p. 208.

16. Amal Ghazal, *The Omani Elite in Zanzibar: A Study of the Sources and Frameworks of National Thought*, International Conference on the Omani Role in East Africa, December 11-13, Muscat, Sultan Qaboos University, 2012, p. 11.

The editorial line of these newspapers and journals also aims to confront colonialism and Western occupation of the East African Coast region, exposing the occupation's attempts to control the region's wealth and resources, revealing plans to extend influence and control the fate of the indigenous Africans, and warning of the repercussions on the stable situation. In this context, I aimed to highlight the political movement of Omani parties, coalitions, and groups working in the national arena in Zanzibar, and to introduce their political, cultural, and social projects, such as Al-Najah newspaper, which dedicated most of its attention to the Reform Party in Zanzibar. The Al-Najah newspaper was published in 1911 by Abu Muslim Al-Rawahi and specialized in national, literary, scientific, and news-related fields. It was edited by a group of Arabs from Zanzibar, including Nasser bin Suleiman Al-Lamki, Issa bin Ali Al-Broani, and the writer Mohammed bin Ali bin Khamis Al-Broani from the Reform Party. Its first page read, "A national, scientific, news, historical, and commercial newspaper." It was characterized by its disloyalty to the British administration and ceased publication in 1914. It was like the famous Al-Manar newspaper in Egypt, owned by Rashid Rida. 17

These newspapers and journals have contributed to the advancement of local cultures and the spread of the Swahili language and its literature, stemming from the Omani civilizational role in various fields. This has positively contributed to the spread of the Swahili language in East and Central Africa, earning it a prestigious status as one of the African languages.



Among the most important of these newspapers is "Al-Falaq," which is considered one of the first Arabic newspapers to appear in East Africa after World War I. It was published by the Arab Society, whose members had been proposing since their first meeting in July 1926 the establishment of an Arabic newspaper to gather the scattered ideas of the Arab communities in Zanzibar and to define their positions on the prevailing political, social, and cultural situation there. The association's goal was to highlight its cultural, literary, social, and agricultural activities and to embody them before the Arab and popular public there, especially since it is based in the center of the ruling authority in Zanzibar, the Green Island, and other cities in East Africa.

17. Huda Al-Zadjali, *Omanis and Their Cultural and Intellectual Impact in East Africa*, previous reference, p. 350.

The newspaper was officially issued by the Arab Association in Zanzibar on April 1, 1929, as a cultural, political, literary, social, economic, scientific, and agricultural newspaper. Its first page read, "A national, social, political, agricultural weekly newspaper published every Saturday of each week."

The founder of the newspaper is Muhammad bin Said bin Nasser al-Lamki, and it was edited by Muhammad bin Hilal al-Brouani for 15 years from May 1932 to December 1945. A distinguished group of prominent Omani figures took turns as editors, including Salem bin Kinda, Sheikh Said bin Salem al-Rawahi, Sheikh Abdullah bin Suleiman al-Harhi, Sheikh Ahmad bin Hamdoun al-Harhi, and Sheikh al-Khatib Hashel bin Rashid al-Maskari. Its writers included figures such as Mohib al-Din al-Khatib, Muhammad Lutfi Jumaa, Muhammad Hussein Heikal, Said bin Salem al-Rawahi, Ahmad bin Nasser al-Lamki, Sheikh Abu al-Barakat Muhammad bin Nasser al-Lamki, and Sayyid Sif bin Hamoud bin Faisal al-Busaidi. 18

The newspaper's topics were divided according to their importance to the editors' orientations, usually starting on the front page with political topics such as news and hot events, especially since it witnessed two world wars and numerous military upheavals. Additionally, it recorded political events and incidents related to the sultans of the country at that time, published royal decrees and government statements, and verified news about Arabs and their issues in Africa. The second page was dedicated to investigations, extensive topics, and analyses that clarify "Al-Falaq's" positions on various global and Arab issues. Therefore, it was filled with calls and statements inspired by the specific political stances of the editors, as well as the positions of similar Arab newspapers from which "Al-Falaq" borrowed news, such as Al-Ahram, Al-Fath, Al-Ummah, Al-Kifah, Al-Jazeera, Al-Ruh Al-Jazairia, and others.

The third page contained literary and cultural articles written by the editors themselves or by Arab correspondents and intellectuals whom the newspaper attracted or whose topics were transferred from other Arab newspapers and journals, such as Mohib al-Din al-Khatib, Muhammad Lutfi, and others. It also featured poetic texts by Omani poets in East Africa or Oman, and even other Arab poets belonging to the Arab Association, especially the Hadhrami Yemenis, Somalis, Comorians, and others.

18. Huda Al-Zadjali, *Omanis and Their Cultural and Intellectual Impact in East Africa*, previous reference, p. 345 and the following pages.

The newspaper spread widely in Oman, the Arab world, the Levant, Egypt, Algeria, and other Arab capitals. "Al-Falaq" shared with the Arabs in Iraq, Syria, Palestine, Egypt, and the Arabian Peninsula their rejection of subjugation and colonization. The articles written by Sheikh Al-Lamki and Al-Maskari called on all Arabs to determine the fate of their unity and not to trust any European country, whether it was an enemy or claimed to be a friend, and not to believe in any promises for the future. 19

The newspaper gained significant resonance in the North Africa region, especially in Algeria, including the Algerian newspaper "Al-Ummah," owned by Abu al-Yaqzan Ibrahim bin al-Hajj Isa,

which praised it. The newspaper "Al-Falaq" was part of a journalistic network that extended to Syria, Egypt, Tunisia, and Algeria, where they supported each other and were united by their relentless efforts to oppose colonialism and promote reformist Islamic ideas that called for unity and the defense of Arab identity as both an identity and a political project. Members of the Arab Society active in Al-Falaq had strong ties with Abu Ishaq Atfish in Egypt, who in turn had ties with Moheb al-Din al-Khatib, owner of Al-Fath magazine in Egypt, which replaced Al-Manar after it ceased publication in 1932. Al-Falaq quoted many articles from it and followed its steps in focusing on reformist thought, Arabism, and national positions. Al-Falaq and other newspapers like Al-Najah, which is like Al-Manar, formed a wide communication network between East, West, and East Africa.

Among the examples of this blending between writers are the articles published by Sheikh Nasser bin Salem Al-Bahlani and his contributions to the Egyptian newspaper Al-Ahram, including the article he published on the establishment of the Imam Salim bin Rashid Al-Kharusi state in Oman. In contrast, the Egyptian poet Ahmed Shawqi published Abu Muslim Al-Bahlani's diwan in Cairo in 1909. 20

Another important newspaper was Al-Nahda, founded by Abdullah Suleiman and published in both Arabic and English in Zanzibar. He was of Shirazi origin and was distinguished by his nationalistic orientation, having participated in several parties, including the National Party and the Afro-Shirazi Party.

19. Mohsen Al-Kindi, the expatriate Omani press. The Falaj Newspaper and Its Personality, Hashil bin Rashid Al-Maskari as a Model, Riyad Al-Rais for Books and Publishing, London, 2001, p. 45.

20. Al-Khadr Abdul-Baqi Muhammad, The Interests of Omani Journalism in East Africa, December 11-13, Muscat, Sultan Qaboos University, 2012, p. 10.

The Al-Nahda newspaper was a general political and cultural publication, predominantly characterized by purposeful political articles. Sheikh Ali bin Mohsen Al-Burwani was one of its most prominent editors, and the editor-in-chief was Mr. Saif bin Hamoud bin Faisal Al-Busaidi after he declined the editorship of the "Al-Falaq" newspaper. Members of the Arab Society in Zanzibar and the surrounding areas contributed to writing its articles. The newspaper did not appease the British protectorate in East Africa; rather, it was known for its strict stance against the British colonizer. Consequently, it was suspended by the order of the British resident, and its editor-in-chief, Mr. Saif Al-Busaidi, was arrested, but he was soon released to express his political views in other newspapers for the rest of his life. The management of the Al-Nahda newspaper was taken over by Sheikh Mohammed bin Nasser Al-Lamki and Sheikh Ahmed bin Saif Al-Khrousi, and it continued to be published until 1955. 21

## **The second requirement**

### **Interactions with the prevailing intellectual and cultural movements in the Arab and Islamic world and with the pioneers of reform in the Arab and Islamic world.**

Strong relationships and connections were established between reform leaders in the Arab and Islamic worlds and scholars and thinkers in Oman, Zanzibar, and the East African coast, including Imam Muhammad Abduh (1849-1905), Jamal al-Din al-Afghani (1838-1897), Muhammad Rashid Rida (died 1935), Muhammad Atfeesh, Nur al-Din al-Salimi (1865-1914), Said bin Khalfan al-Khalili (1815-1872), and Abu Muslim al-Rawahi (1860-1920). This was evident in the enlightenment and reformist ideas advocated by Omani newspapers in East Africa, which called for adopting modern sciences, opening schools, educating women, agrarian reform, establishing cultural associations and clubs, paving roads, building hospitals, adhering to Islamic values, and preserving the Arabic language. 22

The reformist ideas advocated by Muhammad Abduh found resonance in the East African coast, especially Zanzibar, considering that Egypt is the closest Arab Islamic state to the Sultanate of Zanzibar, and there were active communications between the two parties. The Omanis were influenced by these national and reformist trends, especially Abu Muslim al-Bahlani.

21. Huda Al-Zadjali, *The Omanis and Their Cultural and Intellectual Impact in East Africa*, previous reference, p. 371.

22. Amal Ghazal, *op. cit.*, p. 15.

The influence of those reformist ideas also extended to the Ibadis in North Africa<sup>23</sup> after Imam Muhammad Abduh visited Tunisia and Algeria in 1884 and 1903, where he delivered lectures at their educational institutions and the settlement of several Ibadi imams and scholars in North Africa.<sup>24</sup>

As for Muhammad Rashid Rida's reformist ideas, they influenced the Omanis in East Africa through their exposure to the *Al-Manar* magazine, which included his enlightened reformist ideas. Letters were found between Sheikh Rashid Rida and the Sultans of Zanzibar, including his letter addressed to Mr. Ali bin Hamoud on October 5, 1901, in which he introduced him to *Al-Manar* magazine and requested financial support after sending a similar letter to several countries. Another letter was sent to the Sultan of Zanzibar, in which he mentioned his new project to establish the Society of Knowledge and Guidance, which he wanted to be composed of various Islamic sects and to form a higher school called *Dar al-Dawa* and *al-Irshad*, aimed at educating and training guides and teachers. Another letter dated 1910 was sent, in which the Sheikh requested the Sultan's support and contribution to establishing an Islamic university in Istanbul.<sup>25</sup>

As for the reformist ideas of Jamal al-Din al-Afghani, they aligned with East Africa, especially after several scholars from the region undertook journeys during which they became acquainted with the idea of establishing the Islamic University that al-Afghani advocated for. Sultan Abdul Majid adopted this idea and named it the Islamic University Policy when he sought to use religion to resist his internal enemies who opposed reform. These ideas reached Zanzibar and the East African coast. Among the scholars influenced by Afghani's ideas was Sheikh Ahmed bin Abi Bakr bin Abdullah bin Sumait, who was known for his scientific journeys in the Islamic world, including his trip to Istanbul where he met Fadl bin Alawi bin Sahl, known as Fadl Pasha, Sultan Abdul Hamid II, and Jamal al-Din al-Afghani. He was influenced by their reformist ideas, which was evident in his reformist articles when he worked as an editor for the official Zanzibar newspaper. Additionally, he participated in many committees and groups striving to preserve and document Zanzibar's heritage and culture from loss, and he was affected by colonialism due to his position as one of Zanzibar's judges and his teaching work.

23. Saleh Bajiya, *The Ibadis in the Jerid during the early Islamic centuries*, *Al-Zaytuna College of Sharia and Islamic Studies, Dar Bouslama for Printing, Publishing, and Distribution, Tunisia, 1976*, p. 23 and following.

24. Al-Munsif Al-Shanoufi, *Sources on Muhammad Abduh's Travels to Tunisia*, *Annals of the Tunisian University, Faculty of Arts and Humanities in Tunisia, 1964*, p. 93.

25. Huda Al-Zadjali, *The Omanis and Their Cultural and Intellectual Impact in East Africa*, previous reference, p. 475.

The newspapers and journals of Zanzibar highlighted those reformist ideas advocated by Jamal al-Din al-Afghani, especially the *Al-Murshid* newspaper, which praised his efforts in uniting the people of the East, awakening the spirit of freedom within them, and motivating them to defend their homelands.

Among these scholars, Sheikh Abu Muslim Nasser bin Salem Al-Bahlani Al-Rawahi stands out for his travels to several African countries, during which he observed the remnants of British colonialism. His influence was evident during that period as he instilled fervour among the region's inhabitants, especially the Omanis, and called for jihad and unity in the face of the British.

Sheikh Nasser published poetry addressing the events in Oman and Zanzibar specifically, and the Islamic world in general. His poetry extended to the division of the Arab homeland after World War I among Western colonial powers, and he predicted the outbreak of World War II. He was also known for his efforts to expose the falsehoods of colonialism and its claims and slogans about civilization, progress, and modernity, asserting that the current situation was not solely due to colonialism but also to sectarian differences and divisions. 26

Abu Muslim focused on the issue of educational reform advocated by the leaders of reform, urging the Sultans of Zanzibar to open modern scientific schools and graduate aware and educated generations in North Africa. Abu Muslim's reformist nationalist tendencies also emerged through his poems, correspondence, and meetings with some reformist leaders, as well as his close relationships with Sheikh Al-Salimi, Suleiman Al-Baruni, and Mohamed Ben Youssef Atfeh Al-Jazairi.

His poem, which he sent to the Egyptian Islamic Conference held in Cairo in 1911 under the presidency of Riad Pasha, expressed his concern for uniting the ranks between the Christian Copts and the rest of the Muslim population. In it, he reproached the Copts of Egypt for responding to the secret incitements to stir discord against their Muslim brothers and supported in his poem the attendees of the conference, whom he wished success.

26. Mohammed Saleh Nasser, *Abu Muslim Al-Rawahi*, Muscat, Al-Nahda Press, 1996, p. 12. Similarly, Nasser bin Salem bin Adeem Al-Rawahi, the poetic works of Abu Muslim Al-Bahlani: Nasser bin Salem bin Adeem Al-Rawahi, the poet of his time and unique in his era. Edited by: Mohammed Al-Harthy, Al-Jamal Publications, Baghdad, Beirut, 2010, p. 90.

Omani scholars had close ties with Moroccan scholars in North Africa. This was exemplified in the relationship of Ibadi scholars in the Algerian Zanzibari axis, as researcher Anna Bang called it, and was especially prominent in relations with Sheikh Muhammad bin Yusuf Atfish in Wadi Mzab, Algeria, known as Qutb al-Umma. He is considered one of the most prominent Ibadi scholars and at the forefront of the pioneers of Islamic reform, whose various branches of the Islamic library are replete with many of his works and had correspondence with Imam Muhammad Abdullah, including his correspondence with Imam Muhammad Abdullah. His letter to Sultan Hamoud bin Muhammad, in which he thanked him for his kindness and handed him parts of the commentary of the Nile and the healing of Al-Alilil by Al-Baroni for printing, and another letter informing the Sultan that he had sent him an old copy of the book *Abi Maseeh* to print it, and another thanking him for his kindness and informing him of the arrival of the governor, and a subsequent letter to the Sultan telling him that praise is widespread in the Far Maghreb and another congratulating him on his return from Paris, all of which focus on interaction between Sheikh Muhammad bin Yusuf Atfish and the sultans of Zanzibar to print some of the books. 27 The fatwas and writings of Sheikh Muhammad Atfish had a great role in spreading the spirit of tolerance between the multiple sects prevailing in Zanzibari society, especially between Ibadis and Sunnis, and Ali bin Muhsin al-Barwani referred to him in his book *Conflicts and Harmony in Zanzibar* in his discussion of religious tolerance.

This cultural communication between Omanis and Moroccans led to the spread of the Arabic language among the people of Morocco, especially the Berbers. It is noteworthy that this communication took the form of a triangular relationship centered around Oman, Zanzibar, and Morocco, due to the shared affiliation of these regions with the Ibadi sect. These reformist movements advocating for Islamic unity and the rejection of discord and division among the various Islamic sects extended to North Africa, unified by the painful colonial reality that brought these

factions together and led to intellectual convergence among the different Islamic sects. This was called for by several scholars such as Imam Nur al-Din al-Salimi in Oman, Abu Muslim al-Bahlani in Zanzibar, Muhammad Atfeesh in the M'zab Valley in Algeria, Suleiman bin Abdullah bin Yahya bin Ahmed al-Baruni from the Nafusa Mountains, Abu Ishaq Ibrahim bin Muhammad Atfeesh al-Jazairi, Ibrahim Abu Yaqzan al-Mazabi, Hashil al-Maskari in Zanzibar, and Ibrahim bin Yusuf Atfeesh.

Abu Ishaq Ibrahim bin Muhammad Atfeesh is considered one of the most prominent Moroccan scholars interested in Oman and Zanzibar due to his unique combination of Ibadhi ideas, Salafi movement ideas, and the Islamic Renaissance movement.

27. Huda Al-Zadjali, *The Omanis and Their Cultural and Intellectual Impact in East Africa*, previous reference, p. 401.

His writings encouraged Muslims and the people of the East in general to unite against Western hegemony and the Christian missionary association. For this reason, he founded a periodical known as "Al-Minhaj" in 1925, which mentioned historical facts about Oman and Zanzibar. He also published several Ibadhi books in 1930. 28

Suleiman bin Abdullah Al-Baruni had an Islamic nationalist stance against colonial powers such as the French in the Mzab, the Italians in Tripoli, and the British in Oman. He, along with his brothers, contributed in Cairo to the establishment of the Al-Azhar Al-Baruni Press, which played a role in publishing a collection of Ibadhi works, and he printed a newspaper known as Al-Asad Al-Islami in 1908. The baron had numerous correspondences with the Omanis in Oman and Zanzibar, urging them towards unity, including his letter to Sheikh Salim Al-Rawahi, in which he requested him to inform the pilgrims from Oman, Zanzibar, and Morocco about a book containing advice and guidance for them.

It can be concluded from the above that there was a close relationship between the reform leaders in the Arab and Islamic worlds along an axis extending from Egypt to Zanzibar, Oman, and the North African coast, represented by political and cultural relations through visits and exchanged letters. The arrival of reformist newspapers in Zanzibar and East Africa represented a center of influence among various segments of society, especially the Ibadi scholars and the educated and cultured class.

### **Chapter Three / International Legal Protection of Intangible Cultural Heritage**

Since intangible heritage differs in nature and composition from tangible cultural heritage, it was necessary to take special measures to protect it, different from those prescribed for tangible heritage, whether movable or immovable.

Moreover, this heritage is based on skills, oral transmission, and the specific systems of local communities, making it difficult to preserve this heritage without any legal protection, whether international or national.

Therefore, this section will be divided into two parts, where we will address the motivation for protecting intangible cultural heritage in the first part.

As for the second requirement, we will discuss the ways to protect this heritage in Omani law.

28. Ibrahim Al-Zain Saghiroun, *The Importance of the Zanzibar Archive as a Source for Historical Studies on the Omani Role in East Africa*, The International Omani Conference in East Africa, December 11-13, Muscat: Sultan Qaboos University, 2012.

#### **The first requirement / The impetus for protecting intangible cultural heritage**

The international system relies on globalization in various aspects, especially cultural ones, through which major powers aim to undermine the fundamental components of nations to dominate their

destinies. Unlike tangible cultural heritage, which is often difficult to erase due to its material nature, intangible heritage is characterized by its fragile moral nature and ease of extinction.

In the face of these major risks, the United Nations has combined efforts to protect it from extinction by concluding numerous agreements and establishing mechanisms to carry out this task. UNESCO, as a specialized agency in this field, played a fundamental role in its preservation. The latter crowned its efforts by issuing the first specialized international instrument, which is the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, which in turn established the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage.

The mentioned agreement came to fill the gap in many national legislations related to this heritage. So, these countries have become capable of preserving their intangible heritage by following a series of measures that ensure the protection of this important legacy from extinction, especially considering the scarcity of legislation and regulations aimed at safeguarding this heritage from the risks that have increasingly threatened its existence.

It is the responsibility of the parties to the agreement, whether they are federal or non-federal states, to uphold the stipulated obligations and duties without discrimination. As for the local governments that make up the state as a whole...

In the context of the federal government, it is within the responsibilities of the federal government to inform local governments of all provisions related to the agreement and to adopt them to ensure their implementation, especially given the varying legislative systems of local governments in the federal state. 29

Referring to the 2003 UNESCO Convention, we find that this convention adopted the term "safeguarding," which indicates the extent of the convention's commitment to taking necessary measures and actions to protect intangible cultural heritage.

#### 29. Article 35 of the agreement

The term "safeguarding" is inspired by the 1989 Recommendation, which aims to safeguard popular and traditional cultures. The term "safeguarding" is broader in scope than other terms such as "protection," which appeared in the 1972 Convention and is generally used within legal texts governing tangible heritage. 30

In this regard, some believe that the dynamic nature of intangible cultural heritage should be taken into consideration, as the forms of expression of intangible heritage, which are passed down from generation to generation, are unlike tangible heritage are characterized by stability. Hence, the term "preservation" was more appropriate due to the constant evolution of this heritage. 31

It was stated in paragraph 3 of Article 2 of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage that "the term 'safeguarding' refers to the measures aimed at ensuring the sustainability of intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, and transmission of this heritage, especially through formal and non-formal education, and the revitalization of various aspects of this heritage."

As for the "safeguarding" areas, they include

Identifying: that is, recognizing intangible heritage as it is.

Documentation: This is done by recording it in a tangible way to facilitate access to it.

Promotion: This is done through public awareness of this heritage for the younger generations.

Research: This is through concerted efforts to discover and preserve this heritage.

Revival: This involves creating the appropriate conditions that make the revival of this heritage possible in case of its disappearance or marginalization by resuming some practices related to it.

With a glance at the text, we find that the term "safeguarding" refers to the renewal of heritage, ensuring its continuity, and its permanent transmission from one generation to another. Some elements of intangible heritage, such as dances, crafts, and songs might cease to exist or disappear if not maintained on time.

30. Dr. Hussam Abdul Amir - Previous Reference - p. 137

31. Previous reference – p. 137

However, if we use the terms "protection" or "preservation," we are focusing on what is repair or renewal, which would serve to stabilize or freeze this heritage. 32

Not to mention the measures taken to protect and preserve its identity from extinction by reviving it through various means and modern technologies. We find that the legal protection of this heritage is not limited to preservation measures alone but extends to many other forms of protection.

The main issue lies in the difficulties faced by countries in formulating legal rules governing the protection of this type of heritage, as it consists of a collection of creations based on the specific traditions of a community, expressed by a group or individuals, and recognized as clearly and distinctly reflecting the cultural and social identity. 33

It has also become clear that the members of these groups are the true guardians of this heritage and are primarily responsible for preserving it.

Based on the above, it becomes clear that the legal protection of any practices related to this heritage to preserve it from extinction and loss must be based on what local communities decide. 34

Hence, we deduce that this heritage is the result of creative contributions from unknown individuals who practiced it over several generations. Therefore, it is inconceivable to limit its protection to specific periods, unlike other moral rights. 35

In addition to the above, protecting intangible heritage through abstract legal texts may lead to its marginalization and failure to keep pace with its continuously evolving nature. Moreover, those who carry and embody this culture are merely groups or individuals who are almost constantly on the move, away from their usual place of residence, while continuing to practice their heritage and all forms of its expression.

32. Previous reference – p. 137

33. Dr. Nada Zuhair Al-Fail – Previous reference – p. 569

34. Dr. Nada Zuhair Al-Fail – Previous Reference – p. 569

35. Dr. Nada Zuhair Al-Fail – Previous Reference – p. 569

The best means of preserving intangible heritage is through criminalizing any form of assault on it. Intangible heritage is nothing but a diverse collection of living human heritage, and the most important means of cultural diversity in this world. To preserve this heritage by criminalizing the assault on it, some difficulties may arise that make the criminalization of this assault unattainable in certain cases. And among these obstacles

### **1- Defining the prohibited behavior and describing it unequivocally.**

Describing prohibited behaviours in this context sufficiently to encompass the tangible heritage in all its components may not always be an easy task. The definition provided in the UNESCO Convention, although comprehensive of many components of intangible heritage, is seen by some as

lacking the precision necessary to criminalize offenders from a penal perspective. Therefore, this matter must be addressed through several separate axes, which involve identifying the behavior that threatens or destroys a specific element of this heritage independently, so that traditions and oral expressions, for example, are subject to a law independent of the law governing rituals, celebratory occasions, and social practices, etc. 36

## **2- Proving the existence of intangible heritage.**

It is necessary to prove the existence of intangible heritage by identifying and documenting it sufficiently to establish its existence and thus criminalize anyone who violates it.

In this regard, countries, international organizations, and all bodies concerned with this heritage are working on preparing lists of threatened heritage that require urgent measures.

As for documenting this heritage, modern technologies are what are relied upon in this regard. A prime example of this is the digitization of ancient manuscripts in Timbuktu, audio recordings of endangered indigenous languages in Australia, and videos of traditional dances at risk in Bhutan. 37

## **3- The difficulty in identifying those who violate intangible heritage.**

36. Dr. Hussam Abdul Amir and Dr. Mohammed Ismail – Preserving Intangible Heritage During Armed Conflicts. P. 248 Context: <https://jols.uobaghdad.edu.iq/index.php/jols/article/download/420/343/737>

37. Previous reference, p. 248

The difficulty in apprehending those who violate this heritage lies in the fact that intangible heritage has an intangible nature concerning its components. This makes it difficult in some cases to prove that certain individuals or groups have exterminated the language of one community, its traditional dances, or its inherited customs, or that the religious belief or custom no longer exists. 38

## **The second requirement / Legal protection of intangible cultural heritage in Omani law**

Countries, in their efforts to protect and preserve their intangible cultural heritage, strive to formulate a comprehensive legislative system and establish the necessary executive mechanisms and administrative facilitation, whether carried out by the state or one of its bodies.

The protection of heritage, traditional knowledge, and folklore in the Sultanate of Oman from the hands of those who would tamper with it is a matter that the Sultanate gives utmost attention to. Since the dawn of the Blessed Renaissance, the Sultanate of Oman has spared no effort in firmly and solidly establishing its renaissance, combining its rich heritage with the necessities of contemporary life, ensuring the preservation of its long-standing values and traditions, which is embodied in the establishment of the Ministry of Heritage and Culture. 39

Article 13 of the Basic Statute of the Sultanate of Oman states: "The state shall sponsor and preserve the national heritage, encourage sciences, arts, literature, and scientific research, and assist in their dissemination."

38. Previous reference, p. 249-

39. The interest in the history of the Sultanate of Oman and the preservation of its heritage was one of the top priorities of His Majesty Sultan Qaboos bin Said – may God rest his soul in peace– since the first day of the Blessed Renaissance.

Accordingly, the Ministry of Heritage and Culture was established by Royal Decree No. 12/76, dated April 10, 1976, which stipulates the creation of a ministry for national heritage, under the name of the Ministry of Omani Heritage.



On April 6, 1977, two royal decrees were issued. The first defined the jurisdictions of the Ministries of National Heritage and Information and Culture, while the second outlined the cultural tasks assigned to the Ministry of Information and Culture.

On May 22, 1979, the cultural responsibilities were transferred from the Ministry of Information and Culture to the Ministry of National Heritage and Culture. On September 16, 1980, the organizational structure of the Ministry of National Heritage and Culture was approved according to Royal Decree No. 73/80.

On February 14, 2002, Royal Decree No. 10/2002 was issued to change the ministry's name to the "Ministry of Heritage and Culture." On February 26, 2005, a Royal Decree was issued to define the competencies of the Ministry of Heritage and Culture and approve its new organizational structure.

On August 18, 2016, Royal Decree No. 40/2016 was issued, which stipulated the definition of the competencies of the Ministry of Heritage and Culture and approved its new organizational structure.

The Sultanate also ratified the International Convention for the Safeguarding of the Intangible Cultural Heritage by Royal Decree No. 56/2005 issued on June 22, 2005. 40

The Sultanate, represented by the Ministry of Heritage and Culture, has consistently attended the meetings of the convention and studied all matters related to its provisions to implement it. The Sultanate became a member of the governmental committee of the convention during the period from 2008 to 2012 to work in the field of Omani intangible heritage. Oman's membership in the committee represents an important gain and a sincere expression of the international community's conviction in the role the Sultanate plays in preserving intangible cultural heritage, and the importance it attaches to documenting this heritage to ensure its transmission to future generations.

Believing in the importance of the Sultanate in preserving heritage, traditional knowledge, and folklore, the World Intellectual Property Organization... The organization made several visits to the Sultanate between 1998 and 2001. The Director General of the World Intellectual Property Organization also met with His Majesty Sultan Qaboos bin Said – may God rest his soul – in February 2000, where he proposed to His Majesty that the Sultanate host an international forum on intellectual property focusing primarily on heritage and traditional knowledge under the slogan "Intellectual Property: Our Identity and Our Future." 41

The Sultanate has also ratified the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. 42

It is known that the Sultanate's ratification of previous agreements places them within the legislative framework in force in the Sultanate. Since ratified international agreements hold a higher legislative rank than what is stipulated for national laws.

40. This decree was published in Official Gazette No. (794) issued on 2/7/2005.

41. WIPO National Training Workshop on Intellectual Property for Diplomats – Protection of Traditional Knowledge and National Heritage: The Experience of the Sultanate of Oman – 2005

[https://www.wipo.int/edocs/mdocs/arab/ar/wipo\\_ip\\_dipl\\_mct\\_05/wipo\\_ip\\_dipl\\_mct\\_05\\_11.doc](https://www.wipo.int/edocs/mdocs/arab/ar/wipo_ip_dipl_mct_05/wipo_ip_dipl_mct_05_11.doc)

42. Sultani Decree No. 20/2007 regarding the accession of the Sultanate of Oman to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions

[https://data.qanoon.om/ar/rd/2007/2007-020.pdf?\\_ga=2.112383812.1797572408.1700423509-1487259476.1699304706&\\_gl=1\\*bc57i3\\*\\_ga\\*MTQ4NzI1OTQ3Ni4xNjk5MzA0NzA2\\*\\_ga\\_0KKDYYZ464\\*MTcwMDQyMzUwOC4yLjEuMTcwMDQyMzcwNy4wLjAuMA..](https://data.qanoon.om/ar/rd/2007/2007-020.pdf?_ga=2.112383812.1797572408.1700423509-1487259476.1699304706&_gl=1*bc57i3*_ga*MTQ4NzI1OTQ3Ni4xNjk5MzA0NzA2*_ga_0KKDYYZ464*MTcwMDQyMzUwOC4yLjEuMTcwMDQyMzcwNy4wLjAuMA..)

Not to mention the national laws and regulations in this regard, along with the national bodies and institutions that are responsible for preserving and protecting this important heritage.

To preserve the intangible cultural heritage in the Sultanate, the state has taken a series of necessary measures and requirements to protect this timeless heritage from extinction and provide the necessary legal protection. This will be addressed in the following sections.

### **Part One / Documenting Elements of Intangible Cultural Heritage Internationally**

The intangible heritage files submitted by countries form the essence of the international convention on intangible heritage. Therefore, we find countries around the world racing to include their intangible heritage in the representative list of intangible cultural heritage, refining and qualifying the skills of those working in this field, not to mention organizing workshops and hosting conferences and committees concerned with this matter.

Preserving this heritage comes through a set of functions and activities, such as collection and documentation. The extinction of intangible heritage due to the loss of its practitioners is considered one of the most serious threats it faces. Therefore, the first stage of preservation should be to work on collecting the elements of this heritage and documenting it through its practitioners in its natural context. Examples of this include the Omani Oral History Documentation Program and the Omani Folk Arts Recording Program, which are implemented by the Ministry of Heritage, Culture, Promotion, and Publication through festivals and events. 43

The Sultanate has worked on registering elements of intangible cultural heritage, aiming to document these elements and preserve them from loss so that they can be passed down from generation to generation, and to promote cultural communication and exchange between countries around the world.

The Sultanate of Oman, in including elements of intangible heritage in the representative list of intangible cultural heritage, whether alone or collaboration with other countries, reflects the interest the Sultanate gives to its popular heritage. It also represents international recognition of the importance of this heritage as part of the Omani heritage, which has received numerous international accolades.

The phase of preparing intangible heritage files also represented the activation of the Intangible Cultural Heritage Convention, indicating the maturity of the Omani experience in the field of collecting and preserving its intangible heritage.

43. <https://alwatan.com/details/224127>

It is worth mentioning that these files were initially prepared by Omani staff in the Ministry of Heritage and Culture in collaboration with international experts, as well as the Ministry of Information and the Omani National Commission for Education, Culture, and Science, in addition to the Sultanate's delegation to UNESCO.

The beginning was through collecting information about each item and documenting it by practitioners and those concerned in the community with this heritage, according to the lists and registration conditions derived from UNESCO. The ministry also sought the assistance of international experts specialized in file preparation supervision to review those files methodically and scientifically. The file of Al-Bar'ah was the first Omani file to be included in the UNESCO Intangible Cultural Heritage list after it met all the registration criteria. 44

The stage of preparing the file for the horse and camel show represented a comprehensive review of the International Convention for the Safeguarding of the Intangible Cultural Heritage by the members of the Omani Committee for Education, Culture, and Science, represented in the criteria for listing intangible cultural heritage files submitted to the World Organization for Education, Culture, and Science for inclusion in the representative list of the intangible cultural heritage of humanity. The file preparation phase also included reviewing various experiences and works submitted to UNESCO to

read those files and benefit from them in preparing the horse and camel show file. At the local level, this phase represented a comprehensive research project that addressed the etiquette and rules related to the presentation of horse and camel shows, in addition to the folk arts accompanying the show, the traditional crafts associated with the adornment of horses and camels, and the stages of training horses and camels for the horse and camel show. 45

44. <https://onc.om/2018/11/29/%D9%85%D9%86%D8%AC%D8%B2-%D8%AB%D9%82%D8%A7%D9%81%D9%8A-%D8%AC%D8%AF%D9%8A%D8%AF-%D8%A5%D8%AF%D8%B1%D8%A7%D8%AC-%D8%B9%D8%B1%D8%B6%D8%A9-%D8%A7%D9%84%D8%AE%D9%8A%D9%84-%D9%88%D8%A7%D9%84%D8%A5%D8%A8/>

45. <https://onc.om/2018/11/29/%D9%85%D9%86%D8%AC%D8%B2-%D8%AB%D9%82%D8%A7%D9%81%D9%8A-%D8%AC%D8%AF%D9%8A%D8%AF-%D8%A5%D8%AF%D8%B1%D8%A7%D8%AC-%D8%B9%D8%B1%D8%B6%D8%A9-%D8%A7%D9%84%D8%AE%D9%8A%D9%84-%D9%88%D8%A7%D9%84%D8%A5%D8%A8/>

In addition to the above, a committee has been formed from the Ministry of Heritage and Culture as the authority concerned with intangible heritage, alongside the Royal Camel Corps and the Royal Cavalry as the practitioners of the traditional dance, in addition to the Omani National Commission for Education, Culture, and Science.

The committee conducted interviews with practitioners of the Ardah, trainees, and organizers, collected file materials, selected appropriate photos, supervised the file video, organized the file-related events, and followed up on the registration procedures with the Secretariat of the International Convention for the Safeguarding of the Intangible Cultural Heritage, among other tasks and requirements for preparing intangible cultural heritage files.

In preparation for the listing, several meetings were held to discuss the work plan related to the preparation and compilation of the Arda file, the role of each governmental and non-governmental entity in preparing the file, reviewing the file's content, starting the registration procedures, reviewing the concept and filmed material related to the film, and approving the festivals related to the file. 46

The preparation of the file went through several stages, the first of which was the inclusion of the element in the national inventory lists of the state, which is one of the criteria for inclusion in the representative list. Therefore, the Ministry of Heritage and Culture reviewed the application for the inclusion of Al-Ardha in the national inventory lists through two sections: popular arts and customs and traditions. Al-Ardha, as a comprehensive event, is included in the inventory lists under the section on Omani customs and traditions. Additionally, the art of horse riding and the art of camel handling associated with Al-Ardha, which are practiced within it, are included in the list of Omani arts.

The second purpose was to organize the fields of the application form. The scientific material related to those fields was collected from scientific sources such as books, magazines, and printed periodicals, in addition to the Omani encyclopedia, videos, and media and radio programs that covered the Ardah. Besides these sources, the committee held direct meetings with Ardah practitioners, whether through Sultan's cavalry and horsemen or citizens and them, data was continuously collected and reviewed.

46. <https://onc.om/2018/11/29/%D9%85%D9%86%D8%AC%D8%B2-%D8%AB%D9%82%D8%A7%D9%81%D9%8A-%D8%AC%D8%AF%D9%8A%D8%AF-%D8%A5%D8%AF%D8%B1%D8%A7%D8%AC-%D8%B9%D8%B1%D8%B6%D8%A9-%D8%A7%D9%84%D8%AE%D9%8A%D9%84-%D9%88%D8%A7%D9%84%D8%A5%D8%A8/>

The third purpose is the attention to supporting letters, which are of great importance in preparing nomination files and are divided into three categories: letters from participants in civil society and individuals in preparing national inventory lists, letters acknowledging participation in file preparation from civil society and practitioners, and letters of knowledge and consent to all file procedures from element holders or practitioners. At this stage, coordination was also carried out with all practitioners, stakeholders, and those interested in Al-Ardha, including relevant government institutions, equestrian schools, stables, and farms, individuals practicing Al-Ardha, folk art groups practicing Al-Ardha arts, as well as enthusiasts and researchers.

The fourth achievement is the completion of the Ardah film, as the procedures for submitting files to UNESCO require the inclusion of a motion picture about the element, in addition to ten photographs with specific specifications. The committee worked on preparing the film by commissioning a specialized company in film production and photography. They coordinated the filming process through local festivals where Ardah is held in the Sultanate and ensured interviews with practitioners that included their testimonies and consent to submit the file. The voice-over material was also prepared. Regarding the photographs, the images have been specified to include all the criteria related to the file and provide a clear picture of the item.

A booklet on the horse and camel Adha has been issued in both Arabic and English, including a collection of titles related to the Ardha, its traditions, and rules, as well as the accompanying arts and the places and seasons of its practice; to support the nomination file and document the horse and camel Ardha. 47

## **Section Two / The Omani National Inventory of Intangible Cultural Heritage**

The inclusion of the heritage element in the national list is one of the most important reasons and criteria for its inclusion in the representative list, forming a link between the international and national institutions concerned with this matter.

47. <https://onc.om/2018/11/29/%D9%85%D9%86%D8%AC%D8%B2-%D8%AB%D9%82%D8%A7%D9%81%D9%8A-%D8%AC%D8%AF%D9%8A%D8%AF-%D8%A5%D8%AF%D8%B1%D8%A7%D8%AC-%D8%B9%D8%B1%D8%B6%D8%A9-%D8%A7%D9%84%D8%AE%D9%8A%D9%84-%D9%88%D8%A7%D9%84%D8%A5%D8%A8/>

Referring to the relevant national institutions, we find that they are working to provide the necessary financial resources to preserve the heritage element and the required research and training that contribute to its preservation from any negative impacts.

In this regard, the heritage bodies concerned with preserving heritage contribute to qualifying and framing the participating elements in this matter and coordinating among them, in addition to conducting the necessary research through cooperation with various scientific institutions.

It is worth noting that all the previous measures taken in this regard are merely preliminary actions before the countries accede to the agreements concerned with the preservation of cultural heritage, both tangible and intangible. However, they are working on implementing what pertains to these agreements in this matter.

The lists of intangible cultural heritage are an integral part of preserving intangible heritage, as they contribute to raising awareness of intangible heritage and its significant importance in enhancing individual and collective identity, and self-esteem among the communities and individuals from which forms of expression and practices related to heritage emerge. 48

According to Article (11) of the Convention, each State Party shall take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory and involve the

relevant communities, groups, and non-governmental organizations in identifying and defining the elements of this heritage.

Identification is the process of describing one or more qualitative elements of intangible cultural heritage in its specific context and distinguishing them from other elements. This process of identification and definition is what the convention refers to as "enumeration," emphasizing that it should be done "with the intent of preservation," meaning that the enumeration process is not merely a theoretical exercise but a purposeful operation with practical implications. Thus, if several intangible cultural heritage elements are indeed identified, countries may decide to start implementing pioneering projects to preserve those elements. 49

48. To review the experiences of countries in how to prepare inventory lists, refer to Evaluation of Regulatory Activities in the Culture Sector at UNESCO Part One: 2003 Convention for the Safeguarding of the Intangible Cultural Heritage Final Report October. Paragraphs 142 to 157

49. Imad bin Jassim Al-Bahrani – the previous reference – p. 60

Among the areas of interest of the Omani Ministry of Heritage and Culture in intangible heritage is the initiation of national inventory lists in 2010, with the participation of various relevant government institutions such as the Ministry of Heritage and Culture, the Public Authority for Craft Industries, the Ministry of Social Development, the Ministry of Sports Affairs, and Sultan Qaboos University, in addition to involving civil society institutions like the Omani Women's Association, the Cultural Club, and practitioners. The list included several sections: folk arts, traditional crafts, customs and traditions, traditional foods, folk games, musical instruments, and other elements of Omani intangible cultural heritage. This list was compiled field-wise from the Omani community. 50

The ministry, in collaboration with the Omani National Commission for Education, Culture, and Science and UNESCO, organized a workshop to prepare inventories of intangible heritage. In 2011, two books from the national inventory lists were printed, one on the elements of intangible cultural heritage related to musical instruments and the other on musical styles, in collaboration with the Oman Traditional Music Center. 51

#### **Objectives Of The Omani National List:**

1. Cataloguing and classifying all elements of Omani intangible cultural heritage to preserve this heritage and establish appropriate protection mechanisms for each element.
2. Documenting all data and information related to the elements of intangible cultural heritage.
3. Review everything that has been published or written about elements of intangible cultural heritage.
4. Creating an electronic database that includes everything collected about elements of intangible cultural heritage.

The local community played a role in implementing the Omani census lists through the following:

1. Participating in the preparation of forms for registering items.

50. Imad bin Jassim Al-Bahrani – The previous reference – p. 62

51. Imad bin Jassim Al-Bahrani – the previous reference – p. 62

2. A group of researchers, enthusiasts, and practitioners from various governmental and private sectors are collecting information and data related to the national inventory lists.
3. Conducting interviews with practitioners of intangible cultural heritage elements to provide data about the element.

4. Review the data collected by a group of researchers, interested parties, and practitioners before entering the data into the final record. 52

A form for inventorying intangible cultural heritage elements was prepared following the methodology used by UNESCO in preparing national inventory lists according to Articles 11 and 12 of the International Convention for the Safeguarding of the Intangible Cultural Heritage. The form included information about the element, its geographical scope, its bearers, and its status in terms of preservation and continuity, in addition to the names of the bearers, the data collector, and images of the element. Researchers and participants in the process of preparing national inventory lists underwent training programs on data collection and information related to the form, interview methods, and data entry.

The national census lists relied on oral news sources to gather their materials, so the data for the list sections were documented directly by the element holders after a comprehensive introduction was provided to them about the census lists and their rights in this regard. The process of collecting the list material went through two phases, which are:

1. Presenting the collected books and research to practitioners for each element, to review its data and verify its contents through the information provided by community members practicing various elements of intangible heritage.
2. Documenting the elements directly through informants from the community who carry elements of intangible cultural heritage. 53

52. Imad bin Jassim Al-Bahrani – the previous reference – p. 63-

53. Imad bin Jassim Al-Bahrani – The previous reference – p. 64

### **Recommendations And Suggestions**

At the end of this research, we had to provide the following recommendations and suggestions.

1. One of the consequences of the legal protection of intangible cultural heritage is its integration within the framework of cultures passed down from generation to generation and preservation in a manner that aligns with its nature.
2. Working on spreading this heritage through various means such as exhibitions, publications, public museums, diplomatic missions, and interest representation missions abroad, in addition to all forms of social media.
- 3- The benefit that countries derive from codifying the rules related to this heritage and formulating them within a special legal framework will lead to maximum protection for this heritage and fill the gaps in legislation, ensuring its preservation from extinction within the context of foreign cultures and the societal challenge represented by the tendency to change values and oppose heritage, considering it as part of the past.
- 4- Working to unify research and scientific efforts with the governments and universities of East and North Africa to preserve the Omani intellectual, cultural, and political heritage in the region and exchange expertise in the field of specialized research and studies on Omani political heritage.
- 5- Diversifying scientific and research efforts between the Sultanate of Oman and the governments and countries of North and East Africa to further promote Oman's intellectual and political heritage as a fundamental pillar of the Arab-Islamic cultural identity and to build lasting partnerships with universities and scientific institutions in North and East Africa.
- 6- Groups and individuals can play a distinguished role in protecting and preserving their intangible cultural heritage by documenting traditional knowledge and popular sayings and passing them on to future generations.

7- Considering the current global repercussions of globalization and modernity, it has become essential to archive and register intangible heritage through modern technologies and to preserve it in special records that maintain confidentiality. This is to ensure that the state protects its heritage from being lost or tampered with by others, and consequently, to prevent its extinction.

8- Introducing the intangible Omani heritage that extends and spreads in North and East African coasts and establishing international cooperation relations to preserve it and include it in educational and cultural programs.

9. The rules of ethics and courtesies associated with intangible heritage can serve as a supplementary source for legislation, assisting the judge in the absence of legislative text, its inadequacy, or its ambiguity. These rules, although they differ from legal rules in terms of their binding nature, derive their legitimacy from the social necessities closely tied to this important heritage and its significant importance in the lives of people.

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- 2) Omani Royal Decrees

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