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After Digitisation, What Next? Suggested Guidelines for the Sale, Reproduction and Repatriation of Digital Deritage

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After digitisation, what next?
Suggested guidelines for the sale, reproduction and repatriation of digital heritage

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In order to give you a glimpse of the International Library of African Music (ILAM), its origin, and how it exists today, a DVD that briefly tells the story has been uploaded to the Internet for readers to view. In addition to information about Hugh Tracey, the founder of ILAM, and our collections, you will see performances in ILAM's small outdoor amphitheatre. These are, first, Venda *Tshikona* reed pipe dancing; then a Chopi *timbila* orchestra from Mozambique; performance of *amadinda* xylophone music from Uganda; Shona *mibra* music; and, finally, some Pedi *Dinaka* reed pipe dancing. I hope this video will give you a clearer idea of Hugh Tracey's legacy for African music. To access the ILAM DVD, go to http://www.youtube.com/watch?v=WtnqPaT2wv0

At a meeting held in late June 2008 with the African Studies Center at the University of Michigan, it was decided to organize a workshop on the challenges, benefits and ethics of digitizing collections of cultural heritage materials, be they text, audio recordings, video/film recordings, artefacts or photographs. The workshop, on "Producing, preserving, and repatriating digital cultural heritage", was held from December 9th to11th, 2008 at the International Library of African Music at Rhodes University, Grahamstown, South Africa, in partnership with the African Studies Center at the University of Michigan.

ILAM was an ideal host for the digital repatriation workshop, since it constitutes a success story in the landscape of South African digitization projects, many of which have met financial and political challenges. The question that frequently arises in digitization projects is "Who benefits?" Justifications usually posit universal benefit, i.e. that the heritage materials will be preserved for posterity and easily accessible to all via the Internet. Given the reality of low bandwidth and sparse Internet accessibility for many in the southern hemisphere, however, such justifications can ring false.

The three-day workshop involved 24 participants, representing two Ghanaian universities, three South African universities and professional organizations including Digital Innovation South Africa (DISA); the National Research Foundation (NRF) which was conducting a Carnegie Foundation-funded audit of digitization projects in South Africa; the Alan Lomax Archive in the USA; and the Children's Radio Foundation based in Cape Town. Discussions explored:

- sources of digitization success and failure;
- technology and mechanics of distribution,
- funding and sustainability,
- access (open access versus fee-based models); and
- intellectual property rights. Participants spent a considerable time also grappling with the question: "After digitization, what next?" and
- how to repatriate cultural heritage to its communities of origin.

Outcomes of the workshop included the following definitions:

Repatriation is defined as the process through which both tangible and intangible cultural heritage is returned to its communities of origin and/or its creators.
Cultural heritage is understood in two categories, tangible and intangible.
Tangible heritage includes artefacts, art objects/folk art, indigenous technological tools e.g. scrapers, carving tools, musical instruments.
Intangible heritage includes music, folklore/oral literature, ritual practices, cultural ceremonies, and indigenous knowledge in general.

Workshop participants developed guidelines and recommendations regarding the reproduction and sale and repatriation of digital cultural heritage; this included consideration of the moral, ethical and legal issues involved, as presented below.

Guidelines for reproduction and sale of digital cultural heritage
Apply professional ethics as advocated by professional organizations dealing with cultural heritage

- Respect all substantiated reasonable objections to online access;
- Apply the concepts of fair use and fair dealings;
- Assure no harm: no use for financial gain without a contractual agreement that gives a fair return to the community of origin;
- Set up an ethical standards committee that has an institutional review board with a lawyer familiar with copyright and intellectual property law on the review board;
- Allow open access to low res watermarked excerpts/resources;
- Purchase and/or reproduction arranged through a review process;
- Apply a tiered sales model that advocates no charge for African requests when non-commercial use is intended. Beyond Africa, fees should be charged through a review process that determines intended use and ability to pay;
- Fees (determined through a review process) should always be charged for commercial use;
- If there is a conflict of interest, the interests of performers/creators should always come first.

Workshop participants recommended attention to and/or determination of the following legal requirements in regard to cultural heritage holdings:

- Place of origin must be established
- Ownership (depositor/community/individual creator) must be established;
  - must make & document best effort (due diligence) to locate artists/creators;
  - must determine the length of copyright and when the material enters the public domain.
- Prior agreements must be determined and/or investigated. In the case of new agreements, a 50/50 split of income between the owner(s) and the party offering the digital heritage for sale is recommended;
- Intended use must be determined:
  - in the case of scholarly (not for profit) use, fees only for costs of creating copies;
  - for commercial (profit) use, fees in line with industry standards, e.g. publishing, music industry.
- Holders of cultural heritage must investigate existing cultural property/ heritage guidelines developed by professional organizations such as the African Studies Association (ASA), International Association of Sound and Audio-visual Archives (IASA), International Council of Archives (ICA), American Anthropological Association (AAA), UNESCO, The Hague Convention and emerging copyright legislation, both local and international.
- Low quality (compressed) files only should be loaded on to websites since downloads from websites may be used, abused, sold and so on if quality reproduction can be made.

Guidelines and recommendations for repatriation of cultural heritage

- Individuals, groups and institutions in possession of digital cultural heritage should make the best attempt to repatriate it to its communities of origin.
- Non-original holders of the heritage are ethically bound to repatriate it in an appropriate format for its owners.
- The format of the repatriated material shall be determined through a dialogue between the possessor of the heritage and its community of origin.
- Methods of repatriation are determined through a dynamic process depending upon:
  - the type of heritage;
  - the resources of the holders and of the recipients;
  - the conditions of the local environment of the communities of origin.
- An agreement should be negotiated between the holders and the recipients of the heritage, stipulating clearly
  - conditions for preservation;
  - conditions for use, sale and reproduction.
- Ownership, group or individual, must be considered in respect to copyright law and potential commercial use.
- When an item of material culture is repatriated, there should be accountability and transparency on the part of the recipient.

Participants in the workshop have developed the above guidelines and recommendations in the hope that such a set of guidelines and recommendations will be of use to holders of cultural heritage, throughout Africa and the world, who are in the process of preserving their holdings through digitization. It is increasingly true that the next step after digitization of holdings of cultural heritage is dissemination and/or availability to the world at large via the Internet and other means such as electronic media stored on CDs, DVDs and MP3 players. It also seems increasingly true that with the preservation of cultural heritage through digitization comes the opportunity to repatriate cultural heritage to its communities of origin in ways previously not possible.

The use of the guidelines and recommendations presented in this document, regarding reproduction, sale and repatriation of digital cultural heritage by holders of cultural heritage and/or those seeking repatriation of their cultural heritage, is meant to assure that ethical standards are maintained while dissemination of the cultural heritage brings benefit to its communities of origin and/or its creators.