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“Oral traditions not for Archives: The case of Lobolo”
Reflections on the Draft Heritage Transformation Charter

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A research report submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in partial fulfillment of the requirements for the degree of Master of Arts (Heritage Studies) by Coursework and Research Report

Johannesburg
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DECLARATION

I declare that this research report is my own, unaided work. It is being submitted in partial fulfillment of the requirements for the degree of Master of Arts (Heritage Studies) by Course work and Research report, at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination at any other university.

_____

Gabriele Mohale

_____ on this _____ day of _____ 2010

ABSTRACT

The orally transmitted tradition of Lobolo is a common and widely practiced cultural tradition and an established marriage institution within African societies in Southern Africa, differing only in terms and minor variations of practice. Lobolo therefore has the status of being an intangible heritage and is acknowledged as such by South Africa's National Heritage Resource Act of 1999. Its role in society today on the one hand and its oral way of transmission on the other has placed it in the center of an ongoing post-colonial discourse, particularly around the standing of the African intangible heritage in post-1994 South Africa. The Heritage Transformation Charter, following its mandate by the National Heritage Council, intended to attend to and correct existing imbalances in the Heritage sector and its institutions. It also aimed to identify and establish ways for the preservation and continuation of African heritage. The study reviews the literature on Lobolo, highlighting the ways in which it has been described as a multifaceted cultural and social institution. In consideration of these findings it critically engages in a discussion of the Draft Heritage Transformation Charter, to assess its acknowledgement of the characteristics of living heritage. In doing so the study probes the ability of a policy guiding document such as the Heritage Transformation Charter, to accommodate and guide the survival of oral traditions such as Lobolo, as part of the intangible heritage of South Africa.

Keywords: Lobolo, Oral tradition, Intangible heritage, Cultural memory, Archive

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"Was du ererbst von deinen Vätern hast,
Erwirb es, um es zu besitzen."

"What you have as heritage, Take now as task;
For thus you will make it your own!"

Goethe, Faust

(Cited in Pelikan, 1984)

CHAPTER 1

INTRODUCTION

Preamble

When my husband's uncle died, the family, Bapedi originating from the far Northern Province, lost one of its pillars, as he had been a respected and much trusted authority within the family. My husband now found himself entrusted with a new position, expected to get involved in family decisions and, amongst others, to take leadership in the tradition of Lobolo. It was in such matters where our late uncle had excelled, and where my husband felt the lack of his guidance and 'institutional knowledge'. He realized that expectations and processes around Lobolo were not uniform even within the Pedi communities, and that the practice of Lobolo must have changed from what he had understood it to be.

For a cultural outsider such as myself, originating from East Germany, it has been fascinating to observe the seeming adaptation of the tradition of Lobolo to present day realities, its persistence and survival to retain its strong place and standing in African society.

Over generations the tradition of Lobolo has undergone drastic changes due to missionary influence and colonial administrative interference, to the point of distortion. Nevertheless, the essence of Lobolo has remained the same, in that two groups of people,

relatives of the bride and of the groom, legalize a marriage by transfer of cattle from the family of the groom to the relatives of the bride.

For those actively involved in Lobolo today, there can be no doubt that each time families meet over Lobolo negotiations, the two families concerned will have to agree on a common ground of practice.

Oral traditions and the Heritage Transformation Charter

The term used in this study is the noun *"Lobolo"* rather than the more commonly known verb to *"Lobola"*. Although each language group has its own specific term, Lobolo has become synonymous within Southern Africa, as far as its concept of meaning is concerned, but also in using this particular term as reference between the different language groups (Chigwedere, 1982; Bagnol, 2006).

The introduction highlights the main issues surrounding orally transmitted traditions such as Lobolo. The Heritage Resources Act of 1999 incorporated oral traditions as part of the intangible heritage of the people of South Africa, thereby acknowledging and correcting the injustices of the past and giving these traditions their rightful and unambiguous place in society. At the same time much uncertainty seems to prevail, as to how continuity of the intangible heritage can be ensured.

In 2007 the first draft of the 'Heritage Transformation Charter' was released after months of nationwide consultations into the current state of heritage in South Africa. The Charter is intended to provide a framework to preserve, protect, promote and transmit all forms of heritage, thereby complementing and enforcing the Heritage Resources Act. The Technical Team for the Charter had also been tasked with an assessment of heritage institutions like libraries, museums and archives, and their contribution to an overall environment that would give every South African access to heritage resources. The second draft of the Charter was adopted in December 2008, followed shortly after by the final version of the Heritage Transformation Charter.

The drafting of the Heritage Transformation Charter certainly was a reflection of the present discourse around South Africa's heritage in general and intangible heritage in particular. It is a discourse which is comprised of many players from across South Africa's diverse communities, interests and voices, some of whom also found representation in the list of members of the Charter working group.

As I endeavor to present and explain, it is a discourse which is very much post-colonial in character, expressing a strong emergence of previously suppressed identities, which at the same time and in spite of constant change and development, remain true to the traditions of their African forefathers. But it is a discourse which is also shaped by still existing colonial mindsets and neo-colonial influences. Therefore, the Charter being part of this discourse, not only responds to popular sentiments but also incorporates new political and economic agendas in South Africa, particularly with regard to African heritage.

By making the intangible heritage one of its main mandates, the Charter needed to position itself in order to be able to attend to the challenges around the aspects of intangible heritage. Therefore, taking the oral tradition of Lobolo as an example of living heritage, and probing the Charter's engagement with the intangible heritage, will allow demonstrating the Charter's capacity to guide the continuity of the intangible components of South Africa's heritage.

RATIONALE FOR THE STUDY

Emerging from colonialism and Apartheid, people of African descent have undoubtedly entered a phase of enthusiastic celebration of their heritage, and on numerous occasions I have witnessed, how African communities now proudly and openly engage in their cultural traditions, such as Lobolo, as expressions of African identity.

At the same time it has become evident that there is a continuing expression of lack of respect for African cultural institutions within South African society in the post-Apartheid dispensation, particularly in the non-African segments of the population. An explanation for such skepticism can surely be found in a number of underlying reasons, including: persistent forms of colonial Western arrogance especially as experienced through Christian beliefs, values and norms; new global formulations of ethics and human rights; and South Africa's diverse multi-cultural population, each group with its own strong identity. But there is also an emergence of an increasing disregard by black South Africans for parts of their African culture as a result of the impact and effects of modernity, as well as Constitutional rights and obligations, now shaping new African identities as well.

These phenomena, coupled with the socio-economic alienation of the majority of African communities in the post-Apartheid political and economic dispensation, have produced both a nostalgia as well as anguish over the distortion and loss of African cultural values and practices. And as mechanisms for transmitting oral traditions are breaking down or become more difficult to sustain, initiatives have emerged, driven by an audience of admirers, performers, academics and even more so by policy makers and politicians, wanting to capture and store and thereby hoping to preserve the living heritage of African communities on their behalf.

In 2005 the Department of Arts and Culture started a process of analyzing the state of heritage in South Africa through the drafting of a Heritage Transformation Charter, as a document to guide policy for the heritage sector. Its lengthy drafting process revealed a number of challenges with regard to South Africa's heritage in general and African tradition in particular. These challenges have manifested themselves in the drafting of the Charter, reflecting the dilemma of policy writing in South Africa. Seen in the context of the reinvention of the South African state, there seems to be an interesting split, on the one hand wanting to ensure the continuity and strengthening of African cultural traditions, and on the other wanting to shape policy in accordance with widely accepted global realities. As a result of attempts to reconcile the two positions, policy gets caught

between African Tradition and Western modernity – certainly not as stages of development but rather constructs of social life and values systems. Furthermore, with the recognition of traditional rights of chiefs and councils in the post-Apartheid dispensation, clashes between traditional and constitutional rights and obligations have become explicit as matters of social and legal governance.

The drafting of the Charter represented concerted attempts to address this situation as regards South African heritage. But the seriousness of constraints under which it had to operate, including the complex nature of the heritage sector and the high expectations of cultural practitioners that the Charter would provide guidelines and enabling mechanisms for the recognition and continuity particularly of the intangible heritage, not only impacted on the drafting process of the Charter and its final document, but also made the development of a National Heritage Transformation Charter a difficult and sensitive undertaking.

In consideration of the above three focus points can be established which will motivate this study:
Firstly, according to the mandate of the National Heritage Council the scope of the Heritage Transformation Charter related to the entirety of South African heritage, with a strong focus on the living intangible heritage. In view of the above mentioned dynamics, the handling of intangible heritage, such as the oral tradition of Lobolo in the Charter makes for a good case in point to demonstrate uncertainties, ambiguities, challenges, agendas and politics, as much as goodwill, equality and justice for this valuable component of South Africa's diverse heritage.

Secondly, during participation at the consultative meetings around the Draft Heritage Transformation Charter, as well as from the draft Charter texts, it was surprising to realize the repeated glance at colonial institutions such as the archive, when faced with the perceived need to preserve African intangible heritage. In spite of a strong dominance and representation of the Africanist agenda, conflicting positions could be observed with regard to the indigenous and the Western knowledge systems, on the one hand striving

for the respect and independence of the indigenous, and on the other wanting to rely on Western forms of preservation of indigenous knowledge.

The future role of the conventional heritage institutions will have to be interrogated for a new role in the post-colonial state. The preparedness of the heritage sector to respect difference and to uphold the importance of these cultural institutions in their own rights will be crucial. But whilst there can be no doubt about the importance of the continuity of oral traditions, there also needs to be cognizance of opinions which question any intervention in the safeguarding of intangible heritage. The reason behind these arguments is not only the fact that they have indeed survived to present day despite disruptions and change, but also for the intangible nature of these traditions, performances, expressions. It is here where the Charter has a duty to outline the value of intangible heritage and to argue for optimal conditions for the intangible heritage to thrive. This process of interrogation will be a further case in point to demonstrate the position of the Heritage Transformation Charter with regard to living heritage.

Lastly, the various manifestations of oral traditions and the space in which they thrive have attracted attention both on national and international level. The preservation and protection of intangible heritage has gained momentum in the present discourse around culture and identity in a globalised world. South Africa as a nation has an obligation to ensure the survival and continuity of its living heritage and to offer guidelines for ways in which oral traditions, as part of intangible heritage, are regarded by heritage bodies.
To define an enabling environment for communities to practise their cultural traditions is thus a responsibility of policy makers, requiring a document such as the Heritage Transformation Charter outlining the needs and responses of communities, to guide policy. By identifying as to what extent this has happened in the Charter texts, will be the third case in point to demonstrate, if it is a) in a position and b) willing to translate the challenges around intangible heritage into any form of enabling mechanisms through formal policy.

AIMS OF THE STUDY

The study reviews the literature on Lobolo, highlighting the ways in which it has been described as well as contested as a multifaceted cultural and social institution, and emphasizing its intangible character.

Using the oral tradition of Lobolo as an example, it will then engage in a critical examination of the draft and final Heritage Transformation Charter to assess the Charter's claim to accommodate and ensure the survival of oral traditions, which are understood to constitute part of South Africa's living heritage, protected by the Heritage Resources Act of 1999.

Through engagement with the discursive elements of the Charter, the study will place the draft and final Charter texts within the context of an ongoing post-colonial and post-Apartheid discourse about heritage in South Africa.

RESEARCH METHODOLOGY

This research was not a cultural study of Lobolo in the past and present, nor did it intend to make suggestions on how the oral tradition and cultural practice of Lobolo is likely to change or be practised in future. As outlined in the Rationale and the Aims, the purpose of this study was therefore rather placed in the interrogation of societal processes, discourses and policy responses.

In the light of the post-colonial and post-Apartheid context from which the research topic was approached, and considering the study was an inquiry into societal processes, I found it most appropriate to place my research within the framework of critical theory. Critical theory as a social theory concerned with the way in which "social institutions and cultural dynamics interact to construct a social system" (Denzin & Lincoln, 2000:281), makes it suitable for both the exploration of policy making geared towards cultural systems in the

post-colonial and post-Apartheid era, and for the critical engagement with the processes surrounding policy making.

Contributing to the use of a critical mode of inquiry for this particular research was my own position as researcher, committed to a Marxist worldview, which has undoubtedly shaped my assessment of political, cultural and socio-economic processes and experiences of people in the society they live in.

The study was located in the qualitative research tradition, which is essentially defined as "a situated activity that locates the observer in the world" (Denzin & Lincoln, 2000:3). Qualitative research is interpretative in nature, permitting a variety of means and practices of study. And by emphasizing the role of the researcher, qualitative research embraces the process of writing as a mode of inquiry (Creswell, 2003; Richardson, 2003), underlining the role of writing as a dynamic, creative process with the researcher being the "instrument" (Richardson, 2003:501). It is therefore an approach which did allow me to present own values and interpretations, as well as positioning myself in my findings of the study.

In order to evaluate the Charter's strategies for the survival of the intangible heritage, it was essential to attend to the characteristics and standing of the oral tradition of Lobolo, thereby using it as a representative example for intangible heritage. In fact, in acknowledgement of Lobolo as a strong cultural and social institution, I have used Lobolo as a signifier for African traditions. When speaking of African traditions in common language use, there is always an element of generalization. Lobolo is a celebration of an 'African way of life', at the same time it provides a focus for evaluating the relationship between living heritage and the Charter because it is also a specific institution.

The research firstly engaged in an exploratory study of certain aspects around the issue of oral traditions and Lobolo, through an extensive literature review. Secondly, based on this literature review I employed a discursive content analysis of the draft and final

Heritage Transformation Charter with the aim of critically evaluating this policy informing document as far as the representation of intangible heritage is concerned.

The use of discursive content analysis

The Heritage Transformation Charter does not have the status of a legislative policy document. Its intention is to inform policy making through its recommendations. And whilst it reflected on needs and sentiments of society as far as heritage is concerned, it engaged in a societal discourse. Discourse is seen as a form of language use, and it applies to talk and text alike, because "discourse is an inherent part of society…" (van Dijk, 1997:23). The concept of discourse refers to the use of language in communication and the way in which it represents certain ideas or ideologies.

Van Dijk further stresses that certain phenomena need to be studied at the level of their actual manifestations, as they communicate shared meanings. It is for this reason that the use of a discursive content analysis can go beyond "observable aspects" (van Dijk, 1997) of words, and attend to the particular as well as broader meaning behind the content. Studies of discourse in society have established that the context in which discourse plays itself out, directly and indirectly influences and shapes that discourse. Vice versa, discourse has direct and indirect influence on the context in which it is placed (van Dijk, 1997; Fairclough, 1995).

In order to demonstrate this two-way relationship between discourse and social context, Fairclough developed a model for the analysis of discourse, which looks at text, as one example of an object of enquiry, which is placed within a certain process of production and interpretation, which again is placed within a context of production and reception. I used discourse analysis to explore the relationship between the text, the Heritage Transformation Charter, and the societal context in which it is placed, and vice versa. To be able to do so, I described the making and structure of the Heritage Transformation Charter, being the process of production and interpretation, which allowed me to relate

this document to broader socio-cultural and political themes of this post-colonial state, being the context of production and reception.

Babbie points out that the use of Content Analysis usually has no effect on the subject of study, because it is an “unobtrusive research method” (Babbie, 2001:315), seeing it as a study of social behavior and processes without affecting them. As far as the Charter is concerned, what was being observed and analyzed was not only the end product, but various drafts of the Charter, representing work in progress, where public input was very much encouraged on an ongoing basis. The method being used here should be similar to the use of policy analysis, in order to determine whether it can meet or has met the needs that it claims and seeks to address (Pillay, 2006: 449). And although inferences, as to whether or not the Charter will have the ability to meet the needs it seeks to address, are purely based on a discourse analyses of its texts, such analyses can nevertheless apply what Pillay finds are the defining features of policy, being 1) that policy is developed to influence or shape behaviour, and 2) that policies are the result or outcome of some need (Pillay, 2006:444). Therefore, and in consideration of the above, I understand the unobtrusiveness of Content Analysis as research method to refer merely to the “act of research” (Babbie, 2001:9), not to an application of its findings in practice, were it can indeed make a difference.

For Content Analysis to be a reliable and replicable research methodology, Krippendorff stresses the importance that “any content analysis must be performed relative to and justified in terms of the context of the data” (Krippendorff, 1980:22). And he goes on to say that although inferences are guided by the analyst’s interest and knowledge, the researcher must reveal assumptions about how data and environment interact. Also, it is the task of the researcher to justify inferences from data in relation to context (Krippendorff, 1980:27).

In application of Krippendorff’s writing, my findings from the literature study around certain aspects of oral traditions and Lobolo were part of the context from which I have analyzed the content of the Charter, exploring their reflection and application in the text

of the Charter. The other part is the environmental context in which the Charter is placed, and the Heritage discourse which has influenced the making of the Charter. I was also guided by related issues such as land, customary law and Indigenous Knowledge Systems (IKSs). Although these issues have been attended to as part of separate policy drafting processes, they are nevertheless expressed and explicitly dealt with within the Charter as matters of heritage. What was of particular interest to me was to establish, how the Charter related these to an understanding of intangible heritage.

My hypothesis was that the Charter has not identified and acknowledged clearly how oral traditions such as Lobolo manifest themselves. And although South Africa's intangible heritage is one of the main mandates of the Charter, it has not produced convincing suggestions, as to how their continuity and survival can be ensured. That has been the entry point for my critical analysis of the Charter, seeking to establish "that direct evidence about the phenomenon of interest is missing and must be inferred" (Krippendorff, 1980:27), thereby arguing that there are inherent shortcomings in the Heritage Transformation Charter and demonstrating what they relate to.

CHAPTER 2

LITERATURE REVIEW

The oral tradition of Lobolo is only one of the various genres of intangible heritage. What is outstanding about Lobolo is the fact that it is more than a widely accepted cultural practice. The fact that the families of the two people have met, that they have agreed over Lobolo and that Lobolo is then paid, means that a customary marriage was enacted, which is a legally binding marriage in accordance with South Africa's customary law. Moreover, Lobolo is also a performance, with defined players, roles and rules.
It is for these reasons that Lobolo is both relevant and representative as a living heritage. Therefore the study of relevant literature for this research topic was undertaken to not only gain the necessary knowledge base and framework for my research but also to

identify the main aspects of Lobolo, to both build an argument and be able to position myself in relation to my topic.

Lobolo has been extensively and widely discussed in academic literature, and my research does not aspire to contribute further to the meaning and standing of the concepts underpinning Lobolo as a social, legal and cultural practice.

The aspects identified in the literature review are ‘the archive and archival discourse’, ‘orality and literacy’, ‘cultural and social memory’, ‘colonialism and post colonialism’, ‘oral traditions’, ‘lobolo’, ‘heritage and intangible heritage’. By grouping the results of my literature review into these aspects, it soon transpired that I was able to explore Lobolo in relation to a number of different contexts: Lobolo as cultural heritage, the practice of Lobolo during the period of Christianization and colonialism, Lobolo as part of social memory, and the oral tradition of Lobolo in relation to the conventional heritage institution Archive as one example of attempting to fix the intangible.

Lobolo

“A child is the child of the cattle” – this Pedi proverb provided the Anthropologist Mönning with the introductory note for his study of the marriage customs of the Bapedi (Mönning, 1967:194).

Being a long accepted cultural practice, Lobolo has received much interest particularly from the field of Anthropology, mainly for its importance for the explanation of family structures and social relationships between family members. And as much as questions and critique have remained with regard to the interpretation of the ‘exotic native’ in anthropological literature, it is through the study of cultural practices like marriage customs, where anthropological research has provided valuable insight. But also Christian missionaries have attended closely to the subject in relation to, as it would be called ‘native practices’, thereby complementing the anthropological knowledge base. Both, anthropologists and missionaries alike, had to acknowledge Lobolo’s central role in sustaining the social fabric of African communities.

There seems to be a general acceptance of the application and standing of Lobolo in anthropological literature (Ngubane, 1989, Comaroff, 1980, Chigwedere, 1982, Mönnig, 1967), and in the early missionary reports (St. Cuthberts Mission; Hughes, 2008; Jaques, 1911), leaving no uncertainty as to what the tradition entailed. What is significant from the literature is that Lobolo not only regulates the relationships within the newly formed family and its children, but also between the family of the groom and the family of the bride. The handing over of marriage goods in the form of cattle (or money in lieu thereof) by the family of the groom to the family of the bride, not only ensures the right of the bridegroom to any issue of the marriage, but also stipulates the right of the groom's family to the children of that marriage.

Lobolo is therefore an important aspect in the kinship-based society, creating "enduring social and economic structures" (Goody cited in Comaroff, 1980). Even more so, as related in an account of a contemporary bride during the times of the early Swiss missionaries in the Northern Transvaal in the late 1800's, "to take a woman home without Lobolo was equivalent to abduction … The man had to pay Lobolo to the woman's family if he wished the marriage to be socially accepted" (Welch & Sachs, 1987:372).

Drawing on historical records and anthropological research not only impresses on us the centrality of Lobolo to African societies in the past, but also affords an understanding of Lobolo as a living heritage, and an appreciation for its continued functioning in the present context.

Also, the cultural practice of Lobolo has undergone changes and adaptations, corruption and disruption. Whereas the former are part of the intrinsic character of culture in general, the latter must be attributed to a great extent to the impact which both colonialism and Christianity have had on the indigenous cultures of the colonized. Therefore, any discussion and critique of Lobolo must be seen in light of the above, which is why the aspect of colonialism and post colonialism are addressed later in the

Literature review as part of the process of establishing the changing context in which Lobolo has been practiced.

Three issues have emerged in the literature, reflecting the critical views and opinions around Lobolo as a cultural practice and institution. Firstly, there is Lobolo perceived as an African cultural practice by Christianity. Secondly, the legal issues which arise as a result of the recognition of Lobolo within South Africa's present customary law. Lastly Lobolo as it is being discussed within the present gender discourse. It will be interesting to observe how precisely these issues, which have come through quite strongly in the literature about Lobolo, are also being raised and addressed in the Charter texts.

Lobolo perceived by Christianity

As far as Christianity during the early missionary period in the mid 19th century in Southern Africa was concerned, Lobolo was strictly disapproved of as it did not comply with the European vision of a modern and Christian society (Harris, 2007). But in the decades that followed, there needs to be recognition of a changing attitude among some Christian missions, in that although Lobolo was not totally desirable, it was acknowledged to be an important custom for the social fabric of African societies, which should rather be regulated than destroyed (Transvaal Missionary Association, 1910(?)). But in spite of differing approaches to mission work amongst the various missions, as well as recognition of missionaries' devoted work amongst communities, the missionary movement was undoubtedly party to the colonization of Africa, and it might be more appropriate to raise the disapproval and rejection of African culture by the Christian churches under the aspect of colonialism and post colonialism further on in the literature review.

Lobolo as customary law

With regard to the legal aspect of Lobolo as an essential component of customary law, Koyana in a discussion paper about the impact of the new South African Constitution on Customary Law, finds that the Customary Marriage Act of 1998 departs substantially from customary law, in that it introduced rules influenced by Western law which deviate

from Customary law and traditional leadership's role in Customary marriage (Koyana, 2007:15). These sentiments were echoed by many, including Traditional leaders, at a public consultation meeting, organized by the National Heritage Council as a dialogue on African cultural practices and human rights as part of the development process of the Heritage Transformation Charter. What was being mentioned most were certain rights of women in a marriage, as well as the rights of children, which can no longer be determined by traditional leadership and families alone.

Also, it seems that there is little preparedness to critically engage with the content and practice of Customary law in pre-colonial times in general, often dismissing it as a debate that has been carried forward by academics and legal experts of European descent, thereby leaving the pre-colonial intact as a romanticized era. Again, I am reflecting on the consultative meetings for the HTC.

Lobolo in the gender discourse

The third aspect being gender relationships and tradition has certainly attracted increased attention in any discourse around culture, and the Charter too has incorporated gender issues under various topics in its texts. But there needs to be clarity with regard to the underlying causes of the emergence of gender issues but also issues of African tradition and culture in this modern state. The introduction of a monetary economy, based on private ownership and gain, not only had a tremendous impact on existing economic relationships of people and communities, but also on social relationships between people, re-defining their standing as an individual rather than a part of a community. In the wake of these socio-economic changes in South Africa, one of the most outstanding changes in the practice of Lobolo was its monetization, which has been identified to be an "eroding factor" for the woman's position (Ngubane, 1989). To develop this argument further, the substitution of cattle with money and material items greatly undermined the process of Lobolo, its role players as well as social relationships within the family and between families. What can be seen today are gender concerns like domestic violence and severed family structures which can be directly linked to the monetization of Lobolo. One of the reasons for these occurrences is seen to be the discarding of former ceremonies and

rituals. It is here where the reduction of the ceremony and ritual basically resulted in the secularization of the marriage act. By reducing the ritual intensity around Lobolo, the commitment of the parties is reduced, leading to disturbed relationships within the marriage and between the two families involved (Ngubane, 1989:179). According to Ngubane, the substitution of parts of the cultural practice of Lobolo with money has decreased the worth and standing of this tradition as a regulator of family roles and relationships.

Also, a new gender awareness around women's rights has developed in South Africa, which certainly has to be attributed partly to the flaws in the process of Lobolo and its societal consequences, amongst many other causes. Examples here would be the clearly defined rights for women with regard to abuse within a marriage, as well as women's rights as regards guardianship over the child in the case of divorce.

But cognizance has to be taken of a new gender discourse altogether, not only amongst the young generation, as a result of gender equality enacted in the new Constitution and enforced through Government bodies and non-Governmental organizations. It is a discourse which now positions the women in equal standing to the man, not only within the societal but also economic order. Based on their new standing, women are now increasingly in a position to question their cultural obligations and make different choices with regard to marriage, as well as their rights within a marriage. Again, these rights might not necessarily adhere to what is perceived as traditional understandings of the role of men and women, but rather on what is agreed to be universal human rights such as equality and the right of the individual.

Notably, Lobolo has acknowledged the new status of women to such extent, that marriage goods and money are demanded in accordance with the young woman's academic and professional achievements. This is not only an interesting development in its own right, but in my view also a development which increases the status of women within the cultural practice of Lobolo.

The second issue of Lobolo in relation to gender and in continuation of the above point, is the way in which new family structures and relations are emerging, particularly within the African middle and upper class, where substantial class stratification can be found. These developments impact on the knowledge around traditions but also their application, and in fact question the need for the 'old traditions' to go on (Ngubane, 1989; Kevane, 2004; Chigwedere, 1982).

Again, and as stressed by Ngubane with regard to the monetization of Lobolo, the resulting privatization of Lobolo transactions now makes marriage a private and nuclear act, excluding immediate relatives from the affairs of marriage (Ngubane, 1989:179), as often the money needed for Lobolo is raised jointly by the future couple. This trend can be observed particularly among the new class of professional young people, who, having grown up in the Western schooling system, increasingly define themselves as individuals. This is an important shift, as the African understanding of the idea of a community "'…moves from society to individuals', rather than, in the manner of European thought, 'from individuals to society'" (Menkiti cited in Nicolson, 2008:27).

Oral traditions

Lobolo is an oral tradition, thereby being an integral part of what is called the Indigenous Knowledge Systems (IKS), a concept which will be explained later in the literature review as well as in the analysis and discussion of the Charter texts. What is important to understand with regard to the oral tradition of Lobolo are the facts, that it has been transmitted orally from generation to generation, and that the common understanding of the meaning of this traditional practice is an embedded social product, both being distinctive characteristic of oral traditions. In fact, according to Vansina, with reference to the presentation of an orally transmitted practice, "performances do not occur haphazardly. They appear at appropriate moments during institutionalized social action and their genre as well as their content is related to the occasion." (Vansina, 1985:95).

Mönning's observations of Pedi marriage negotiations demonstrated vividly what institutionalized social action means in application to Lobolo: there will be role players, like a mediator (*motseta*), appointed to open the official negotiations, usually being the groom's father's brother acting for the group of the groom; there will be the marriage gift (*magadi*) which consists of cattle, or the equivalent of a certain number of cattle (Mönning, 1967); there will be rules and protocol observed, beforehand with the writing of a letter requesting a meeting, and during negotiations, with the introduction of members of a negotiating group and the language used; there will be performances, being the performance of the role players as well as the performance of the entire family by singing appropriate songs related to marriage, particularly at the end of a successful Lobolo negotiation; and there will be gifts, very specifically determined for particular members of the families, stressing the significance of the families' relationship. Interesting here is one of the notable changes which the oral tradition of Lobolo has undergone, in that notification of the intent by the groom's family is given in writing, which relates to the later aspect of 'Orality and Literacy'.

The widespread support of African societies for this particular tradition, again being one of the main characteristics of traditions, is proved by its survival to the present day, suggesting that it has retained its functionality. Being an orally transmitted tradition it has also proven "orality as an extremely tenacious resource" (Hofmeyr cited in Hamilton, 2002), suggesting that the strength of orality is its fluidity (Hamilton, 2002). Scholars who have extended the research of the oral traditions have identified that these are subject to change, new experiences and adaptation (Eze, 1997; Pelikan, 1984), and that they can be shared and handed down because they are "capable of being transmitted in time and disseminated in space…" (Finnegan, 2007:193).

In 1986 a UNESCO commissioned study was undertaken by Moss & Mazikana, clearly differentiating between 'oral history' and 'oral tradition', identifying the former as an "inquiry into the memory of people who have experienced the recent past directly" and the latter arising "naturally and from within the dynamics of a culture" (Moss & Mazikana, 1986:2).

This definition was preceded by scholars such as Vansina, who had described the distinctive characteristics of oral traditions as being that they are no longer contemporary and that “messages of oral tradition have a ‘social surface’“ (Vansina, 1985: 94). Moss & Mazikana argued further, that the oral traditions have inherent social value in “contributing to social cohesion and durability of culture” (Moss&Mazikana, 1986). Considering the above, oral traditions such as Lobolo extend beyond a mere practice precisely because they are characterized by strong societal ties.

Oral history on the other hand has the function to fill gaps and thus supplement written records for historical analysis, subject to “textual criticism and content analysis” (Moss&Mazikana, 1986).

I will adhere strongly to the differentiation between oral tradition and oral history, as I found that, where the two concepts were used interchangeably in literature dealing with such subject matter, it confused and even distorted the discussion. In fact, I found that there needs to be a differentiation within the oral traditions themselves, as some, like performances of songs, poems and stories amongst others, might indeed lend themselves to capture, which can be seen in many African storybooks and music CDs for example.

Another important aspect of oral traditions is their existence in a collective, in that they are held for an audience, performed by the audience and that they will be remembered by the audience, and not by a single person only (Vansina, 1985). It is for this reason that oral traditions become part of a collective memory, forming what will be called a cultural memory. It must also be mentioned at this point that certain components within specific oral traditions, such as rules and rituals surrounding rites of passage, are not necessarily subject to collective knowledge, as there are designated keepers of traditions who “keep part of their information out of general circulation” (Vansina, 1985).

Generally though, oral traditions would survive through practice and language, through storytelling, dance, song, poems and other forms of (gendered) enculturation.

Having established these characteristics of oral traditions it became necessary to elaborate on the relationship between the oral and the written traditions because of the history and the nature of "the interaction of the two traditions in a context politically dominated by the written" (Jewsiewicki & Mudimbe, 1993:4).

Orality and Literacy

This aspect is aimed at contributing to an understanding of the often misrepresented evolution of literacy as merely being a development from oral to the written text. Such presentation has been part of a discourse around the general evolution of man, with bitter argumentation about the worthiness and standing of each of the two traditions of communication, the oral versus the written. Isabel Hofmeyr, in a response to a presentation about the Manuscripts of Timbuktu in April 2008, even named the proxies - for the oral to be warmth, community, in the past, pre-colonial, and for the written to be alienation, distance, in the future, colonial. Therefore clarifying that oral traditions exist is crucial, in order to demonstrate that an oral tradition is not just the primitive version of the written and that it is not always easy to disentangle the above proxies.

Publications in the mid 1970s to the 1980s by distinguished scholars such as Jack Goody and Walter Ong, reflected particularly on the developments from the spoken word to alphabetic literacy. "The domestication of the savage mind" unambiguously concluded that "writing encourages special forms of linguistic activities associated with the development in problem-solving", listing tables and lists as instruments for such activities (Goody, 1977). Such is the argument that, in my view, has opened itself up to questionable conclusions about the role of writing in cognitive processes, set in relation to the stages of development of a society. The study of forms of human communication should not be generalized and polarized on such easy terms as 'progress' or 'development', argues Finnegan, calling for critique in order to gain "a greater understanding both of ourselves … and of some common syndromes in human culture…" (Finnegan, 1988:7).

The “tyranny of text” (Edwards, Gosden & Phillips, 2006) with the “textual alienation of ‘the other’”, with each object labeled and described in writing, and thereby discriminating “against the object’s originator community” (Edwards, Gosden & Phillips, 2006:274) is an ongoing and fundamental concern in present debates in South Africa. This is reflected in the Charter texts as well. It is a concern which applies to issues of education as much as heritage, culture and identity, and one which policy makers need to take cognizance of. Any aspirations to grow beyond the domination of the one over the other, thereby recognizing differences and examining the standing of each in its own right, leads into a post-colonial discourse. I will take up this discussion under that aspect further on.

Another area, which needs highlighting, relates to the repercussions of processes involved when transforming the oral into the written, for the purpose of capture, transcription and storage. To achieve the translation of the oral into written, one uses “highly mediated and artificially stabilized print versions to suggest something of dynamic nature” says Brown (Brown, 1998). Scholars such as Vansina, Finnegan, Goody and Ong have extensively described the difficulties, challenges and limits of working with the oral text in transforming it into the written. Some of the variables are selectivity, settings, hearing, recontextualisation, processing, quality of language and linguistic structures – all these often under the control of non-native collectors, putting the oral message into the framework of a written European language (Finnegan, 2007). As Poland & Hammond-Tooke lamented in relation to traditional cattle praises, these are “a meager representation”, and when “committed to cold text the lively excitement and spontaneity of context is inevitably lost…” (Poland & Hammond-Tooke, 2003:85).

Cultural and social memory

The space in which intangible heritage is preserved and transmitted, and the ways in which it is shared and handed down have been challenging for the authors of the Charter, but is an important aspect in order to understand the structures in which the past is preserved, thereby crucial in any attempt to explain the continuity of intangible cultural heritage such as oral traditions in the present and future.

Cultural texts, says Assmann, J, maintain their place in the human memory (Assmann, J, 2006), to be transmitted and communicated again, making them part of a cultural memory. The concept of 'cultural memory' has been traced to Freud's dynamics of the buried and subconscious. Derrida would find them deeply suppressed archives, for their unconscious memory transfer (Assmann, 2006). Halbwachs would pay particular attention to the role of the family, because of our ability to experience events as members of a group or community, long before we realize it – a phenomenon which Zerubavel would call 'mnemonic socialisation' into 'mnemonic communities' (Zerubavel cited in Olick & Robbins, 1998). As for Pierre Nora, cultural memory actually envelopes lived tradition of a social group (Nora cited in Geary, 1994).

To put the role of memory in perspective is a crucial undertaking when dealing with a people's heritage and heritage preservation, as Aleide Assmann stressed, the concept of tradition remains inadequate if it does not include reference to the "business of handing down and receiving" (Assmann, A cited in Assmann, J, 2006). In order to do so Assmann, J identified three functions of the human memory – *preservation* in poetic, mnemonic form, *retrieval* through ritual performance, and *communication* during collective participation (Assmann, J, 2006:39). And he explains further, that even though cultural memory does lie in the hands of individual experts, be they family members or community leaders, through coming together and each group or community members' personal presence, cultural memory is then shared.

These are trusted processes, which have been practised over generations, and with exceptions, hardly anyone from within an oral society had ever felt the need to capture and store them separated from the human memory. In fact, these functions of preservation, retrieval and communication, by being part of the very cultural memory explain that "all awareness of the past is founded on memory" (Lowenthal, 1985:193).

Aleide Assmann's concept of *Erinnerungskultur*, memory-based culture, should be seen as an encouraging step forward in the acknowledgement and the differentiation of the role of the oral and memory and the role of the written. What remains essential as far as

cultural memory is concerned, relates to its content, "entangled with cultural products and imbued with cultural meaning" (Sturkin cited in Olick & Robbins, 1998:111). It is cultural reference that makes cultural memory part of a people's identity and therefore a part of their heritage.

Heritage and intangible heritage

Heritage certainly is a very sensitive and contested subject, and it is a fairly difficult undertaking to speak of a commonly shared heritage within one nation, particularly one in a country as diverse as South Africa. As part of the Government's agenda for post-Apartheid nation building, heritage has been deployed on the one hand to bring previously antagonistic groups together, and on the other to set the stage for the Africanisation of this post-colonial state. Moreover, as far as African heritage is concerned, there is a high degree of contestation as issues are played out on the post-colonial field. As Mothobi Mutloatse has noted so strongly with reference to literature and 'black aesthetics': "…we are going to kick, push and drag literature into the form we prefer … Because we are in search of our true selves – undergoing self-discovery as a people." (Mutloatse cited in Brown, 1998:178).

In South Africa the status of intangible heritage is acknowledged and reflected in the National Heritage Resource Act of 1999. But to date there has been no policy in South Africa with regard to the safeguarding of the intangible. The UNESCO adopted its "Convention for the safeguarding of the Intangible Cultural Heritage" in 2003. In response to its obligation to this Convention, South Africa is presently drafting a national policy on the Intangible Cultural Heritage (ICH), driven by the Department of Arts and Culture. I will at this point merely mention these documents without offering their definition of 'intangible heritage', as they form part of understanding and discussion of the intangible heritage in the Heritage Transformation Charter.

However, what I found is that despite clearly laid out definitions of 'intangible heritage', the 'formal' heritage sector in South Africa still seems to grapple with the safeguarding of the intangible. There are 'key questions for intervention', 'involvement and

investment', 'statement of significance' and 'authenticity' (SAMA, 2006) – political jargon in the deployment of uncertainty.

Also, there seems to be a lack of insight and engagement amongst heritage 'officials' particularly from Government departments, when mentioning intangible heritage, to the point of bluntness. According to Malherbe for example, the safeguarding of Intangible Cultural Heritage (ICH) merely means to "…identify elements of ICH and the persons who embody these…" and "to achieve sustainable safeguarding would be that bearers of that heritage continue to further their knowledge and skills and hand them down to younger generations" (Malherbe, 2006). He then laid out abstract guidelines for such safeguarding. It is this illustration of misrepresentation of the intangible that highlights broader weaknesses particularly in the heritage management sector, which will have to be addressed by the policy on Intangible Cultural Heritage (ICH). At least Manetsi in an article of the same issue of SAMA acknowledged, "The changes of and around an element of the intangible heritage can indeed be so considerable that at times the question may arise whether we are still dealing with the same element…" (Manetsi, 2006).

Nevertheless the African as well as the international heritage discourse does offer the intangible heritage a strong place. According to Taylor, "Customary duties and rights are transmitted through oral tradition. The heritage of the tribe resides in the totality of its life and transmitted skills rooted in its land and natural resources." (Taylor, 1982). Quoting once more the much quoted (and mis-quoted) 'Africa loses a library when an old man dies' by Hampaté Bâ, is put in perspective when understanding the context: intangible heritage is embodied knowledge and practice (Kirshenblatt-Gimblett, 2006). Kirshenblatt-Gimblett when contrasting tangible and intangible heritage, reiterated that intangible heritage "consists of cultural manifestations … that are inextricably linked to persons" (Kirshenblatt-Gimblett, 2006:19).

The concept of Indigenous Knowledge Systems (IKS) has emerged strongly in recent years, and are taken as referring to the entirety of knowledge in a traditional context which, because of its oral mode of transmission from generation to generation, is

acknowledged as part of the intangible heritage, and therefore protected by the National Heritage Resource Act of 1999. What makes this particular part of the intangible more ‘accessible’ in handling and management, is the fact that it incorporates knowledge which has the potential to translate into economic spin offs, for which it is now strictly guarded by relevant Government departments and private Corporations alike. This is despite the fact that indigenous knowledge was and still is to a great extent communal property. The powerful pharmaceutical sector, particularly, has eyed the properties of certain indigenous plants for further development as bio-medical products for global distribution and private gain. This single example not only illustrates the need for state intervention and protection of a national resource, but also the need for its regulation under the intellectual property law, to ensure communal participation and gain.

New debates are encouraged with regard to the preservation of heritage, especially in view and in consideration of conventional institutions such as the archive for example, which will be discussed under the aspect of the Archive and Archival discourse. However, such debates, when being applied to countries emerging from colonialism and Apartheid, have to be post-colonial in character.

Interesting to note here are Hodgin’s thoughts on the ‘shifting weights of urbanization’, Urbanisation in South Africa has created its own challenges, not just for the survival of intangible heritage but also with regard to a shift in belonging, identity and therefore heritage. “African towns have this two-fold aspect: seen from one standpoint, they lead to a degradation of African civilization and ethic: seen from another, they contain the gems of a new, more interesting and diversified civilization, with the possibilities of greater liberty.” (Hodgkin cited in Chipkin, 2007:23). Chipkin adds that there are now emerging possibilities of a civilization that transcends kinship and ethnicity, through and at the same time leading to even more social mixing and ethnic diversity, thereby creating an unmistakable urban culture. These observations are highly relevant for oral traditions such as Lobolo, as Lobolo has for some time been practised in an environment, which is fast changing, as opposed to ‘the old trusted ways’ of the rural areas. These are dynamics which also inform differing notions of heritage.

Colonialism and Post-colonialism

It is virtually impossible to attend to issues of African oral tradition, Lobolo, culture and heritage and not place these discourses within the context of colonialism and post-colonialism. Europe's colonial expansion in the post-Renaissance era became a specific and efficient form of imperial expansion (Ashcroft, Griffiths & Tiffin, 1998). In its wake it not only included the provision of raw material for the emerging capitalist economies, but it was accompanied by racial prejudice and ideologies of cultural superiority over the colonized. Particularly the cultural effects of colonization, colonial discourse and its institutions became the subject of post-colonial studies.

What has become apparent from the literature study with regard to Lobolo within the colonial and post-colonial context is the influence of three particular issues, these being firstly the impact of Christian missionaries, secondly, and in conjunction with the first, the importance of the written word, and thirdly the role of colonial administration.

Christian missionaries

The work and influence of Christian missionaries during the colonial era might to some extent remain contested, as missionary activities have also yielded progressive results, particularly with regard to health and education (although there will be voices, who would question particularly the latter). Yet, given the role of the bible in colonial conquest and the massive penetration of African communities by the various missionaries (Draper, 2003), there remains no doubt in post-colonial discourse about the role of the missionary movement in the overall picture of colonialism. It is therefore not overstated in my view, to apply Fanon's note to colonialists and Christian missionaries alike (in fact, many would not even differentiate between colonizers and Christian missionaries, seeing the latter as agents of colonisation), where he says that "…the total result looked for by colonial domination was indeed to convince the natives that colonialism came to lighten their darkness" (Fanon, 1963:169). Considering the above, it is beneficial to follow through, which aspects of Christian mission work have impacted so strongly on African cultural systems, particularly keeping Lobolo in mind.

The imposition of Christian values and beliefs in the name and spirit of best intentions was one of the main aims of missionary work. The approach to mission work probably differed between the various Christian churches. It is interesting to note here, that the Swiss missionaries in South Africa rejected views of the biological advantage of Europeans, and rather believed that Africa was still at an immature stage of civilization, just as the population of the Switzerland's Alps had been, when explorers discovered them in the high altitudes as late as the beginning of the 1800's. Nevertheless, their romantic views about Africa and the wish to elevate life on this 'dark continent' convinced them to see any notion of modernization as firmly tied to Christian values and norms.

It is understandable then, that one of the early missionaries in South Africa, the Swiss missionary Henri-Alexandre Junod, who was outspoken and progressive by any standards of his time as far as language and respect for the society he studied were concerned, came to the conclusion "that no Christian father might demand Lobolo for his daughter…" (Welch & Sachs, 1987:372; Harries, 2007), after weighing advantages and disadvantages of Lobolo. This was certainly an opinion echoed by many missionaries and churches at the time (Jaques, 1911; Hughes, 2008; Transvaal Missionary Association, 1910(?)). Yet, accounts from their African contemporaries, as quoted by Welch & Sachs prove that even converted African churchmen accepted Lobolo for their daughters (together with the Christian wedding), demonstrating Fanon's view that African culture under colonial domination was a contested culture, condemned to secrecy (Fanon, 1963:191). What is notable about these developments is the fact that not only did Lobolo survive, despite missionary disapproval and the resulting 'cover up' of Lobolo by African communities, but its practice by the same African communities would be merged with full acceptance of Christianity. Even further, Christianity would soon be adapted and merged with African belief systems, a movement from which strong independent indigenous churches would emerge with large numbers of followers, detached from the mainstream European Christian churches.

Influences of literacy

The other aim of missionary work would be 'the enlightenment of the native mind' through literacy (Ashcroft, Griffith & Tiffin, 1997). The first shipment, after the establishment of the mission stations in the Northern Transvaal by the Swiss missionaries Berthoud and Junod, were 1400 bibles, *bukus*, and ABC's, arriving in Elim in 1884 (Harries, 2007). Because the bible was an important tool of mission work, the missionaries would divide the entire Northern and Eastern Transvaal along linguistic lines from about 1879: the Berlin Mission worked with the Venda and North-Sotho speakers, the Swiss Mission would work with Gwamba/Tsonga speakers. And it would be missionaries who would lay claim to the transcribing of these languages into written text, with each of the mission headquarters guarding the control over written vernacular (Harries, 2007:188).

For these missionaries literacy was both an agent of modernization and religion, linking cognitive processes to literacy and progress, a familiar argument from the discussion around orality versus literacy. Junod in fact felt that Africa's isolation from the world of reading was one reason for the continent's backwardness (Harries, 2007:185). At the same time his study of Tsonga (Thonga) led him to admire its richness and mechanisms of reasoning, which was a bold statement at the time. Unfortunately he came to conclude that only literacy "would ensure that written rules and precedent rather than changing human relations … would determine the morality of society" (Harries, 2007:186).

Essentially what this approach achieved was a remarkable belief in the power of writing - an observation described by Hofmeyr on the different ways of reading, whereby a written letter could even protect against supernatural forces – and it was the missionaries' belief that the written text had to be controlled by the church, again, historically not a new view when remembering the church's dogmatic grip on Europe during the Dark Ages.

The establishment and work of the missions in South Africa is well documented and literature is rich in detail (Draper, 2003; Carton, 2000; Welch & Sachs, 1987; Harries, 2007; Guy, 1994). There are clear findings that the perceptions which were built then,

have succeeded for generations, as far as the Christian belief is concerned, as far as the bible is concerned, the power of the written word and even the belief in the mediums and institutions that store the written word. It is up to the post-colonial discourse to engage with this power and disentangle some of these perceptions.

Colonial administration

The third issue of influence on the oral tradition of Lobolo relates to the damaging impact of colonial administration and the monetization of Lobolo, the latter clearly being a result of the former. Research around the colonial origins of generational conflict in Natal suggested that colonial patriarchy greatly undermined traditional authorities in the late 1800s, through the application of colonial customary law, enforced by colonial administrators. Carton's study revealed that colonial marriage law was indeed so intrusive that it completely emasculated the heads of homesteads (Carton, 2000:101). Requirements stipulating the immediate delivery of bride wealth, instead of installments, and the right to end a marriage granted to African wives in Natal, challenged traditional law to such an extent, that "elders tried to modify customs" thereby "permitting violations of generational obligations to preserve what they could of their authority". And in the same process "they devised new forms of bride wealth" as well, now seeking "money, horses, sheep and goats" (Carton, 2000:105).

In addition, various taxes were imposed on all Africans, first hut taxes, followed by an individual poll tax, to be paid in cash and not cattle. The far reaching consequence of this was the destruction of African subsistence farming, as it forced black men into mass labor migration to white farms, the mines and industry. This impact of colonialism is largely discussed and acknowledged in the literature relating to the degeneration of chieftainships (Carton, 2000; Poland, Hammond-Tooke & Voigt, 2003; Welch & Sachs, 1987; Dubow, 1989). This contributed to the loss of respect for the elders and subsequently made deep cuts into African societal structures, a process which is still ongoing.

Concerns for the rapid deterioration of traditional social structures even led the 1932 Native Economic Commission to advocate for a restoration of 'tribal authority', as well as economic development in the reserves (Dubow, 1989:114). The Commission went as far as saying that "the whole social structure of the Abantu rests largely on Lobolo" (Dubow, 1989:114), thereby repeating a view which had in previous years given effect to the Native Marriage Bill, discussed by the Native Administration Department and the Native Administrative Commission in 1923, and finally incorporated into the 1927 Native Administration Act.

In present day discourse about the encouragement of an indigenous agenda, strong emphasis is placed on the acceptance of oral traditions by Traditional leadership, African policy makers, academics, heritage workers, and particularly by those who practise their cultural traditions. Particularly noteworthy is the stance that the use of orality and the oral traditions are not only employed as factors of cultural identity but also within a post-colonial, if not anti-colonial framework of resistance.

Whereas initially the term 'post-colonial' had chronological connotations relating to the post-independence period, it later moved to discuss the effects of colonization (Ashcroft, Griffiths & Tiffin, 1998). Still, according to Nabavi the post-colonial framework remains limiting in that "the tensions between knowledge purveyors and societal and institutional structures, as well as the complex relationships between different forms of oppression, go unresolved." (Nabavi, 2006:176). Nabavi continues to argue that Eurocentric dominance in fact fails "the millions of people worldwide whose societies are constructed through oral traditions" (Nabavi, 2006:180), suggesting that Western knowledge systems remain universal, highlighting that the "consistency of colonialism" (Nabavi, 2006:180) will prevail. It is the latter of her arguments, that explains her calls for an anti-colonial framework and the need for "finding a space in Indigenous world views that can be explored with dominant forms of knowing", proposing "respectful means" in these transformative approaches to oral traditions (Nabavi, 2006:176).

Archives and Archival discourse

In discussions around the preservation and storage of South African heritage in general and intangible heritage in particular, references are made to the archive. Over recent years researchers in a number of heritage and oral history projects have considered the archive as an institution suitable for the recording and capturing the oral traditions of African communities around the country.

What seems questionable here is the fact that the conventional archive is an institution born from the need to store textual and tangible material with a strong concept of structure and organisation, positioned in the Western knowledge paradigm, thereby structured, individualistic, obediently serving its creators and politically tainted over centuries of colonial and Apartheid rule. As will be seen in the later analysis, the Charter texts do not engage adequately with the archive.

Originating in Europe as repositories of important families, the church and the state, the archive fulfilled its main purpose of being a tool for governance through the storage of records "of any public or private institution which are adjudged worthy of permanent preservation", in the form of written text, cartographic and pictorial records (Schellenberg, 1956; Schellenberg, 1965). The archive held these records as a "convenient form of artificial memory" (Jenkinson, 1937), with the illusion of eternity, says Nora, and the obsession "to collect remains … as if this burgeoning dossier were to be called upon to furnish some proof to who knows what tribunal of history" (Nora, 1989).

But the archive was not just a treasure repository, it was first and foremost a repository of power, with access prohibition and an aura of secrecy, in spite of the public character of many of its records. It held records of birth, trade, taxation, rents and produce (Goody, 1986; Lowenthal, 2006), controlling the activities of the populace, and it held the records of rulers and state. Noteworthy at this point is Jack Goody's argument, in which he relates literacy to ritual, reminding the reader that rites of passage became private affairs

with the invention of marriage and birth registers, as opposed to the public announcements of these events in oral societies (Goody, 1986).

The other aspect of the conventional archive, and essential for its existence, is its inner organization. Differentiations in content, forms like rolls, boxes and files, and a system of archival classification (Jenkinson, 1937) gave structure to an increasing body of records for storage and retrieval, thereby building the institutional authority of the archive.

Jacques Derrida in his much acclaimed publication *Archive Fever* questioned the conventional archive in drastic new ways, finding that the archive disregards memory, merely compensating for its loss, and that it functions in an unnatural fashion, because it is based on strict classification (Derrida, 1995). For Derrida it meant one had to contest the space of the archive, to open it up, to de-construct it, being convinced that "the Archive takes place at the place of originary and structural breakdown of the said memory" (Derrida, 1995:11). In taking these thoughts further, he cautioned that the acceptance of the conventional concept of the archive meant "to presuppose a closed heritage (Derrida, 1995:33), rather calling for the acceptance of the 'authority' of a 'transgenerational memory', without which "there would no longer be any essential history of culture…" (Derrida, 1995).

Other concepts too, such as 'archival archaeology' (Behrensmeyer & Hill cited in Duzman, 2006) and the 'archaeology of knowledge' (Foucault, 1989), have questioned the notion of the archive, when faced with the need to forget all those memories that we no longer have the capacity to store, in addition to the items, that are no longer part of our present lives (Derrida, 1995; Van Albada, 2006; Harris, 1997; Jenkinson, 1937; Olick & Robbins, 1998), which were then ironically called 'memorabilia'. In fact Behrensmeyer & Hill would even compare archive archaeology to the history of fossils from death of an organism to its moment of human discovery (Behrensmeyer & Hill cited in Duzman, 2006).

Given these reservations, what expectations do we then have when we refer to the archive for the preservation and storage of oral traditions? Derrida's proposition of "the archive as a notion, awaiting development" (Derrida cited in Wells, 2006) might offer an answer as to how new possibilities of engagement with the space and time in which oral traditions exist can lead to a new awareness. These possibilities are closely connected to the post-colonial discourse, calling for a shift in emphasis, tolerance and acceptance of the other ways of 'the other'. And as much as an institution such as the conventional archive is considered inert by leading scholars, it might be for these expectations of 'the archive as a notion, awaiting development' that academic voices such as Hamilton and Mangcu and Lalu, do admit a new role of the archive for heritage, to be a public space not of authority but of debate (Hamilton & Mangcu, 2006; Lalu, 2007). There can and there should also be the added possibility for the conventional archive to be used "to read the colonial archive in terms of a practice of criticism" (Lalu, 2009:63), which in all fairness inevitably leads to a rethinking of history.

Such rethinking of history would have to include the excluded voices, meaning the oral, which the conventional archive never considered part of its scope of existence, or to be relevant for that matter, although some historians have increasingly come to acknowledge and respect oral accounts. Many oral history projects have already become instrumental in listening to these voices, recording and transcribing the spoken word, the narratives of the public. Therefore, there is certainly merit in Harris' opinion, that to redefine the archives in South Africa, the public archives "should be transformed from a domain of the elite into a community resource" (Harris, 1996:17).

But there needs to be caution once more, not to confuse the genres of the oral, when speaking of the inclusion of the oral in the still conventional archive. As identified under previous aspects of orality, literacy and the intangible heritage, there are certainly strands of the oral which indeed lend themselves to be captured and stored in the conventional sense – and digitalization must still be counted as conventional storage, albeit with more possibilities and distribution than hardcopy records can allow for.

There are founded critiques, such as Shadrack Katuu's, who see the biggest discontent in the fact that oral archives, being audio and video reproductions, have been created out of what has already existed as oral archive, and saying that "to collect oral traditions does not result in an oral archive in the archival institution, but rather in the creation of surrogate oral archives" (Katuu, 2003:86). To illustrate this point further, I found the quote of 'the African voice' at a UNESCO Conference on the preservation of intangibles as archives of culture, in reply to Western presentations at this conference, with the African saying in the end: "Madam, visit my country, and I will show you the forest of my ancestors. But while I will be communicating with my forefathers, you would not hear the whispering. You would see at best trees." (Van Albada, 2006:217).

The complexities described above suggest that we are dealing with the interrogation of institutions anchored in the Western knowledge paradigm, and their role in the post-colonial context with strongly emerging indigenous agendas.

The Charter texts on the archival institution do not attend to any of the above discussion, which might be simply for the reason that its authors where not aware of this discourse, or otherwise would not entrust the conventional archive with allowing for these possibilities. What does come through though, are reservations with regard to the place of the conventional archive in a transforming heritage sector. The 'archive' is certainly an ongoing debate.

Summary of Literature review

South Africa is home to people from various cultural systems, with western and non-western origins, not as the much acclaimed fabrication of a melting pot, but rather living in distinct communities. And although each of these communities has incorporated intangible aspects in their heritage, in the Charter the concept of the intangible heritage in the South African context is clearly linked to the notion of 'indigenous', 'African' and 'traditional', as will be demonstrated in the discussion of the Heritage Transformation Charter.

In order to discuss the drafting of a national Heritage Transformation Charter with regard to intangible heritage, it was important to identify the characteristics and status of the intangible in general and oral traditions, in particular, as part of the living heritage. Having established the resilience and specificity of Lobolo it then seemed most suitable to have it serve as a signifier of the African traditions and institutions, embedded in the cultural memory of African communities. Lobolo has survived both colonialism and Apartheid, has been accorded recognition by missionaries and anthropologists despite their prejudice and reservations, to be later appropriated by government agents as part of a general programme of colonial control and pacification and used for the extraction of migrant labour. Although it has certainly undergone unavoidable changes and corruption during those times, it has nevertheless retained its essential character and purpose, and continues to perform vital social functions in African communities, as well as functions relating to a post-colonial African identity.

What was equally important to establish through the literature review were the importance and the requirements necessary for the continuity of oral traditions as part of living heritage. With the new fears of the post-colonial era, that the intangible heritage faced severe challenges for their survival in a modernized and globalised environment, it was interesting to establish that these fears are actually both a result and a rejection of the colonial paradigm. Implicated as a surviving relic of not only the colonial, but also persisting Western constructs, conventional institutions such as the archive are questioned as to what extent they would be able to become part of a transformed heritage sector.

CHAPTER 3

THE MAKING OF THE HERITAGE TRANSFORMATION CHARTER

The context of the Heritage Transformation Charter

The drafting of the Heritage Transformation Charter was informed by the need to respond to both national as well as international obligations. Nationally, the purpose of the Charter was, to address the fragmentation in the heritage sector, redress the disparities amongst the various heritage institutions and to address the need for the development of an efficient management of heritage resources. Additionally, overlapping responsibilities between the Department of Arts and Culture (DAC), the South African Heritage Resource Agency (SAHRA) and the National Heritage Council (NHC), had hampered the efficient running of the heritage sector. But the Charter was also set to address popular sentiments relating to matters of heritage and thus identity and belonging, set in a climate of persisting and growing economic disempowerment and disparities between rich and poor, affecting the majority of mainly black South Africans. Thabo Mbeki's speech in Parliament in May 1996 "I am an African", certainly struck a chord with those sentiments of an 'African renewal', setting the stage for Government's initiative of an African Renaissance.

Internationally, heritage and cultural practitioners and activists spurred by national and regional concerns had moved to respond to the challenges of culture and tradition in a globalised world. Led by the UNESCO, initiatives and conventions were established, in acknowledgement of new paradigms, like the Convention for the Safeguarding of the Intangible Cultural Heritage in 2003, but also new needs, like the Charter on the preservation of digital heritage adopted in the same year.

The Heritage Transformation Charter, hereafter referred to as HTC, evolved from the mandate of the National Heritage Council, laid out in the National Heritage Council Act no.11 of 1999. The Act, set to establish the National Heritage Council and to "determine

its objects, functions and method of work" (National Heritage Council Act, 1999), lead to the establishment of the Council in 2004. Following its mandate, the National Heritage Council initiated what it saw as a framework for the transformation of the heritage sector and launched the Charter process in April 2005. One of the functions of the Council in line with its objectives is to "monitor and co-ordinate the transformation of the heritage sector, with special emphasis on the development of living heritage projects" (National Heritage Council Act, 1999). In its decision to develop the HTC, the Council stated this particular function explicitly.

Reaffirming the principles of human and people's rights in the South African Constitution, the Draft Charter also acknowledged The African Charter on Human and People's Rights, amongst other international declarations and national legislation like the White Paper on Arts, Culture and Heritage of 1996.

The Charter development process

It is important at this point to explain two issues in the Charter development process. These led to major differences and discrepancies in the draft documents of the HTC, because of which I have had to consider both drafts and the final Charter document in comparison to each other, in order to trace the overall discourse and reasoning used by the authors of the HTC.

Firstly, the Charter development process was initially laid out in eleven steps, covering the Heritage Transformation Indaba in 2005, various stakeholder and public consultations, three Drafts of the Charter, a Final Draft and Second Indaba, and the final presentation and launch of the HTC. In February 2009 a representative at the National Heritage Council informed me, that the HTC had been completed and submitted to the Department of Arts and Culture for final approval. On repeated request I received the second Draft, dated August 2008 and the final HTC document, dated November 2008. It became quite clear that the actual process of the Charter development did not follow its original timeframe and the eleven steps laid out in the planning schedule of the First

Draft. Also, representation and display of the two Draft HTCs and the final version of the HTC on the website of the National Heritage Council, or any other website like Government websites or the website of the South African Heritage Resource Agency (SAHRA), was very poor to a point of non-existence. The second draft could not be found on the website of the National Heritage Council and could only be obtained after several attempts of contacting the Council by email and telephonically.

Secondly, and resulting from the abbreviated Charter development process, three documents have emerged since the launch of the Charter process in 2005. A First Draft in December 2007, a Second Draft in August 2008 and an apparent Final version of the HTC in November 2008, all of which differ substantially from each other. In fact the final document has been reduced to such an extent that it is difficult to trace the coherence of its chapters and conclusions to the first two drafts.

The two draft documents admit to a number of difficulties in the coordination of the Charter process. Disagreements between the National Heritage Council with service providers committed to the Charter process are mentioned as having led to a lapse of two years between the launch of the Charter process in 2005 to the first Draft HTC in December 2007. Other disagreements would emerge between persons who participated in the drafting of the Charter through advice and expertise, involving issues of procedure, content and competence. I am choosing to merely mention these issues, as much as they might have contributed to the HTC in its present and final form, an interrogation of deeper causes and results are not necessarily and directly part of my research topic, since I am assessing aspects of the HTC in relation to the oral tradition of Lobolo.

It is of course possible to assume, that a different Charter development process might have led to a different HTC document altogether. But as much as this assumption needs the above mentioned interrogation, it is also possible to come to such conclusion by the issue at hand, being the draft Charter texts themselves. As I will demonstrate and interrogate in the analysis of the Charter texts, there are commonalities which point to errors and shortcomings but also constrains, resulting in problematic definitions and

handling of core issues, at times even sheer fumbling. To name a few, the concept of heritage in general and/as well as the seemingly opposed African heritage with what the Charter calls core-elements; the role and standing of traditional leadership in the different Charter drafts; the confused definitions of conventional heritage institutions like museums and archives; the interweaving of philosophical concepts and their questionable application, like Ubuntu; as well as concepts literally popping in and out again, without creating any further context of relevance for them, like ‘creative industries’ and ‘cultural landscapes’.

Introduction to the layout of the Charter

In order to relate to the content of the Charter texts, a broad overview of its structure and layout is beneficial for the understanding of how the texts were generated.

Generally the Charter texts are marked by a fair amount of typing errors and poorly guided text, with interrupted or missing paragraphs. All Charter drafts were national working documents, but the layout and presentation of these documents did not please the eye of the reader. Judging by the visual appearance of the documents alone, one would suggest hastiness in putting the different sections together, if not carelessness at times.

But what is even more crucial is the fact that the discontinuity of thought is clearly reflected in the structural composition of the Charter text, which made it quite difficult to relate the sections of each of the drafts to each other. In order to demonstrate this observation, I have chosen to provide a listing of the structure of each Charter text, in order to allow for some measure of comparison of what is actually entailed in each of the drafts, without providing comments at this point. Personally, for the purpose of analyzing the different Charter texts in relation to each other, I had to flag each chapter and sub-section of chapters in order to gain a proper understanding of the Charter, and not to lose out on aspects which I thought had disappeared from a particular draft text, only to find them incorporated later under a different name and section.

The First Draft Charter introduces the scope of the Charter in its ‘Preamble’ and ‘Preface’. It states basic principles that should guide the transformation of the heritage sector, which cannot be realized unless certain measures are adopted. Priorities are outlined in view and acknowledgement of the significance of heritage, within the Governmental policy framework.

The ‘Executive Summary of Challenges and Recommendations’ lists key functions, challenges and possible recommendations. Some of these key functions are Co-ordination, Integration of living heritage, Funding, Redress, Access, Promotion / protection / preservation, African history and Legislation / policy and Transformation.

Chapter 1 attends to the scope of the charter’s application, applicable legislation and definitions.

Chapter 2 explains the purpose of the Charter and its guiding principles. Its first and overarching principle is ‘Ubuntu’ as cultural philosophy and framework for national identity. Another outstanding principle from the Draft Charter is ‘Batho Pele’, seen to be a work ethics for public servants. The principles of ‘Redress’ and ‘Transformation’ should seek to achieve equity between African heritage and that of European origin. Furthermore there included are the principles of Multiculturalism, Cultural Identity, Diversity, Economic Benefit, Accountability, amongst others.

Chapter 3 describes the decision to develop the HTC, the processes leading to the first Draft Charter, including the timetable, and the methodology used in the Charter development.

Chapter 4 groups the challenges into 5 major themes, which together represent the mandate of the National Heritage Council. It then extracts topics for special attention, including Human Rights and Customary Law, Traditional Leadership, Heritage and Land Reform, Funding Model for the heritage sector, amongst others.

Chapter 5 attends to a review of existing policy and legislation and the objectives of the Charter in relation to these. It identifies the main challenge of clashing mandates between the Department of Arts and Culture (DAC), the National Heritage Council (NHC), and the South African Heritage Resource Agency (SAHRA).

Chapter 6 identifies and explains the various heritage sub-sectors, mainly being Indigenous Knowledge Systems (IKS), Libraries, Museums, Archives, Geographical names and sites, Languages, Liberation heritage, World heritage sites and Symbols and Heraldry, and it lists their Objectives, Challenges and Recommendations.

Chapters 7 and 8 deal with the outline of Implementation, Monitoring and Evaluation.

The Second Draft Charter basically adheres to the same layout as the First Draft. However, there are two noticeable points of change:

Chapter 4 previously listed themes resulting from the mandate of the NHC and resulting challenges and topics of special attention. This chapter now changes to ‘Negotiating National identity and Modernity: Key Policy Considerations’, and deals exclusively with ‘Ubuntu as a modernizing framework within the heritage sector’ and the use of ‘Indigenous Knowledge Systems (IKS)’ to negotiate modernity.

The second point of change relates to the Sub-sectors of heritage and is firstly, the exclusion of ‘use of Indigenous Languages’ as an important resource of heritage; and secondly, the inclusion of the concepts ‘Cultural Landscape’, ‘Digital Heritage’ and ‘Creative Industries’. These concepts have been added quite surprisingly, but seemingly in response to trendy global developmental formulations, and remain quite shallow and unrelated to the overall text of the Second Draft.

The final HTC document differs so extensively in volume and content from the two Draft Charter documents, that its assessment and explanation will be discussed separately from the two drafts, being almost a completely different document of its own.

CHAPTER 4

ANALYSIS OF THE HERITAGE TRANSFORMATION CHARTER

Scope of analysis

As indicated in the Rationale I have limited my analysis of the Charter by applying the example of the oral tradition of Lobolo, as a distinct representative of intangible heritage.

Setting the scope for my analysis, I am of the opinion that only to a certain extent can one attend to living heritage collectively, and that there are sections of the living heritage, such as oral traditions like Lobolo, that can be encouraged and supported with limitations as far as policy interventions are concerned. There has to be cognizance of the fact that indigenous knowledge systems are filled with banal examples of expressions and performances, which cannot be subject to extraction for the sake of policy formulation, but will nevertheless continue to thrive as living heritage through enculturation, communal spirit as well as traditional leadership, which in reality are out of reach of the formal regulated heritage sector.

However, the survival of oral traditions as part of living heritage to a certain extent does depend on an acknowledgement of society and state, as an enabling environment.
It is here, where I see a need and expectation for guidance by a document such as the Heritage Transformation Charter, by acknowledging the space in which the intangible thrives, showing the significance of oral traditions and outlining ways to ensure their continuity.

Themes of analysis

The inconsistency in the three Charter documents, with differing concepts, omissions here, additions there, abrupt statements and fragmented issues, made it quite difficult to establish cohesion across all three texts in relation to the living heritage. Subsequently I

have identified an overarching theme for the analysis of the various representations of oral traditions in the texts of the Charter documents. In concordance with my knowledge gained from the literature review, acknowledging the role of human memory in preserving oral traditions, I have chosen to use the three functions of memory in building cultural memory identified by Assmann (Assmann, J, 2006:39), as a theme of analysis:

1) *Preservation* in poetic, mnemonic form
2) *Retrieval* through ritual performance, and
3) *Communication* during collective participation.

In order to build an argument, based on the fact that oral traditions such as Lobolo thrive and survive as cultural memory, it was crucial to set these themes as parameters to probe the texts of the HTC, if there would be acknowledgement of the characteristics of the intangible and strategies for the continuity of South Africa's living heritage.

A definition of Intangible cultural heritage

Having laid out the scope of analysis as well as the identified themes for analysis, I needed to engage with the concept 'Intangible cultural heritage'.

In its definition of concepts, the HTC refers to a text adopted by the UNESCO in 2001, thereby defining "Living heritage also known as Intangible cultural heritage" as "people's learned processes along with the knowledge, skills and creativity and skills that inform and are developed by them, the products they create, and the resources, spaces and other aspects of social and natural context necessary to their sustainability; these processes provide living communities with a sense of continuity with previous generations and are important to cultural identity, as well to the safeguarding and creativity of humanity".

In contrast, the *National Heritage Resources Act* of 1999 simply made reference to 'living heritage', explaining it as the "intangible aspects of inherited culture and may include –

(a) cultural tradition;
(b) oral history;
(c) performance;
(d) ritual;
(e) popular memory;
(f) skills and techniques;
(g) indigenous knowledge systems; and
(h) the holistic approach to nature, society and social relationships" (National Heritage Resources Act, 1999)

However, the Act "had not covered intangible heritage that was not specifically associated with places and objects" as part of the National Estate (Deacon, 2009:4), but acknowledged their cultural significance for the present and future generations.

The definition developed by UNESCO and adopted in 2003 as the *'Convention for the Safeguarding of the Intangible Cultural Heritage'*, defined Intangible cultural heritage as "the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artifacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity." The second article of the Convention then identifies the domains in which the intangible cultural heritage manifests itself:

a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
b) performing arts;

c) social practices, rituals and festive events;
d) knowledge and practices concerning nature and the universe;
e) traditional craftsmanship. (UNESCO, 2003).

It is unclear to me why throughout the Charter drafting process the HTC would have referred to a definition of intangible cultural heritage, which was still part of the recommendations in 2001 for the then proposed new Intangible Heritage Convention, rather than the text of the resulting Intangible Heritage Convention of 2003. Apart from the fact that the latter is the adopted instrument of the UNESCO to date with regard to intangible cultural heritage, its definition also laid out what this particular heritage entailed, and included crucial aspects which are so outstandingly characteristic to the intangible, being its way of transmission and constant recreation by communities over generations.

Challenges identified in the Charter with regard to Intangible heritage

The First Draft of the Charter laid out at the onset what it regarded to be the main challenges for each of the identified key functions to be addressed by the HTC.
With reference to Living heritage and heritage residing in the oral, the main challenges were found to be lack of appreciation, poor integration, Western bias, marginalization of African heritage, and lack of effective strategies to protect and promote intangible heritage. The draft Charter further stipulated that the dominant Western educational system and the power of the written word were undermining of the heritage residing in the oral. It also found that the mainstreaming and integration of living heritage was hampered by insufficient appreciation within Government as far as the nature and significance of living heritage are concerned.

By identifying these challenges the Charter clearly positioned itself in its stance that the intangible or living heritage was an African heritage, and expressed its commitment to make recommendations for an Implementation strategy that would “promote African heritage and pull it out from the periphery”.

Thematic analysis of the Charter texts

The processes of *Preservation*, *Retrieval* and *Communication* are intertwined and dependent on each other – it is neither practical nor possible to attend to each separately. They exist not only in collaboration but more so in a recurring cycle of events. Therefore I had to identify parameters, which are crucial in such collaboration, and how they would be reflected in the Charter texts.

The preservation of oral traditions resides in memory and language, guarded by custodians of traditional knowledge, expressed in performance and rituals again through language, and shared in the enabling environment of the community, thereby creating the cultural memory of that community continuously. Therefore to know and acknowledge the characteristics of orality, and the roles of language, custodians, community and environment, is essential to uphold the survival and continuity of oral traditions.
In upholding these characteristics, I firstly analyzed the text as it presented itself. To discuss and reflect on it, and therefore engage with its discourse, will be my task in the Discussion and Main Findings of this study.

Language

The First Draft of the HTC successfully identified the importance of indigenous languages by positioning Indigenous Languages alongside other sub-sectors of heritage in an extensive point 6.6 in Chapter 6. It confirmed language to be an important resource of heritage, and instrument of cultural identity. It also listed one of the objectives “to engender a positive disposition towards African languages, especially by the native speakers themselves”.

But already the Objectives contradict the Charter’s emphasis given to the oral living heritage in its mandate, by stating the need “to promote the culture of writing and translation”. This shortcoming is characteristic for the Charter’s ambivalence, as will be demonstrated in the discussion.

Following a further listing of challenges and recommendations a pattern evolves which is characterized by poor formulations, blunt unsubstantiated statements, and a mix of public sentiments and abstract policy formulations. Even justified challenges get lost in fragmentation, like the need for language guidelines and policies in the Education sector, or the historical disadvantage of indigenous languages in South Africa. How for example can a challenge which reads “there is little progress in the preserving, acquisition and transference of information” be understood in reference to the establishment of language units in Government departments? And how can the translation of Government documents into regional languages benefit the least literate and marginalized, in which format should these documents then be presented? What does it mean when a suggestion reads “inconsistency in implementing legislation and the necessary prescripts that target vulnerable groups”, when speaking of indigenous languages? How does the Charter hope to achieve “promotion and advancement of administrative justice” … “made possible by accessing the language of communication, especially by heritage workers”? And can African languages be strengthened by an Objective that states the single importance of a Geographic Names Committee?

Analyzing the following recommendations made by the First draft of the HTC, it becomes quite clear that they consist of a mere listing of arbitrary and unstructured suggestions. These include formulations such as “a dictionary that translates concepts, especially scientific ones for purposes of empowering the less literate”, moving “to ensure that multi-lingualism is developed in communities”, to the “use of African languages in high status functions”, and various policy based prescriptions for the inclusion of languages in Government departments. The Charter text repeatedly calls for widespread professional translating and interpretation services, without mentioning the urgency in the development of standardized African languages, which is the responsibility of terminologists and orthographers and not that of translators, as will be discussed in Chapter 5.

And notably, peripheral reference is made to the Khoisan, to adopt the now commonly used name for the many groupings of the truly indigenous people of Southern Africa,

suggesting funding and training into their culture and languages. There is hardly any further acknowledgement that most aspects of Khoisan life, have been so strongly marginalized that more intervention is needed than what the HTC is seemingly prepared to make room for.

The general use of political jargon reduces some of the valid issues, like the use of "procedures… to ensure that multi-lingualism is developed in communities", training of the youth, "Government should be seen to be implementing its policies", to name some of the expressions.

When studying the preceding Chapter 4, which attends to challenges in the transformation of the heritage sector, the poor suggestions in Chapter 6 should actually come as no surprise. How can one of the challenges, listed under point a) Development, Promotion and Protection of National Heritage, rightfully be "the marginalization of African languages in both the public and private sectors" and the first example to demonstrate this marginalization is to lament that "only about 25% of South African have the competence to make full use of English, which is why access to heritage institutions remains unequal"? Why not lament that many heritage institutions still do not reflect the 11 official languages of South Africa? Is it not crucial to rather establish to what extent indigenous languages are indeed positioned to promote and protect heritage, in order to strengthen their use, instead of measuring the levels of English language proficiency?

Even more disturbing is the suggestion made under point 4.7 Promotion of Cultural Diplomacy in International Relations, which calls for a *lingua franca* "developed from indigenous African languages", the reason given that English has too much colonial baggage to be a unifying national medium. It remains unclear from the Charter text, whether the authors were seeking to develop a *lingua franca* for the purpose of international relations between countries on the African continent, or for the purpose of a national South African language, as the suggestion is made in relation to South Africa's role on the African continent.

The second draft discontinues this discussion on indigenous languages. It merely refers to the aims of the National Language Policy Framework (NLPF) in Chapter point 7.4.7. The Implementation Matrix of the Action Plan only attends to the use of African indigenous languages under the key function “Education, promotion and awareness”. Noting a “limited access to information owing to language barrier”, it goes on to recommend an enforcement of the Language Policy and the use of African indigenous languages in the heritage sector.

Custodians of heritage

Both draft Charters acknowledge the vanishing generation of elders and organic intellectuals, who are regarded as the custodians of ‘heritage residing in orature’, as expressed in the Charter texts. But both texts are finding this to be a threat to Oral history projects only, without mentioning a threat to the oral traditions. I expressed the need to differentiate between oral tradition and oral history in the Literature review, particularly for the purpose of this study.

The first draft has formulated this concern of a vanishing generation as part of the cross-cutting challenges in Chapter 4, identified during public consultations. The second draft incorporated this point as challenges to Indigenous Knowledge Systems (IKS) in a new Chapter 4 of ‘Negotiating national identity and modernity: key policy considerations’, which the IKS share with ‘Ubuntu’ as a modernizing framework.

It is interesting to note that the first draft, under Point 6.1 attending to Indigenous Knowledge Systems (IKS), considers a custodian of heritage a person who owns heritage (rather than guards it) and is the one who transmits it (rather than mediates it). It then goes on to identify the resulting challenge to be the need to “write down such systems … adjusting them to new living conditions and standards, and discarding those that are anachronistic and inimical to national development…”. Ironically the last sentence of the 6.1 Overview, states that “Afrocentrism will be the guiding principle and philosophy in the course of transforming a clearly Eurocentric epistemological paradigm and praxis”. Is extracting and writing down of orally transmitted knowledge systems not part of the very

same ‘Eurocentric epistemological paradigm and praxis’ that the Charter wishes to transform?

Recommendations are made further on to accredit the IKS to the indigenous people, to be generated by them in their native languages. Included here are “issues of initiation, circumcision and other rites of passage”, and the need to consult those who know. The striking inconsistencies in the Charter texts with regard to the handling of the IKS are puzzling, particularly the Charter’s uncertainty as to the nature of the IKS and their standing as an economic resource versus indigenous knowledge system of communities, which will be discussed further on.

Women are offered a prominent role in the IKS, for “they pass on knowledge to their children and share traditions with the next generation” – a role which often used to be reduced to story telling only. Civil society and community based organizations are now being encouraged to revive the tradition of story-telling in family households, and to uncover traditional knowledge especially from elderly women.

Again, and particularly in the second draft Charter text which affords the IKS a separate chapter 4.2, calls are made for the need to restore cultural practices “such as music, dance, food, dress, rituals, festivals … in the face of Western and Eastern traditions” clearly taking a stance for the indigenous, meaning African, to be promoted for “interfacing the modern with the traditional”, with the help of government, private sector and civil society. It then notes a perception that the media “presents skewed versions of Indigenous knowledge and cultures owing to the fact that they are not sufficiently recorded, documented and codified for utilization in modern society”, but offers no recommendations as to how a promotion of the IKS through the media could be achieved.

The second draft Charter at least notes the “enormous odds in negotiating their role in the modern state system”, but acknowledges the right of “indigenous knowledge holders to decide what constitutes their own knowledge, innovations, cultures and practices and the way in which they should be defined and used”. And it identifies the main characteristic

of indigenous knowledge, which is transmission from generation to generation, constantly evolving, dynamic.

Generally though, the presentation of the IKS is characterized by a substantial split, with them being partly a source for cultural regeneration on the one hand, and a resource for economic empowerment of indigenous communities on the other, in addition to the objective to promote IKS as science. Underlying here are certainly more general contradictions and tensions, as well as uncertainties how to differentiate between ideology and economy as possible play grounds for heritage, which I will further attend to in the discussion. Both draft Charter texts adhere to this split, giving the economic benefits more prominence than cultural traditional knowledge, by listing recommendations for intellectual property rights for IKS and relevant programs to ensure inclusive community participation for economic empowerment.

Traditional leadership too is identified as custodians of intangible heritage, together with the need to restore its dignity "within the relevant and existing legislation".
Chapter 4, listing cross-cutting challenges in the first draft Charter, recommends a "clear and meaningful role for traditional leaders … as 'custodians' of intangible heritage". Interesting here is the encouragement for the Traditional Councils to "abandon their discriminatory traditional beliefs about authority and to recognize women as equal participants". This leaves the Charter torn between its desire to pay respect to traditional leadership on the one hand, and its obligation to gender equality enshrined in the Constitution. It is quite evident, that such participation would have to lead not only to the sharing of decision making but also sharing of those parts of traditional knowledge and practices, from which women were previously excluded, obviously creating enormous conflict between tradition and gender equality.

Space and manifestations of orality

The Charter texts refer repeatedly to the "living heritage" and "heritage residing in orature", and their integration, promotion, protection and preservation. Chapter 4 in the first draft rightfully identifies the dominance of a Western educational system, and biases

of the written against the spoken word. But by judging statements of “inadequate institutional capacity to preserve and promote the heritage that resides in orature”, and that other subsectors such as libraries, archives, and museums “lack the technology and the technical sophistication to capture and transmit in oral form the heritage that resides in orature”, uncertainty seems to prevail as to how ‘heritage residing in orature’ actually continues to exist. Equally confusing is point d) of the same Cross-cutting challenges, referring to the “Integration of living heritage in Government structures and functions”, which calls for abilities for imagination when asking for a “culture among public officials to work in integrated settings”, giving the latter as a reason that the integration of living heritage across Government departments remains difficult. It goes further to say that “the word heritage is associated with primitive forms of life”. It seems though, that the actual point of distress has its roots in bureaucratic attitudes and approaches to (heritage) work by public servants.

Oral traditions, including Lobolo, are to a great extent expressed through performance like dance and songs, and the first Charter draft rightfully underlines their importance in the life of African communities. Point 6.1.4 makes specific mention of various forms of festivals and similar celebrations, asking for the promotion of “traditional customs, performances and festivals”, including events celebrating rites of passage like initiation schools. As much as the homecoming of young initiates to their communities are public celebrations, just like Lobolo and *Imvuma* they would nevertheless only apply to the community or groups of families concerned. There is no need to promote these events, as they are an essential part of community and family life already. But moreover, such events do not necessarily lend themselves to be elevated to an even more public event by becoming festival-like celebrations, some are in fact surrounded by secrecy. I feel the Charter texts should have adhered to some form of appropriate differentiation when dealing with different forms of celebrations. Moreover, the main issue still remains when asking for the promotion of traditional customs and performances – how to promote what rests in the cultural memory of a people, a memory which shows signs of loss. That is the point which the Charter was supposed to address through its mandate given by the National Heritage Council with regard to the living heritage.

The issue of heritage rested in land is another of the Cross-cutting challenges in Point 4.6 of the first draft Charter, saying that “Africans relate to land not just as an agricultural asset but as a cultural space … from which African identity is derived”, emphasizing the role of ancestral land as signifier of belonging for African communities. It is again unfortunate that the examples given for the “Consequences and challenges of land dispossession and forced removals” are to an extent quite incoherent and remotely related in their choice. It surely is correct for the Charter to point out, that historical processes of land dispossessions and forced removals have not been accurately reflected. But I fail to see a connection between those misrepresentations and the Charter’s example of the underrepresentation of South Africa as the cradle of all Humankind in history, as a matter of land dispossession and forced removals? How is the poor documentation of the “epic narratives of Zulu history in KwaZulu-Natal”, including famous battle sites, related to land dispossessions and forced removals? And are the authors of the draft HTC in line with progressive discourse particularly in academic research, when they still feel that “the histories of communities have often been treated as isolated anthropological phenomena”, others “still hidden away in unpublished theses and obscure specialist journals”? There might be a case in point for the Charter to caution that access to progressive discourse and academic research are limited in as far as the general public is concerned. But particularly with regard the Charter’s concern that museums and archives have not “sufficiently conserved … historical accounts of African experiences during the period of land dispossessions” there really should have been cognizance by the Charter of the many partnerships of academia and local communities for oral history projects. After all, the Charter has been drafted for more than 4 years, sufficient time, one could assume, to acknowledge these recent developments of history writing in South Africa.

The Charter then goes on and points out rightfully, that “the repressive colonial policies contributed to a lack of … free expression of African culture, rituals, indigenous African religion”, thereby threatening “the preservation of African intangible heritage”. As much as this sub-point is certainly representative of matters of dispossession of land as well, it would in my view be fitting to be mentioned under point c) Protection, Promotion and Preservation of Heritage in Orature in the Cross-cutting challenges of Chapter 4 in the

first draft, thereby acknowledging land dispossession as a matter of dispossession from cultural space.

Cultural landscapes are listed as one of the heritage sub-sectors in the second draft Charter's Chapter 6. It might well be, that Eurocentric themes and motifs have prevailed in a number of cultural landscapes. I would like to believe though, even if underlying to the point of secrecy, each of South Africa's communities outside the European context, would have ties and relationships to certain cultural landscapes of significance to them, a point which I will substantiate in my discussion.

Another landscape being the Mapungubwe National Park, which is certainly not a Eurocentric choice of theme, has been given increasing public attention over the past few years, even to the point of world heritage status. Particularly Mapungubwe can in my view be seen as the representation of an outstanding initiative of South Africa's heritage sector, in partnership with tourism and environment amongst others, to present the making and shaping of an African cultural landscape.

Again, the Charter needed to include more differentiations, as there might be scope for misrepresentation. A stated objective, which is meant "to deepen understanding of the significance of cultural landscapes to cultural tourism and cultural industries in South Africa", might not sit well with those who are practising their traditions in association with a particular landscape – worshipping is not meant to be gazed at by cultural outsiders. As much as cultural tourism is crucial in fostering and understanding of a people's culture, thereby possibly contributing to a better global understanding and respect, it is equally essential to observe and maintain cultural integrity.

Oral traditions and values

Oral traditions are shared through public performance by members of a community - that is the way in which they are communicated and shape cultural memory. For this cultural memory to continue to exist, community spirit is essential for the survival of the oral

traditions, and the concept of “Ubuntu” is seen to be crucial in order to maintain the essence of the African community.

In Chapter 4 of the second draft Charter, Ubuntu is presented as a key policy consideration and as a “modernizing framework within the heritage sector”. “The African philosophy of Ubuntu, which privileges communal rights and interest over and above the rights and interest of the individual” is seen to “address the manner in which the heritage sector creates an enabling environment” for the “core elements of African cultural heritage that are non negotiable”. The challenges in this process, amongst others, are seen to be the “alienation of children and youth from their African cultural heritage” and the fact that colonial and Apartheid policies have “contributed to the loss of African identity, disintegration of African families, and the disruption of cultural values, in general the distortion of African cultural heritage”.

The second draft Charter text then recommends how to overcome these challenges, by assigning a significant role to traditional institutions and leadership. Elaborating on this role the Charter text pins very high hopes on the role of Ubuntu when it expresses its view that traditional institutions should “promote freedom, human dignity, social cohesion and the achievement of equality and non-sexism”. Especially the latter may still remain contested by the very traditional leadership, who claims ownership of the principle of Ubuntu. And as much as the Charter calls on traditional leadership to relinquish some of its authority, it leaves certain contradictions such as the aforementioned open for further debate in the final version of the HTC, which will be demonstrated further on.

Again, the recommendations in point 4.1 with regard to Ubuntu, are fairly arbitrary. Most striking for me is the Charter’s continuous merger of Ubuntu as a matter of identity and as part of an African philosophy on the one hand, and the perceived overarching capacity of Ubuntu to resolve the existing socio-economic dispensation on the other, which I will follow up in my discussion.

Summary of analysis

From the onset, judging by how the task was presented, and the authors and stakeholders involved, it became evident that the draft HTC was confronted with a variety of internal issues from the heritage sector. While the Heritage sector provided its mandate, external issues of socio-economic and post-colonial nature have also impacted on the drafting of the HTC, where the latter must be seen to provide powerful and concrete dynamics through which the HTC had to be negotiated.

It might be for the above reasons that the Draft Charter, in its first draft's 'Overview' to Chapter 4 'Cross cutting challenges', oriented itself "towards the solution of real world problems and not engaging in purely academic debates that characterize formal, policy studies". But public workshops and consultations certainly confronted the authors of the Charter with challenges, concerns, shortcomings and problems pertaining to the heritage sector, which are so closely connected to South Africa's colonial and Apartheid past, finding their reflection in the present.

Issues of land and belonging, education, language and identity, gender and tradition, freedom of diverse expression, are overarching issues of national concern. Therefore, considering the complex nature of a national document such as the Heritage Transformation Charter, clarity, grounded debates and engagement are crucial to unpack challenges and suggestions, hopes and realities, problems and solutions.

Given the unambiguous mandate of the National Heritage Council regarding intangible heritage, and promoting the development of living heritage projects, I had expected a strong emphasis on how to achieve this mandate. Instead both, the first and second draft Charter texts appear fragmented in their handling of the intangible. The Charter certainly has identified matters of importance especially for intangible heritage, which are language, custodians of heritage, performance, land, traditional value systems. But I found in my analysis, the draft Charter texts did not position themselves to reflect accurately and adequately on these matters in relation to oral traditions, although they are

such integral parts of particularly African heritage. The reasons for this may range from ignorance about definitions and concepts, to disregard of clarity and precision. And although the Charter places itself so strongly in the Africanist agenda, it seems unable to pave the way for the intangible African heritage within that agenda.

Consequently, I will raise the above points in the following discussion in order to demonstrate how the Charter fails to give expression to what can be considered the essence of African culture, namely the oral traditions.

Introduction to the final version of the Charter

On the 26 May 2009, four years after the initial Transformation Charter Indaba, the National Heritage Council released the final version of the HTC to those organizations, institutions and Government departments, who had participated in the various consultative processes. The distribution of the HTC happened by email, and recipients were asked to sign an “Endorsement of the Heritage Transformation Charter by Stakeholders”.

The final version of the Charter consists of a drastically reduced document, scaled down from 143 pages of the first draft Charter, 99 pages of the second draft Charter, to 9 pages, dated 29 November 2008. With the presentation of the final version of the Charter, the HTC has certainly completed the process from an extensive discussion document to a policy guiding Charter document. Its shortness is therefore of no concern, but should in fact simplify accessibility of this document in practice. But the final version of the HTC presents itself only as a rough essence of the preceding draft Charter texts, cross cutting through the various sections, extracting more or less relevant points.

The ‘Preamble’ from both Charter texts remains, stipulating the ‘objects’ (or should it rather be the objectives) of the National Heritage Council. It also includes ‘Values’, some of which were explained under ‘Principles’ in the second draft Charter, and it includes ‘Principles’, set to guide and inform the Charter. The ‘Rationale’ of the Charter expresses

its trust, “to transform the sector as a whole”, by providing a “framework of principles and mechanisms that should underpin the preservation, protection, promotion and transmission of heritage in the next five years”. The ‘Scope of Application’, as in both draft Charter texts, includes various conventional as well as extended heritage institutions, and it lists the ‘Obligations of the state and the citizens’. Definitions are then provided for concepts which the Charter wishes to acknowledge, being ‘Charter’, ‘Heritage’, ‘Culture’, ‘Living heritage also known as intangible cultural heritage’ and ‘liberation heritage’.

In Point 4 the ‘Methodology’ for the development of the Charter is explained, listing the various forms and forums for consultations, concluding that the “views expressed in the Charter are therefore based on the inputs from the … public consultative processes”. Incorporating the most important ‘Undertakings’ into Point 5, a number of issues are attended to, such as ‘Heritage policy and legislation’, ‘Mainstreaming living heritage’, ‘Redress’, ‘Safeguarding, preservating (Charter text) and promoting heritage’, ‘Use of Information Communication Technology (ICT)’, ‘Indigenous Knowledge Systems (IKS)’, ‘Human Resource Development’, and ‘Heritage and socio-economic development’.

In a conclusive Point 6 the Charter text lists a number of “Issues for further debate”, mostly relating to ‘Ubuntu/Botho’, ‘Human Rights and core African values and practices, African culture, Traditional leadership and Customary Law, and the land question.
The last sentence of the Charter is the Declaration, stating “This Charter if embraced and implemented will transform the sector, deepen democracy and promote social cohesion”.

Analysis of the final Charter document

What is a Charter?

The Charter positioned itself against the aspirations of the Constitution and the Freedom Charter, aiming to contribute to harmonizing policy by offering a framework to develop South Africa’s heritage.

The use and concept of ‘Charter’ has become universal, indicating a document of principal importance. The expectation of a Charter would be to set forth aims, purposes and undertakings for a common cause, being quite an overarching and bold document. When looking at various Charter documents, be it the Freedom Charter of 1955 as a classic example, or Charters like the “African Charter on Human and Peoples’ Rights” of the Organization of African Unity in 1986, or even a very specific and practical oriented Charter like the “Charter on the preservation of the digital heritage”, adopted by the UNESCO in 2003, it can be observed that these documents are guided by very structured themes and principles, their contents further elaborated in articles. Expression and language are seen to be clear, strong and purposeful to the task.

The final HTC has adhered to the structure of a Charter by laying out its terms of reference, scope, objectives and participants in the drafting process. But the document appears fragmented, insufficient and inconclusive, thereby lacking the essential attributes of a Charter. To demonstrate the flaw of the final HTC document will be the subject of the following discussion, as well as in Chapter 5.

Living heritage in the Charter

‘Mainstreaming of living heritage’ is one of the sub-points of the Chapter 5 entitled ‘Undertakings’, and seems most relevant to the oral traditions. Fortunately and regardless of the gradual downsizing of the Charter texts, both draft Charters as well as the final version of the HTC have provided definitions of some of the concepts in the Charter. It is for these definitions that at least there can be no doubt that the provided definition clearly attends and refers to “Living heritage also known as Intangible heritage”. The reason for my uncertainty about Chapter 5 lies in the unfortunate fact that the items attended to are only two, being very briefly, ‘Cultural diplomacy’ and ‘Cultural festivals, ceremonies and performances’. To what extent would it benefit the living heritage to “establish an agency in the Department of Foreign Affairs that will be responsible for the development and management of policy on cultural diplomacy, with a second paragraph to the same effect? And is it really sufficient for the promotion and survival of living heritage to “develop criteria for integration of cultural festivals, ceremonies and performances into the national

calendar of events"? These two points are all there is for the living heritage – no education, no guardian, not even the aspect of indigenous languages seems important to mention. Instead, the aspect of language appears as one sentence under the further following point of 'Redress', merely expressing a need to "accord all official languages, especially indigenous languages a significant public role".

Again, under the next sub-point of 'Safeguarding, preservating (Charter text) and promoting heritage' there could be an appropriate incorporation of oral traditions and intangible heritage. Instead, the Charter text only identifies a need to "Document and safeguard the core elements of African heritage by promoting every form or genre of heritage in each province".

The sub-point 5.6 attends to 'Indigenous Knowledge Systems (IKS)', a point which should also have found incorporation under 'Living heritage'. Nevertheless, reference is made to the protection of the IKS in the form of a "framework for the application of access benefit sharing agreements as well as "norms and standards for accreditation of IKS holders". The third point, which in my view is crucial to the survival of oral traditions, suggests to "mainstream South African heritage and indigenous knowledge systems in the core curriculum across the education sector". But what should have been a matter of 'mainstreaming living heritage' becomes less than a sub-point, sidelined by the possibility of economic benefits of the IKS for the holders of indigenous knowledge.

Issues raised in the Charter for further debate

The issues which have been raised for further debate in Point 6 are representative of the public opinions and sentiments voiced at various Charter consultative events, and should be crucial to any discussion around the standing of African traditions.

It seems to me that the topics raised here are more fitting to be matters of 'Undertaking' and 'Redress'. Some, like 'Ubuntu/Botho', are seen and expressed in the final Charter text as being in fundamental conflict with the country's Constitution, to such an extent, that a Constitutional Review should be considered. Also, after a number of consultative

seminars throughout South Africa, the HTC concludes that the global understanding of Human Rights and core African values and practices still remain in conflict and unresolved. I will follow up on particularly these issues of Ubuntu, Human Rights and African values in my discussion of the Charter. The absence of guidance for resolution in these matters by an overarching document such as a National Heritage Charter is striking.

The HTC further claims that the role and standing of African culture has been eroded and is in need of restoration and incorporation into this "democratic and developmental state". The same applies to the position of Traditional Leadership, whose dignity as custodians of heritage has been challenged, says the HTC, calling for a debate around the importance of traditional leaders in a modern state. I assume that this is what the Charter text wishes to express, since the exact wording of this issue says that the "restoration of the dignity of the institution of Traditional Leadership as custodians of heritage has been challenged". But unless there is a glitch in the Charter's formulation the interpretation of this issue from the Charter and its implication could go either way. There should be concerns with regard to a conflict of governance between traditional authority and the modern state, and the Charter might not be in a position to voice these, as it has to attend to popular sentiments. But considering the representation of the Africanist agenda at the consultative meetings, and also considering present news and discussions in South Africa around polygamist marriage, one could also argue that the authors of the Charter actually meant what they said.

The last point raised for further debate is the Land Question, which the HTC clearly expresses to be central to heritage. However, the focus to me is not entirely clear when the Charter states "competing claims of land ownership by conquest and colonialism against ownership by birth and inheritance (primogeniture) have still to be reconciled." What is probably incorrectly used here is the word "against", because in actual fact there are two issues at hand, which are closely connected, but not necessarily to be juxtaposed. Therefore it might be appropriate to include this point in the following Discussion and Findings.

CHAPTER 5

DISCUSSION AND MAIN FINDINGS

General observations

a) Judging all drafts and the final version of the Charter, it becomes quite clear, that this document has developed into a near-exclusive Charter on African heritage, as indicated earlier in the study's Rationale. The question of 'what is African' does not in my view need further definition for the purpose of this study, even though there is much scope for a public debate on what constitutes 'African' particularly in the South African context. And although the Charter has made the assumption, that 'African' means 'black' and of African descent, it is obvious that it does not represent the overall public opinion on this issue.

   The one point of the Charter's Africanist position is quite outstanding though, in that all three Charter texts specifically emphasize the need to achieve equity between African and White heritage, a thread that can be followed throughout the Charter process. In fact, to a certain degree the draft Charter texts extend the need for equity of African heritage to the actual rejection not only of European and Christian heritage, but with reference to Eastern heritage as well, certainly meaning Indian (It becomes quite apparent that any naming of population groups in South Africa ends up crippled by Apartheid definitions of the past, but nevertheless definitions, which are still commonly adhered to). To make recommendations for the IKS under point 4.2 in the second draft Charter "in the face of Western and Eastern traditions", lacks as much reassurance for diversity as the first draft Charter's juxtaposing of the legacy of the IKS of being "dismissed as mythology as opposed to Western or Eastern knowledge systems which are defined as empirical and scientific", ironically dealt with under point 2.5.7 Diversity. Not only are these expressions filled with mere discontent, but when reading through the Charter texts, one also realizes that the suggestions

made to achieve that equity often remain quite populist in character, expressing nearly exclusively sentiments of fundamental importance to common people particularly of African descent. For the Charter to remain within this mode is unfortunate, given the seeming urgency of the agenda of equity and diversity, which calls for a critical and substantiated engagement with issues of identity and culture.

b) In relation to the above point a) there needs to be careful cognizance of the mandate of a national document such as the HTC. Firstly, can we associate intangible heritage with African heritage only, when there is such diversity of cultures in South Africa, with each of them having their own elements of intangible heritage? And secondly, again, should a national document not be inclusive in its formulations, approaches and suggestions?

   South Africa's diverse cultures and heritage were visibly neglected in the Charter, to the point of exclusion, from the very first draft right through to the final text of the Charter. These observations led me to conclude that the HTC seems to carry the mark of those who were instrumental in its formulation, in disregard of the more diverse inputs and concerns which the Technical Team must have received from various stakeholders and consultative workshops.

c) The interchangeable use of 'indigenous' and 'traditional' for the representation of 'African' has in recent years gained a different momentum. These terms would have previously understood to suggest that 'indigenous' and 'traditional' by being non-Western are primitive. In the new Africanist discourse it seems that 'indigenous' and 'traditional' have taken on a whole new meaning, as a matter of a new African identity and belonging, thereby becoming synonymous for 'African' and 'anti-colonial'. And whilst these are developments which are encouraging for the previously excluded and disadvantaged, there also needs to be caution that these understandings might now lead to new extremes in rejection of anyone who is 'non-indigenous' and 'non-traditional'.

These sentiments could be observed in many heritage sector meetings, where exclusion rather than multi-cultural inclusion has become quite remarkable. In fact, some views expressed at consultative meetings of the Heritage Council just fell short of an open rejection of this post-colonial state altogether, essentially calling for accountability to the African ancestors only. Particularly representatives of the Council of Traditional Leaders clearly accused the South African state and its African leaders of failing their tradition, thereby failing the African people in this country.

Ironic in this process of re-positioning identities is that the actual indigenous people of South Africa, being the Khoisan, are sidelined and even forgotten, which was confirmed by some of the representatives of the Griqua communities at the HTC consultative meetings. There seemed to be a certain degree of pity towards the fate of the Khoisan, that 'they had lost their land and their language', meaning that as a people they no longer existed anyway.

d) The Heritage Transformation Charter seeks to address the South African heritage sector. But as much as heritage plays an important and overarching role in all sectors of South African society, it does not in my view have the capacity to change the capitalist economic dispensation of this country. The Charter grossly neglects socio-economic realities when it puts heritage in a position to provide overarching solutions for the ills of society, most of which are the result of economic disempowerment.

Having said that, there is no doubt that communities must be encouraged to develop the capacity and means to empower themselves through their heritage, as there is scope for communal gain through heritage projects. Recent national and to a greater extent international debates suggest that culture and heritage link strongly to socio-economic development (Deacon, 2009), and that the potential of culture is still missing from the outline of achievements for the Millennium Development Goals. Many community based projects, cultural villages and

various forms of heritage expressed through art already bear witness to the opportunities offered by the heritage of a people. Still, there should be no doubt that many of these opportunities are also subject to complex economic processes and dependencies, which determine the sustainability of their success. I would like to extend this discussion to the following point of 'Ubuntu'.

e) The concept of Ubuntu in particular is highly placed in the Draft Charter texts as an idea which is central to an understanding of morality and ethics in African philosophy. Its application is meant to raise the necessary consciousness and awareness within South African communities, for a better and just society, through tolerance, respect, forgiveness and caring amongst all people.

   But remembering the painful days of xenophobic violence, which played itself out mainly amongst the poor segments of the population, should serve as a valid case in point that Ubuntu fails people who are completely economically excluded. During one of the NHC's consultative seminars, participants were encouraged to develop suggestions as to how Ubuntu can be used particularly to inform economic policy for the betterment and empowerment of poor communities in South Africa. In my view it is necessary to caution strongly against such application, by arguing that the essence of Ubuntu is intrinsically opposed to the characteristics of a capitalist economic dispensation, and that any reference to Ubuntu in such context leads to either a romanticized approach to 'create' a better society, or a reformist cover up of the present economic status quo in South Africa.

f) With regard to Ubuntu as a national framework, I am not sure to which extent this philosophy can indeed be prescribed to the overall population of South Africa. It should not be forgotten that every community in this country had developed their own mechanism of survival over generations, in accordance with their own history and experiences - be they Afrikaner, Indian, Coloured, Khoisan, Cape Malay or British, taking along knowledge from their own forefathers. And

> because South Africa's past is so much characterized by division among its various communities, these mechanisms would have developed very strongly and very specifically, leading to equally strong definitions of identities. It is in my view questionable for the Charter to insist on the prescription of Ubuntu as a 'national philosophy for all', as it will risk rendering this certainly noble concept to become dogmatic and meaningless in its application.

Again, it might be the populist expressions in the Charter texts which have lead me to make these above observations.

g) In direct relation to the above, and considering the status given to the Heritage Transformation Charter by the National Heritage Council, as a policy informing document for the transformation of the entire heritage sector, there needs to be cognizance of the general structure, content and substance of the various Draft Charter texts, particularly with regard to its discursive elements.

   Having introduced myself to a policy type document in the making, by analyzing the Draft Charter documents of the HTC, I must mention that I am certainly a newcomer to policy writing. However I do hold views and opinions about the Charter texts, which are informed by my own knowledge base, work and general life experience.

   Reading up on Public Policy writing in South Africa, I can therefore relate to Wissink's question of whether or not morality plays a role in public policy making and whose values and moral considerations are being emphasized in the policy process. There are conflicting values in heterogeneous societies such as South Africa, which are surely bound to create difficulties (Cloete & Wissink, 2000:73). Certainly, there has to be cognizance of the fact that the perception about Western norms and standards is such that they are seen to be conflicting with African traditional value systems, which complicates policy writing in South Africa.

> Furthermore, I fully understand Cloete in essence when he says that there has been a paradigmatic change in public policy from Western, industrial, colonial policy approach until 1990, to a focus on poor, indigenous communities and less on traditional 'civilized western' norms and standards after 1994 (Cloete & Wissink, 2000:90). He goes on cautioning that this paradigm shift will have dramatic effects, with unclear and contradictory policy objectives as one of many obstructions to successful implementation. And as much as these excerpts can easily suggest notions of superiority of western norms and standards, for me it is merely for the 'unclear and contradictory' handling of issues, that I find general reasons of concern about both Draft Charters as well as the final version of the HTC. As I will demonstrate in my discussion, and my above mentioned reservation about Ubuntu can be seen as one case in point, the Charter like many political statements in South Africa today, finds itself in a position that it has great difficulties reconciling social aspirations with the present economic dispensation.

Discussion and Findings

Having analysed the texts of the HTC, a number of issues emerged which require engagement and critique. I have grouped these issues into themes which are relevant for the representation of intangible heritage in the HTC, being a) the recognition of the space in which oral traditions exist, b) an assessment of conventional heritage institutions in relation to oral traditions, and lastly c) the continuity for oral traditions through transformation in society.

a) Recognition of the space in which oral traditions exist

Language

The space, in which the oral traditions exist, is the spoken word, which is why meaningful language policies are essential for good language practice. The promotion and standardization of African languages in South Africa have been driven by two institutions, the National Language Service of the Department of Arts and Culture (DAC)

and the Pan South African Language Board (PanSALB). The process of standardization and term creation happens according to ISO formulated guidelines, only to be realized in a highly controlled environment (Taljard, E, 2008).

There are a number of initiatives regarding the standardization of African languages to a Standard language, which is defined as being "a relatively uniform variety of a language which does not show regional variation, and which is used in a wide range of communicative functions … observe prescriptive, written norms, which are codified in grammars and dictionaries." (Swann cited in Lafon, M and Webb, V, 2007:12). It is important to note that the authors caution that Standard languages are only one of a number of varieties of a language and should not be elevated above other varieties, because "communities have a large variety of needs, [and] need to perform very many different communicative functions with language", therefore Standard languages should only be given a relative importance (Lafon, M and Webb, V, 2007:14).

It is certainly within these many other varieties of languages, where oral traditions strive, making an indigenous language not only a tool of communication but a storage house for the intangible. As far as heritage is concerned, the HTC should be careful to what extent it wishes to standardize a language and which other encouragement is needed over and above, in order to nourish communities' spoken languages as part of a cultural memory. The HTC must make a clear distinction between the development of Standard languages for "high-function" formal contexts, such as teaching, government announcements, legislation, courts (Lafon, M and Webb, V, 2007:11), for the advancement of science in indigenous language use on the one hand, and for the nourishment of community-spoken language varieties for cultural identities and social fabric on the other. If such differentiation is not observed, policies of enforcement of Standard languages will silence the realities of community life (Cook, S., 2007:29), as the teaching of cultural value systems will not be addressed adequately by the use of a Standard language, which was demonstrated in the study of the above authors.

With regard to the promotion of the African languages, mentioned by the Charter as a point of much consternation, lessons can perhaps be learned from Afrikaans, for it became an instrument of identity, coupled with a feeling of pride and loyalty (Lafon and Webb, 2007:17). Putting Afrikaans' history of oppressive language legislations aside for a moment, Afrikaans developed from a low level to a fully-fledged standard language, through a largely top-down, albeit politicized process. Nevertheless, it certainly advanced Afrikaans.

Concerns have been raised by participants of the Heritage Council's consultative forums as to what advice can be given to a knowledge holder who cannot read or write, and is therefore excluded from formal Heritage related activities, but who respects and knows his/her culture and traditions. Katuu finds that schooling in written literacy enforces conformity, and becomes in modern times the most powerful social instrument in good and evil – access to knowledge – further saying that this is why there is a need for empowerment of oral ways of knowing (Katuu, 2003:93). This argument links to Nabavi's anti-colonial stance about the Eurocentric dominance of knowledge systems. In the Charter the issue of illiteracy as well as fairly low levels of literacy in South Africa does not come through as matters of 'opposing' knowledge paradigms, which is regrettable. Would there have been sufficient and clear engagement with this issue, there might have been a possibility to pave the way not only for the acknowledgement of the oral ways of knowing, as mentioned by Katuu, but also to find new ways of education incorporating the oral, thereby acknowledging powerful traditions and rich indigenous knowledge.

Having just engaged in the complex issue of language development, the Charter's suggestion about a *lingua franca* seems even more remote. Again, there is a lack of clarity in the draft Charter text, if the Charter meant to refer to a *lingua franca* as a possible inner-South African national medium of understanding, or if it meant to refer to a medium of communication on the African continent as a whole. Assuming the former, how would each of the rich African languages in South Africa be compiled to a *lingua franca*, to be spoken by which linguistically mixed communities? After all, South

African realities are such that each of its languages is a strong part and expression of identity in South Africa, language is therefore a highly politicized matter, and fusion not an option. Of course, given the Charter's Africanist stance in this polemic, the assumption here can be that such *lingua franca* would be comprised of African languages, excluding the language of the former colonizers, being English and Afrikaans.

South Africa's colonial history saw English and later Afrikaans imposed to become overarching languages in all spheres of life. But should these languages, which today no longer serve as tools of oppression but have the capacity to rather be mere tools of communication, nationally and globally, should they really be replaced by an artificially developed *lingua franca* in order to satisfy post-colonial sentiments?

Custodians

Years of colonialism, oppression and violence have eroded and destroyed the fabric of African communities; Apartheid policies have split the African family between the Homelands and the mines and industry; the youth became disillusioned with the elders; traditional leadership was corrupted and used by the state – a long and painful list. For the HTC to merely state that the elders and organic intellectuals are vanishing together with their knowledge, that traditional leadership should be encouraged and women be empowered and respected, does not in my view address the enormous challenges in this country.

To empower communities economically, re-strengthen the concept of a family and re-establish the disrupted generational patterns, would eventually lead to healthy, functioning communities, and guarantee the respect for elders as the Living Human Treasures in communities. These are processes which cannot be resolved by merely certifying the Treasurers of living heritage, as suggested in the draft Charter text.

Referring to matters of seniority and respect which have to be observed by oral historians when conducting interviews in communities under traditional leadership, Phillip Denis found that "In traditional African societies a long and complicated process

regulates the access to senior people" (Denis, P, 2007:40). That is how knowledge transfer is guaranteed, by upholding the ranks of the custodians of cultural knowledge. And without the learned respect by the young members of communities towards their elders, the standing of the elders is no longer ensured, the fabric of society crumbles. Again, true economic empowerment is key to the upliftment of communities and therefore crucial and a foundation for the survival of custodians and oral traditions alike. South Africa in my view practises an amazing balancing act when it comes to the role of traditional leaders alongside the state's global legislative framework and governance. The most representative debates around traditional leadership, referring to African values, law and culture, are incorporated in the final HTC as "Issues for further debate". However, a strategic and far reaching document such as a Heritage Transformation Charter should in my view have disentangled and incorporated these as matters of undertakings and redress, thereby guiding the process of engaging as well as firmly directing such debates – it is a Charter after all.

Particularly in recent years the role of traditional leadership in a modern state has been challenged, questioned, discussed, dismissed, upheld, demonstrated – it remains a topic which engenders considerable conflict. The youth in areas under traditional leadership in particular are engaged in a substantial split over whether to support or abandon traditional rules and governance. The ongoing discussions in the South African media and literature around male circumcisions are just one, albeit a very valid case in point. But despite an increasingly articulate public discourse, matters of traditional leadership remain powerful and influential especially in the rural areas, and I will engage this topic under point c) around the transformation of the heritage sector.

Space of the intangible

Observing the Charter's relationship to the space in which the intangible heritage exists, it seems that every attempt to 'save' or 'preserve' indigenous knowledge and culture, goes by suggesting that they are not sufficiently 'recorded', 'documented' and 'codified' for utilization in modern society. And although the Charter does not run short of acknowledging the damaging influence of European colonization, it does at the same

time move the handling of the intangible heritage into the European paradigm of the written record, even the digital world. I will continue this discussion under the point dealing with the Archival institution.

As far as the Indigenous Knowledge Systems (IKSs) are concerned, it is certainly of utmost importance to insist that the IKS must benefit the originators of that knowledge and that the time has come to give due acknowledgement to the possibilities which the IKS hold in terms of economic gains. But it is regrettable, that at the same time the HTC does not ensure that the foundation on which the IKS rests, is well attended to, which are the oral ways of transmission, its custodians and the communities practicing them in their environment.

Land as cultural space

One of the issues identified by the final HTC for further debate is the land issue, as land is also cultural space. Before attending to the lack of clarity in the HTC's Point 6 on the Land Question, I would just want to raise a concern about the fact that land in South Africa is still subject to acquisition by foreign buyers. Arguing that a country's land is central to its existence and wellbeing, in addition to it being part of the heritage of its communities, why is it that the HTC is not at the forefront of opposing foreign land acquisitions?

As far as Point 6, attending to the reconciliation of the land issue in South Africa is concerned, there is no doubt that the wrongs of the past committed through colonial conquest of land and Apartheid laws, have to be corrected. But issues of land ownership through birth and inheritance are different to land in relation to primogeniture, as expressed in the final HTC. In the African context land is characterized by communal ownership, its allocation directed by the chiefs – in other words, there is no individual claim to land ownership, but claim by 'a people'. It is here, where the term primogeniture can be applied rightfully, relating to ancestors and forefathers, which is why graves have always be important markers in land claims. But the use of "ownership by birth and inheritance" does in my view not necessarily relate to the term "primogeniture", as

ownership by birth and inheritance can also relate to individually acquired ownership. If for example any ‘Non-European’ had bought land of which he was dispossessed through the Land Act of 1913, is a different case as opposed to communal land as a cultural space. For the protection of heritage resting in land as cultural space, this differentiation needed to be made.

Again I am making this observation because of the Charter’s lack of precision in its use of language which does leave these spaces of interpretation and interrogation.

Somewhat related to land as cultural space, I will raise the role of cultural landscapes further on in relation to the transformation of the heritage sector.

Festivals and celebrations

Another of the issues raised by the Charter is the need for festivals and the celebration of African customs and traditions. Apart from my view about differentiations in the way in which customs and traditions lend themselves to broader celebrations and community activities, I am certainly in agreement with the Charter that there is much scope for the development of indigenous festivals and celebrations. For example, why not have African fruit festivals such as brewing events from the indigenous Marula fruit, and others related to the natural environment of communities - ideas and initiatives are needed. And there should be no lamenting by the draft Charter texts, that the different communities around South Africa have been able to uphold their heritage through local or even national celebrations, be they European, Indian, Coloured or Christian (using the much familiar terms of division used throughout South Africa and the Charter text). Whatever circumstances or just mere perseverance have maintained the survival of heritage events in those communities, the HTC could be terribly mistaken, if it was found complaining that these communities have ‘their festivals to show’ and African communities lack such public occasions. Any re-discovery, upliftment, encouragement and celebration of African tradition should never be found to play itself out against jealousy and the suppression of South Africa’s diverse heritage.

b) Assessment of conventional heritage institutions and to oral traditions

Throughout the Charter texts, reference is made to conventional methods of storage and preservation, suggesting that there should be processes and institutions to ensure the survival of the intangible through capture, storage and thereby preservation – the contradictions relating to these suggestions have been alerted to in Chapter 1, and discussed in relation to the HTC.

Presentation of the heritage institution 'Archive'

My first (and lasting) observation of the Charter's presentation of the Heritage sub-sector 'Archive' is one of misrepresentation to the point of incorrectness, coupled with an attitude of forced acceptance.

Already the definitions offered by the first and second draft Charter texts are of concern, considering once more, that these Charter texts are drafts but nevertheless had the status of nationwide discussion documents.

The first draft merely called archives to be "viewed in the main as sources where people have written documents down and not much on preserving what exists". The second draft gave at least an overview in which "archives are viewed in the main as institutions where the proper management and care of the records of governmental bodies, and the preservation and use of a national archival heritage are kept". But the same draft text goes on and shatters its effort by listing Objectives which are not only incomplete, but also incorrect and incomprehensible. To name a few, the first objective "to preserve the biographies of the struggle heroes and heroines" is only a fracture of the objectives of an archive, even in South Africa; further, it is not the objective of the archive to "provide skills for internship training" and it remains unclear what the Charter text refers to when saying "and those who need archival knowledge of decoding and hermeneutical studies"; it is a very simplistic expression for a Charter text to state an objective which reads "to preserve documents and prevent them from fading"; and it is certainly not the objective of an archive to "provide infrastructure and books in electronic and visual formats".

The Charter's naming of challenges faced by the Sub-sector Archive can be approached with caution, again due to inaccuracy and lack of differentiation. In fact I chose to rather concentrate on the second draft Charter, as the first draft text renders itself to severe shortcomings, to say the least.

There certainly is a skills shortage in the archival sector, but to state that "there are few qualified people to render the service" does not do justice to archival staff. The latest draft report entitled 'The demand for and supply of skills in library and information services, archival services and records management' in South Africa, which was made available online by the Department of Arts and Culture in January 2010, attends to the critical challenges in the sector, particularly with regard to infrastructure, levels of service, lack of staff amongst others. But the draft report also looked at various qualification levels in the archival and library sector and found, that "45,7% of the archivists held qualifications at NQF Level 8 and above – i.e. masters or doctoral degrees – while another 21,2% held NQF Level 7 qualifications." (Department of Arts and Culture, 2010). These qualification levels are certainly not the result of recent developments since the release of the HTC, one can rather assume that the authors of the HTC have not made the effort to draw on qualification statistics in the archival sector at the time.

Also, differentiation needs to be made, particularly when mentioning Government record keeping, between records management and archival management.
Further on, an acknowledgement is made of "inadequate electronic record management", which is only one of the problems of records management in South Africa.

Judging by the archival landscape in South Africa, particularly private archives, it is not entirely correct to say that "collections in archives are not representative of the diversity of South African culture". Did the draft Charter rather want to make reference to the under- and misrepresentation of African history? Again this will remain unknown.

The recommendations given for the Archive are somewhat more elaborate in the first draft text, although some few points are again difficult to relate to, either for use of language or ignorance.

To promote archival training, Governmental attention and funding is encouraging and necessary. But again, and related to the promotion of African languages, unclear is the draft Charter's point to translate archival material into local languages in order to make them accessible. This suggestion would beg the questions 'into which of the 11 official languages?' and 'which of the thousands of collections should be the chosen ones?'. Even to make an overview in local languages available per collection, as suggested by the Charter text, is not a feasible solution for archives. Archival research is based on the content 'hidden' in its collections, often dispersed across hundreds of documents.

Outstanding is the suggestion by the draft Charter texts, to make heritage part of a broader national curriculum, including aspects of the continuity of the archival tradition, certainly amongst others. Furthermore, although expressed within the section about the Sub-sector Archive, the accreditation of "organic intellectuals and [to] fully utilize them as mobile encyclopedias, archives and libraries", acknowledges their standing as archives in their own rights. Particularly in these two points is much scope for further recommendation, which will form part of the discussion below.

Discussion of the heritage institution 'Archive'

From a conventional view point, the oral and intangible seems contrary to the archive. Also, the discourse around memory and the intangible in recent years has evolved around the question as to what extent can living heritage be 'stored' in the institution archive with the status of a collection, when in fact the memory which facilitates its transfer, is considered an archive in itself. Again, by disengaging the intangible content and placing it as a physical item in an archive, do we not 'discriminate against the originating community', as expressed by Edwards, Gosden & Phillips, having dislodged their cultural memory? These might be very abstract questions, but the issue remains as to what purpose we serve by creating what Katu called the 'surrogate archive'.

Related to this discussion is the format for any capture and storage of intangible material, and which medium do we effectively use for ‘our ways of storage’. Do we produce transcripts of the oral stories, histories, and traditions or do we render these to the digital world? Either way, we are coming back to Katu’s discussion of the surrogate archives. To argue that we need to preserve what is endangered also needs to take cognizance of the fact, that both, physical as well as digital storage can be considered unstable.

The above discussion does not want to negate the work and engagement with the intangible, as I have already pointed out, that differentiations between the oral traditions and oral history, as well as differentiations within the oral traditions must be recognized. Therefore, oral history projects, and initiatives around traditional music, literature and stories, to name a view, have not only enriched and complemented our understanding of heritage but also facilitated healing and correcting the wrongs of the past. Many archives, which now hold collections related to the work of the TRC for example, containing the painful narratives of victims of Apartheid collected as oral history, would consider themselves much poorer. It is here were the Charter could have encouraged archivists to engage and become pro-active to change perceptions toward the oral, which is still perceived not only ‘untypical’ for the archive, but where archivists have “always been deeply suspicious of the creation of archival material” (Perks, R,2002:43). Archivists, observed Perks and other scholars, have seen themselves in a passive role rather than the creators of archives, believing that records emerge outside the archive, rather than being initiated from within the archive. It is now for the gaps identified in the conventional archive, where the oral can be deployed to complement history, and it will be the archivists who can be at the forefront to give the forgotten voices a space. Already, particularly oral history and traditional music collections, to name only a view in order to make this point, have become strong collections in some archives around South Africa.

The archive has in my view a very specific place for living heritage, limited to an extent, but able to identify a scope to accommodate some aspects of the intangible. But there will be others, like living traditions such as Lobolo, which would be done no justice by

capturing and storing. It is for the latter where our patronizing ways of ‘saving’ are not needed.

Certainly, I am aware that an overarching document such as the HTC has limitations to be inclusive of all aspects of the Arts and Culture of a country, but given its particular mandate about the intangible heritage, it could have taken some cognizance of these discussions, particularly during the drafting stage of the Charter.

c) Continuity for oral traditions through transformation

Peripheral observations

The transformation of heritage in South Africa certainly runs along unresolved issues of the past, of which Christianity is in my view quite outstanding. Certainly, Christianity has established itself strongly, adopted by an African elite, just as much as by the ordinary devoted African. But it should not be forgotten, that the converting of African communities to the Christian belief was a massive undertaking, a process which in its wake corrupted and changed African culture.

At the same time colonial expansion also brought people into this region who would adhere to their own religious beliefs, be they Hindu or Moslems amongst other belief systems, which have to this day contributed to South Africa’s amazing diversity.
It is therefore questionable to me, when heritage functions, discussing a National Heritage Charter, are opened with a Christian prayer, in disregard of other religions and philosophies. What is perplexing in my view is that although Christianity finds itself condemned for the role it played in the colonization of this continent, it seems that the connection to Christianity as a spiritual source is stronger than animosity to it, a contradiction which is in my view in need of interrogation. For the sake of the overall project of post- and anti-colonial transformation, this interrogation must also be coupled with a stronger engagement of the various religions and value systems practised alongside Christianity in South Africa.

Cultural landscape

A section dealing with issues of cultural landscapes appeared rather suddenly in the Charter's second draft, suggesting for the concept of 'cultural landscape' to find more acknowledgement and integration in South Africa's heritage sector. However, the draft Charter finds that it is "dominated by Eurocentric themes and motifs".

The UNESCO's World Heritage Centre acknowledges the "interactions between humans and their environment, to protect living traditional cultures …" (UNESCO, 2009), for they testify to the "vitality of humanity" and are therefore part of our "collective identity", which is why UNESCO has inscribed these sites on the World Heritage List. South Africa's Mapungubwe National Park is a cultural landscape and is listed as such, although, and strangely enough, the draft Charter does not make mention of it. Instead it suggests to acknowledge "Moria where many Zionist Christians meet" as a possible cultural landscape in future.

Nevertheless, the draft Charter does make a good point with its suggestion to "cultivate an appreciation of the need to promote and preserve cultural landscapes" and "to deepen understanding of the significance of cultural landscapes to cultural tourism and cultural industries in South Africa". Communities do associate with their overall environment, and have always incorporated it into their social and cultural life, because collective identities thrive on the holistic approach to the concept of 'people and their environment' – a sentiment captured by the Convention for Intangible Cultural Heritage, which stresses the "protection of natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage (UNESCO, 2003). In fact, I am quite certain, that many communities, particularly in the rural areas, adhere to spaces which they regard essential to their cultural and spiritual being. Here for example I am thinking of a visit to Moletjie in the Limpopo province, which is a village surrounded by magnificent boulders, recognized and respected by the community in the village.

To educate the younger generation about these sites is just as important as incorporating them into our broader understanding of the meaning of natural sites as heritage. Therefore

I would have supported to retain the issues relating to cultural landscapes in the final document of the HTC.

Ubuntu

Heritage has a meaning to those who claim it, and a certain heritage will always be applicable to a certain group of people and quite meaningless to others. Having said in my earlier discussion, that Ubuntu is a culturally specific philosophy, does not mean that its concepts are 'foreign' to other cultures, and it does not imply that its characteristics could not hold any meaning for every single community in South Africa. In fact, essentially many social movements, including socialist and communist philosophies, have a similar understanding of what a just society should be. Also, the growing trend to an individualization of people's lifestyles due to socio-economic advancement and empowerment, calls for a revival of our value systems, not just nationally but globally. But in order to be inclusive, it means to remain considerate of the experiences and knowledge systems of all other population groups. Those who fail to acknowledge that, rather striving for its dominance, or as expressed in the Charter, hoping that "Africentrism will be the guiding principle and philosophy", will fail the essence of Ubuntu.

It is in the light of the above discussion, that any opinion, which considers Ubuntu in fundamental conflict to South Africa's Bill of Rights, should be engaged within the context of a diverse population, as any Bill of Rights must be measured not against the rights of a majority, but against the rights of a minority, in order to be all inclusive and just.

Education

Both draft Charter texts call for the promotion and awareness of African heritage to become part of formal education. In order to achieve these objectives the draft Charters recommend the development of educational material on African heritage and knowledge systems as well as to incorporate these in the curriculum.

Particularly the IKS would lend themselves as being an example of a knowledge system with a wide knowledge spectrum and application, as well as a ‘successful case study’ of the potentials and possibilities of intangible heritage and its ways of transmission from generation to generation.

Also pertaining to education would be the question as to what extent collaboration between home and school can be encouraged to nourish and uphold value systems which are often referred to as ‘traditional’ but are in actual fact global understandings of value systems underpinning ethics and morality in society. Seniority for example, relating to age, gender, social rank and education, is one of the regulators in the relationships between people. But traditional ways of life are in a constant race with global changes impacting on families and individuals, as far as the role of the family, the respect for elders and the wellbeing of a community are concerned, and have not necessarily been beneficial to the relationship between people.

Education in school and home can be one influential factor in shaping the fabric of society, and it is here where I see scope to also incorporate the essential understanding and teaching of Ubuntu, not as a ‘national policy’ as suggested by the Charter, but as one enriching value system amongst others.

Traditional leadership and African values

There can be no doubt, that traditional leadership remains a strong role player particularly in African communities in the rural areas. Their position as a source of affirming cultural identities and as custodians of African heritage has been acknowledged by the state. However, the past and present role of traditional leadership in South Africa has been a contested one. Traditional leader’s relationship with the colonial administration, its later involvement in the Bantustan governments and its ambiguous status within the post-Apartheid democratic state, are still subject to repeated and ongoing discussion.

Particularly traditional leadership is an issue which carries at least two connotations – the one being the role of traditional leaders in structures of governance in a 'modern' state, and the other being the role of traditional leaders in matters of identity, culture and heritage. And as much as the state has an obligation to resolve the role of traditional leaders in the governance of communities and legal matters like customary law, a Heritage Transformation Charter has in my view the same obligation to properly position itself with regard to traditional leaders as custodians of heritage. Any attempt to transform the Heritage sector should therefore channel outstanding issues carefully and purposefully, instead of referring long standing debates even further, as is suggested in the final HTC.

The same applies to African culture and core African values, which also remain under "issues for further debate" in the Charter. Both are closely linked to matters of traditional leadership as well, and both are ambiguous. What is the definition of 'African culture' in present day South Africa, and which are the 'core African values' and how do they differ from 'other people's' core values? Moreover, for the final Charter text to call for a debate on the "relevance of African culture in a democratic … state" between those who feel "that the core values of African culture should be restored" and those who "consider African culture to be outdated and anachronistic to the modern world", does beg the question though, which result such debate could possibly yield and who would be the 'judge'.

Summary of discussion

It has become clear from the above discussion that many of the issues do in fact overlap in their application. Language, celebration and festivals for example by offering the spaces for the intangible heritage to thrive and be encouraged, are at the same time tools and possibilities in the transformation of the heritage sector. Traditional leadership is seen as strong custodians of the African intangible heritage, yet is subject to transformation as well. Land as cultural space is related to the space of the intangible, but again crucial for the context of transformation, not only with regard to heritage. The

existence of the conventional archival institution can be discussed within the very context of transformation, but its understanding in relation to the space of the intangible is of equal importance.

These interconnectivities of issues around the intangible heritage serve to demonstrate the complexity of culture, tradition, heritage, particularly in a diverse society such as South Africa, and additionally considering its long colonial and recent Apartheid history. There can be no doubt that the paradigms of the tangible and the intangible, the written and the oral, which have become so synonymous for the division between cultures and people, are decisive measures of acceptance, progress and tolerance.

CONCLUSION

Having analysed the Charter texts, it became apparent that the HTC could not position itself purposefully with regard to the intangible heritage. And in spite of the Charter's adaptation of a strong Africanist mandate with regard to African heritage, it has not managed to translate this mandate into meaningful suggestions. Resulting from a lack of constructive as well as critical engagement with the subject of intangible heritage, its characteristics and representations, the Charter thereby misses a chance to help understand the value of living heritage as part of a South African national heritage.

The Charter texts and the Charter writing process have demonstrated that the South African post-colonial discourse around issues of culture, identity and heritage, which often plays itself out within society, very much filters through to policy and Government level, where it is met with acknowledgement and followed by rhetoric, but not necessarily resolution.

What can be observed in present day South Africa, are clashes between African communities, wanting to identify with their elected post-Apartheid African government on the one hand, and growing dissatisfaction with government's inability to resolve

socio-economic issues on the other. The recent protests about lack of service delivery throughout South Africa have for some time now increasingly been coupled with issues of ownership of land and the nationalization of natural assets. These are not merely understood to be economic matters, but for many ordinary African people these are matters of what had been entrusted to them by their ancestors and taken away by colonizers and Apartheid. According to their understanding it is high time for government to act and restore the ownership over this wealth to the rightful owners, a demand which clearly cannot be met by government. And frequently, these become matters which also find their expression through a strong discourse linking socio-economic issues to matters of African culture and identity.

Two main issues have crystallized from the discussion of the Charter texts, which in my opinion need more interrogation on the one hand and a strong engagement on the other. Firstly to mention are the aspects of policy writing or policy informing processes and the post-colonial state bureaucracy; and secondly the handling of South Africa's Intangible Cultural Heritage (ICH).

Policy writing and the post-colonial state bureaucracy

Policy making has been closely associated with political paradigms and ideologies, in which political values play an important role (Cloete, F & Wissink, H, 2000), a view substantiated by Harriet Deacon in her Final Report for the CHET-HERANA project in October 2009, where she finds that "policy-making is a political process in which different stakeholders jostle for resources and status … used as rhetorical devices for blame or justification…". She also found that there is little research as far as the policy makers and the post-colonial state bureaucracy itself were concerned.

As this post-colonial state moves on, the post-colonial bureaucracy has been identified to become a desirable subject of enquiry and research, particularly due to its contradictory character. As pointed out by Chatterjee "…if Western nationalism is a state project, anti-colonial nationalism is a cultural one. It seeks to fashion a 'modern' national culture that

is nevertheless not Western" (Chatterjee cited in Chipkin, 2007:44). Subsequently it is precisely for these contradictions that the post-colonial state and its role players and policies are in danger of not only "dramatizing its own magnificence" by inventing "constellations of ideas" in order to "adopt a distinct set of cultural repertoires" (Mbembe cited in Chipkin, 2007:42). Eventually the post-colonial bureaucracy will (and perhaps to a certain extent already has done so) advocate a concept where "Blackness no longer denotes a social position … It designates an authentic national subject that is loyal to the state simply because that state is controlled by other blacks like it"(Mangcu cited in Chipkin, I, 2007:8). These concerns are real and far reaching, as these issues touch on matters of inclusion and exclusion, but even more so on matters of governance and accountability.

Also, with regard to validity of 'outsider' research for policy, which in the past certainly has been dominated by the Western anthropological paradigm, Deacon notes that a "broader contestation around the very notion of expertise in policy-making" can be observed (Deacon, 2009:24). This notion, in my view, can be generalized beyond policy research into daily life discourses in South Africa, which is often characterized not only by distrust but even more by rejection of 'outsiders' opinions and knowledge when it comes to matters of African culture and history – certainly justified, given South Africa's colonial and Apartheid history. The recent court interdict by Animal Rights Africa (ALA) against King Goodwill Zwelithini and the Zulu tradition of *Ukweshwama* stands out quite prominently as an example to demonstrate the above point. One of the arguments used by ALA to stop the killing of the bull, was the fact that Shaka during his reign had abandoned the ritual of *Ukweshwama* for mere practicalities, thereby wanting to demonstrate that the re-introduction of the ritual by King Goodwill Zwelithini in the late 1990s, could no longer justify the ritual, and also, that Zwelithini did in fact not represent all Zulus. The case as such should not be of relevance to this study, but rather the responses from the Royal House, from Zwelithini himself, as well as from provincial leaders in Kwa-Zulu Natal, amongst many others who expressed strong views for and against the bull killing. Those who dismissed ALA's argument did so by saying that it

demonstrated once more that there were ‘people’ who claim to know Zulu culture more than they, the Zulus themselves do.

In my critique of Ubuntu and caution against its overall application I do hold the opinion that this post-colonial political dispensation provides certain sectors of state bureaucracy and their policy makers with a much welcomed cover up for the inability of this economic dispensation to deliver on political promises and aspirations. But at the same time, and in all fairness, Ubuntu is presented as a concept following the tradition of the Freedom Charter, coupled with hopes for a better society. There are calls not only from the heritage sector, but also political activists, trade unions and social movements, for a ‘new paradigm’. Moving from Ubuntu to arts and culture and heritage, I agree with Deacon’s observation that “social transformation is thus conceived of as an addendum to, rather than a central feature of, economic transformation”, relating to debates about the economic value of arts and culture (Deacon, 2009:6). However, these debates remind one somewhat of the question of what comes first, the chicken or the egg. Social transformation is subject to economic empowerment, inclusion and in fact ownership - without radical economic transformation, any attempt of social transformation will remain an addendum.

During the Charter writing process and my attendance of one of the HTC consultative meetings, as well as through my analysis of the HTC, I have encountered only some of the emerging issues of post-colonial state bureaucracy and policy writing. This is certainly an area which has become very acute in South Africa, and which has already seen a very critical engagement with these issues by civil society, academics and politicians.

Presently, the HTC seems absent in the policy and public domain, and there are growing suspicions that it has failed to obtain endorsement from the heritage sector. Given the flaws of the final HTC document it would be advisable in my view, for the National Heritage Council to initiate a process to openly interrogate the Charter. Failure to do so will most certainly violate principles of transparency and accountability, thereby

confirming the above concerns around policy writing and the post-colonial state bureaucracy in South Africa.

South Africa's Intangible Cultural Heritage Policy

In consideration of the UNESCO Convention for the Safeguarding of Intangible Heritage of 2003, the Ename Colloquium in 2008 was tasked to investigate the nature of Intangible Cultural Heritage, hoping to answer the most pertinent question "How can we safeguard Intangible Cultural Heritage'? The colloquium unanimously presented "the recognition of the importance of ICH by the groups that it belongs to, generating a sense of identity and pride within the group and the recognition of its existence by groups to which it is foreign" (Hernandez, Cul & Kingery, 2008:31).

More importantly even, and stressed by Jaime Almansa Sanches, was the conclusion that "the way that we are used to preserving Cultural Heritage, which consists of freezing objects in time and avoiding change, is ineffective when it comes to ICH, precisely because it is in its nature to evolve as it is passed on", and further arguing that the only way of passing it on is through education.

In my discussion of the HTC I have expressed my view in agreement with the above, acknowledging the roles of language, custodians, community and environment, or as expressed by Deacon, to safeguard the channels of transmission of Intangible Heritage (Deacon, 2004)

There is of course the real danger of the effect of globalization, taken very seriously by the same Ename Colloquium with regard to the role of Intangible Cultural Heritage. Almansa Sanchez warned that "in developing countries in the coming years, when their development will become incompatible with some of their traditions and they will have no choice but to cease passing them on to future generations in order to survive within western norms of contemporary society" (Hernandez, Cull & Kingery, 2008:31).

Following the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, the Policy and Legislative Review identified the need for a policy covering all aspects of the Intangible Cultural Heritage (ICH), which was initiated in 2007 (Deacon, 2009). A National Consultative workshop on the ICH policy was called in December 2009, discussing the draft policy paper. Should the national Heritage Transformation Charter not have been linked to this policy at least, or even be instrumental? The HTC was 'commissioned' by the National Heritage Council, which lists the survival of intangible heritage as one of its most important mandates. But it was also a mandate of the Charter to make mention of uncertainties and overlaps in the work of the Department of Arts and Culture (DAC), the South African Heritage Resource Agency (SAHRA) and the National Heritage Council (NHC). The absence of an engagement with the ICH policy drafting is thereby a case in point, demonstrating the continued fragmentation in the heritage sector.

The ICH policy will certainly meet similar challenges as the HTC, particularly with regard to the conflicting views between 'tradition' and 'modernity'. Nevertheless it is expected to guide the safeguarding and survival of South Africa's Intangible Cultural Heritage. Hopefully, and as Neil Silberman argued very appropriately, a redefinition of 'safeguarding' of intangible heritage should not be seen as an act to preserve "dead or dying things that need protection" but rather as "continuing acts of cultural survival to which all people have rights"(Hernandez, Cull and Kingery, 2008:33).

Ultimately it will be tolerance and purpose that will determine the survival of South Africa's intangible heritage.

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