Introduction

The American Folklife Center (AFC) has recently initiated a training program that seeks to connect intellectual property protocols, indigenous knowledge, cultural sustainability, expressive culture, and ethnographic documentation. In this exciting initiative, members of the Maasai community of Kenya traveled to the United States to meet with AFC staff members and staff from partner organizations. AFC staff then traveled to Kenya to meet with the Maasai in their homeland. During both visits, AFC staff learned about the Maasai’s unique needs in the area of cultural heritage preservation. We then offered training in specific techniques and practices to aid the Maasai in the documentation and archiving of their cultural traditions.

The program grows out of and contributes to the often contentious debates in international fora over the methods and means by which the intangible cultural heritage (ICH) of indigenous and native communities—in this case, documentary recordings of songs, music and dance performances, and verbal art—can be protected from misappropriation and exploitation by commercial entities and non-indigenes. These issues have been most keenly debated in recent years at the meetings of the World Intellectual Property Organization (WIPO)—a specialized agency of the United Nations. The focus in the following is on the practical features of interdisciplinary training in documentary methods, archival practices and IP protocols for cultural communities, and on the long-term implications of such initiatives.

Background

Initiated under the auspices of WIPO’s Creative Heritage Project in 2008, the training program brings together staff from WIPO, the American Folklife Center (AFC) at the Library of Congress, and the Center for Documentary Studies (CDS) at Duke University in the US, together with members of the Maasai Cultural Heritage Foundation, an indigenous organization in Kenya. A brief summary of each institution’s goals will aid our understanding of the development of the program to date.

Since its establishment in 1967, WIPO’s overall mandate remains the development of a “balanced and accessible international intellectual property (IP) system, which rewards creativity, stimulates innovation and contributes to the economic development while safeguarding the public interest.” (http://WIPO.int/about-WIPO/en/what_is_WIPO.html). Within WIPO itself, beginning in 2001, deliberations of the Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions/Folklore (the IGC), have centered on the perceived need to protect cultural communities’ traditional knowledge (TK) and traditional cultural expressions (TCEs) from being appropriated and misused. Discussions focus in large part on how local communities may participate in and derive financial benefit from the commercial development of traditional cultural expressions and artistic performances. Moreover, debates concern the ways in which indigenous and local communities may establish control over their own Intellectual Property (WIPO, ibid.).
The Creative Heritage Project initiative termed “Community Cultural Documentation” (http://www.WIPO.int/tk/en/folklore/culturalheritage/community-cult.html) marks a crucial departure from the legal and technical policy debates that dominate the IGC meetings. WIPO now aims to directly “assist indigenous communities to document their own cultural traditions, archive this heritage for future generations, and safeguard their interest in authorizing use of their recordings and traditions by third parties.” (emphasis added; http://www.WIPO.int/tk/en/folklore/culturalheritage/WIPO-AFC-cds.html).

The reasons for this shift, and the genesis of the Community Cultural Documentation program, lie in discussions initiated some years ago between Wend Wendland, Director of the Traditional Knowledge Program at WIPO, and representatives of various indigenous communities who have been attending the meetings of the IGC over the last several years. Among them is the Kenyan indigenous organization, Maasai Cultural Heritage Foundation (MCH), which represents the Il Ngwesi Maasai group who are part of the Il Laikipiak Maasai section within the wider Maasai community that is spread between Kenya and Tanzania. In 2007, MCH suggested the idea of a training program that would enable the community to gain comprehensive skills and technical expertise in a number of areas for community sustainability initiatives.

This request was made for several reasons: When MCH made a formal request for assistance to the IGC, their sense of vulnerability and the very real threats to their survival as a distinct people were intensifying, due to both external pressure and internal dissolution of their lifeways. The Laikipiak Maasai of Kenya are traditionally pastoralists whose economy, sense of identity, religious customs, and expressive cultural practices, have been inextricably tied to the maintenance and management of large herds of livestock, cows for the greater part, but also goats and sheep. Even in the Laikipia districts where they are concentrated, in the center of the country, the Maasai are a political and cultural minority – according to some estimates they comprise less than 10 % of the population in this region or about 35,000 individuals (http://www.maasai-association.org/maasai.html ).

The Maasai request for assistance, in the form of a report presented to WIPO, is sobering. It reports the misappropriation and exploitation of cultural property and intangible cultural heritage by external forces; the appropriation of ancestral lands, which strains the Maasai’s ability to raise cattle; cultural loss in the realm of language, and the attendant dissociation of Maasai youth from their cultural roots; and poverty. All these factors hinder the community’s efforts at self-determination, sustainability and the maintenance of identity (Ole Tingoi, 2007).

The Training Program

MCH made specific requests for assistance to understand and implement IP protocols, such as copyrights and patents, to protect, manage, promote and document their TCEs, all aimed at cultural and economic development on the community’s own terms. With the impetus provided by the Maasai’s representation to WIPO, Wend Wendland approached Peggy Bulger, AFC’s Director, about developing a technical training component that would fit the Maasai’s needs. Bulger is a member of the U.S. delegation to the WIPO IGC, serving as a “content expert.” The Library’s presence in this world forum promotes a different perspective on IP and cultural rights, one grounded in cultural and humanistic stances, rather than the legalistic, property-minded and technocratic concerns of official representatives of nation-states. Especially relevant to the Maasai training program is the expertise and experience that AFC’s professional staff have accumulated in teaching ethnographic documentation methods and archival “best practices” for many years in many settings. This is particularly true of the field schools in cultural documentation the AFC has conducted on an almost annual basis in various U.S. locations over the last dozen years (http://www.loc.gov/folklife/fieldschool/index.html ).

CDS’s participation was also crucial to the process because that institution’s pubic outreach and educational programs closely parallel the AFC’s and also extend the project’s training capacity by providing world-class, hands-on instruction with digital media technologies for university students and media professionals nationally and internationally (http://cds.aas.duke.edu/courses/conted.html). Tom Rankin, the CDS director, is also a folklorist and noted documentary photographer, and a member of AFC’s Board of Trustees.
In September 2008, John Ole Tingoi and Ann Sintoyia Tome, of the Maasai community, and Kiprop Lagat, anthropologist and curator from the National Museums of Kenya, arrived at the American Folklife Center for the first phase of the program. The intensive curriculum included such topics as project planning, research ethics, documentation techniques, archival methods, and database development and management. Wend Wendland from WIPO was also in attendance in Washington and provided the IP component of the training, with the support of the U.S. Copyright Office at the Library. After a week in Washington, the three trainees traveled with me to the Center for Documentary Studies, to receive hands-on training with digital audio, still cameras and video cameras provided by Tom Rankin and his staff. The week-long program at CDS included several field trips into neighboring communities to document live events and activities such as a Sunday farmer’s market. In this way, the trainees were exposed to the interactive and inter-subjective nature of field documentation, and the practical considerations that are involved in such encounters. Such challenges include securing permission of the subjects being documented, explaining the purposes of documentation to potential interviewees, methodological concerns (e.g., developing an interview strategy), and technical challenges (e.g., audio problems such as sound bleed). The trip home for the Kenyans included a stop at WIPO headquarters in Geneva for additional work and discussions of IP rights and management.

The second phase of the training program occurred a year later in 2009, when Wendland, Rankin and I traveled to Kenya to effect a technology transfer of a laptop, audio recorder and still camera to the community, and to reinforce training methods and techniques. WIPO purchased the equipment and funded much of the in-country costs for the participants in the program. In Kenya, the three original trainees, Ole Tingoi, Tome and Lagat were joined by two other members of the community. Over the course of a week, the trainees discussed and settled on the aspects of community life they wanted to explore. They conducted fieldwork interviews and documented events, reviewed their documentation materials and organized their collections. Their research topics included cattle-herding practices, women’s oral narratives, the education of school children, and traditional music.

At the end of the training period, a complete set of the documentary materials was retained by the Maasai for their immediate production purposes, with copies of the digital files brought back to the US for preservation and long-term storage at the AFC in accordance with a preliminary understanding reached with the Maasai. The process of drafting an official Memorandum of Understanding designating the AFC as the repository for archival materials is now ongoing. Such an “off-site” location for community cultural assets is essential, due to MCH’s realization that the security of the documentation requires robust IT infrastructure and redundant copies of the items residing in several locations.

Some important lessons have already emerged from the project. First, while the Maasai are very interested in documenting TCEs, they are also interested in documenting the historical, social and economic challenges and disruptions to their lifeways. They are therefore conducting oral history interviews with elders to document instances of land expropriation, water diversion and inter-communal conflict. In these respects, the Maasai’s clear goal is to use the technology and training to articulate the total complexity of their lives and not just the celebratory aspects of their culture (TCEs) such as their dances, songs and artifacts. In doing so, the Maasai are reaffirming and critiquing, with great care and thought, the links and tensions between culture and structure, echoing the approach that folklorists and other social scientists have long espoused. A second lesson learned is that, through projects like this, the relationship between IP rights, community development, and emerging technologies can be brought into sharp focus. To quote WIPO, “This pilot program recognizes both the utility of new technologies for indigenous communities and the paramount need to empower communities to make informed decisions about how to manage IP issues in a way that corresponds with community values and development goals” (http://www.WIPO.int/tk/en/folklore/culturalheritage/WIPO-AFC-cds.html).

AFC is glad to have been a part of this initiative, and we hope it leads to further work with indigenous communities around the world.

Reference
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