

**Monuments, Mountains, and . . .  
the Mediterranean Diet?  
Potential for UNESCO’s World  
Culinary Heritage Inscriptions to  
Positively Affect Sustainable  
Agriculture**

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## I. INTRODUCTION

The problem of how to develop and promote sustainable agricultural practices has been at the center of the larger debate over sustainable development since the 1980s.<sup>1</sup> As international awareness expanded about sustainable development and sustainable agriculture, the United Nations Educational, Scientific, and Cultural Organization (“UNESCO”) called on nations to create “conditions for sustainable agriculture” to ensure adequate and nutritious food for a growing global population while “conserving and rehabilitating” natural resources in the early 1990s.<sup>2</sup> UNESCO has continued to promote sustainable agriculture into the 2000s, and now recognizes that creating conditions for sustainable agriculture includes understanding the traditional and cultural aspects of food production.<sup>3</sup> While there have been success stories, UNESCO has recognized that many farmers are still hindered from adopting sustainable agricultural techniques due to, among other factors, a lack of economic incentives and institutional and political constraints.<sup>4</sup>

Two UNESCO treaties that were not explicitly adopted to promote sustainable agriculture, however, are being reinterpreted to alleviate these hindrances in several nations by indirectly incentivizing these nations to create varying degrees of economic, institutional, political, and

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1. V. Ratna Reddy, *Environment and Sustainable Agricultural Development*, 30 ECON. AND POL. WKLY., A21, A21 (1995); see also *Sustainable Agriculture Key to Green Growth, Poverty Reduction – UN Officials*, U.N. NEWS CENTRE (June 1, 2011), <http://www.un.org/apps/news/story.asp?NewsID=38565>.

2. United Nations Conference on Environment and Development, Rio de Janeiro, Braz., June 3–14, 1992, *Programme of Action from Rio, Earth Summit, Agenda 21*, U.N. Doc. A/CONF.151/26/REV.1 (Vol. II), 14.1–3 (June 14, 1992), available at <http://sustainabledevelopment.un.org/index.php?page=view&nr=23&type=400&menu=35>.

3. U.N., *supra* note 1; see also *Decisions by Topic: Food Security and Nutrition and Sustainable Agriculture*, U.N. SUSTAINABLE DEV. KNOWLEDGE PLATFORM, <http://sustainabledevelopment.un.org/index.php?menu=1269> (last visited May 20, 2013) (a list of UN intergovernmental decisions regarding agriculture); UNESCO, SCOPE, UNEP, POLICY BRIEF NO. 8, TOWARDS SUSTAINABLE AGRICULTURE (2009), available at <http://unesdoc.unesco.org/images/0018/001818/181854e.pdf> [hereinafter TOWARDS SUSTAINABLE AGRICULTURE].

4. MENALE KASSIE & PRECIOUS ZIKHALI, THE CONTRIBUTION OF SUSTAINABLE AGRICULTURE AND LAND MANAGEMENT TO SUSTAINABLE DEVELOPMENT 7–9 (2009), available at <http://www.environmentfordevelopment.org/news-press/workshops-etc/workshops-archive/un-expert-group-meeting-sustainable-land-management-in-africa> (follow “UN Version of Sustainable Development Brief” hyperlink).

legal protections for sustainable agricultural practices.<sup>5</sup> These two treaties are the Convention Concerning the Protection of World Cultural and Natural Heritage (“WHC”)<sup>6</sup> and the Convention for the Safeguarding of Intangible Cultural Heritage (“CSICH”),<sup>7</sup> and there is a growing body of evidence that signatory nations to these treaties (“State Parties” or a “State Party”) are promoting and protecting sustainable agriculture to fulfill their treaty obligations to protect cultural heritage under the treaties.<sup>8</sup>

The WHC, which recognizes the most outstanding cultural and natural landscapes in the world, includes many landscapes that have been and continue to be shaped by sustainable agriculture.<sup>9</sup> While the WHC does not offer specific recognition or protection for agricultural landscapes, many State Parties have interpreted their general WHC obligations to include promoting and protecting those sustainable agricultural practices that are included in their WHC landscape.<sup>10</sup>

UNESCO also recently decided to interpret the CSICH, which recognizes intangible cultural heritages and traditions, to include culinary

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5. See, e.g., Henri Djombo, *Special Remarks (Oct. 21–23, 2009)*, in PROCEEDINGS OF THE SECOND INTERNATIONAL FORUM ON GLOBALLY IMPORTANT AGRICULTURAL HERITAGE SYSTEMS, BUENOS AIRES, ARG., at 14, available at <http://www.fao.org/docrep/015/ap023e/ap023e.pdf>.

6. This is typically called the World Heritage Convention, or the “WHC.” See *The World Heritage Convention*, UNESCO, <http://whc.unesco.org/en/conventiontext> (last visited Mar. 18, 2013) [hereinafter WHC Text].

7. *Text of the Convention for the Safeguarding of Intangible Cultural Heritage*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00006> (last visited Mar. 18, 2013).

8. See, e.g., Embassy of France in Washington, *Ambassador Francois Delattre Presents this New Website*, FRENCH FOOD IN THE US (Dec. 16, 2011), <http://www.frenchfoodintheus.org/spip.php?article3091>; Embassy of France in Washington, *The Gastronomic Meal of the French: A Great Tradition*, FRENCH FOOD IN THE US, (Dec. 13, 2011), <http://www.frenchfoodintheus.org/spip.php?article3004> (France links sustainable agriculture to French culinary heritage, the Gastronomic Meal, in both articles); see also Celia Martinez Yanez, *The International Day for Monuments and Sites, Theme for 2012 – “The Heritage of Agriculture,”* ICOMOS (Apr. 18, 2010), [http://www.icomos.org/18thapril/2010/18\\_April\\_2010\\_Agricultural%20Heritage\\_Eng\\_20100323.pdf](http://www.icomos.org/18thapril/2010/18_April_2010_Agricultural%20Heritage_Eng_20100323.pdf) [hereinafter Yanez].

9. *Cultural Landscape: History and Terminology*, UNESCO, <http://whc.unesco.org/en/culturallandscape> (last visited Mar. 18, 2013).

10. See, e.g., *Columbia Halts Hydrocarbon Exploration in World Heritage Area*, ENV’T NEWS SERV. (Mar. 5, 2012), <http://ens-newswire.com/2012/03/05/colombia-halts-hydrocarbon-exploration-in-world-heritage-area>; Yanez, *supra* note 8, at A.

heritage.<sup>11</sup> Of the four culinary heritages that the United Nations (“UN”) has recognized, three are linked to sustainable agriculture, and it appears that State Parties are interpreting their obligation to preserve a culinary heritage to include an obligation to protect its agricultural origins.<sup>12</sup>

This author hopes that State Parties will continue to interpret their treaty obligations to include promoting and protecting sustainable agriculture, and that State Parties make the link between any future landscape or culinary heritage and sustainable agriculture more explicit in the nomination documents.<sup>13</sup> To this end, this Note examines sustainable agriculture in Part II. It then examines the economic, institutional, political, and legal protections that both the WHC and the CSICH have inspired in Parts III and IV. In Part III, it examines three of the agricultural landscapes that the UN has recognized under the WHC: France’s Jurisdiction of Saint-Emilion, Italy’s Val d’Orcia, and Mexico’s Agave Landscape. In Part IV, it examines the three corresponding culinary heritages that are linked to sustainable agriculture under the CSICH: the Gastronomic Meal of the French, the Mediterranean Diet, and Traditional Mexican Cuisine. In addition to examining the positive effects of these agricultural landscapes and culinary heritages, this Note also addresses the harm that these treaties can cause to inadequately recognized or unrecognized landscapes and agricultural heritage. These potential harms are addressed specifically through an analysis of the three WHC agricultural landscapes, because they have existed for long enough to adequately assess their history.<sup>14</sup> This Note also examines the Turkish Ceremonial Keşkek Tradition, the newest culinary heritage under the CSICH, as an early example of the ramifications of a State Party not linking its culinary heritage to agricultural practices. Overall,

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11. See *Intangible Heritage Lists*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011> (last visited Mar. 18, 2013).

12. See, e.g., NOMINATION FILE NO. 00437 FOR INSCRIPTION ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE IN 2010, criterion R.1, at 6 (2010), available at <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00437> (France’s nomination form for the Gastronomic Meal of the French to the CSICH) [hereinafter FR. NOM. FORM].

13. Unlike the most recent culinary heritage inscription; see NOMINATION FILE NO. 00388 FOR INSCRIPTION ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE OF HUMANITY IN 2011, at criterion R.1, at 3–5 (2011), available at <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00388> [hereinafter TURK. NOM. FORM].

14. See, e.g., Yanez, *supra* note 8, at A.

the WHC and CSICH have positively affected sustainable agriculture so far.

## II. SUSTAINABLE AGRICULTURE: THE “LAND YIELDS A CULTURAL HARVEST”<sup>15</sup>

Sustainable agriculture is not so much a set of specific farming practices and rules as it is a land use philosophy that values long-term planning and takes the local community, culture, and environmental concerns into account.<sup>16</sup> An early and often-cited definition of sustainable agriculture is:<sup>17</sup>

an integrated system of plant and animal production practices having a site-specific application that will, over the long term, satisfy human food and fiber needs; enhance environmental quality and the natural resource base upon which the agricultural economy depends; make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls; sustain the economic viability of farm operations; and enhance the quality of life for farmers and society as a whole.

Sustainable agriculture is also characterized by an avoidance of chemical fertilizers and pesticides, and an emphasis on “natural” or “traditional” agricultural methods.<sup>18</sup> In other words, sustainability is more than specific agricultural techniques; it is an approach that “treats farms, families, and communities as components of shared ecological systems.”<sup>19</sup>

It is only recently that sustainable agriculture has become a popular concept again.<sup>20</sup> The agricultural goal for most of the twentieth century

15. ALDO LEOPOLD, *THE SAND COUNTY ALMANAC* ix (1949).

16. *Sustainable Agriculture – The Basics*, GRACE, <http://www.gracelinks.org/246/sustainable-agriculture-the-basics> (last visited Mar. 18, 2013); Richard Harwood, *A History of Sustainable Agriculture*, in *SUSTAINABLE AGRICULTURAL SYSTEMS* 3, 3–10 (Clive A. Edwards et al. eds., 1990).

17. *What is Sustainable Agriculture?*, U.S. DEP’T OF AGRIC., <http://www.nal.usda.gov/afsic/pubs/agnic/susag.shtml> (last visited Mar. 18, 2013).

18. Rajiv K. Sinha et al., *Embarking on a Second Green Revolution for Sustainable Agriculture by Vermiculture Biotechnology Using Earthworms: Reviving the Dreams of Sir Charles Darwin*, 2 J. AGRIC. BIOTECHNOLOGY & SUSTAINABLE DEV. 113–14 (2010), available at <http://www.academicjournals.org/jabsd/PDF/Pdf2010/August/Sinha%20et%20al.pdf>.

19. G.W. Bird & John Ikerd, *Sustainable Agriculture: A Twenty-First-Century System*, 529 ANNALS AM. ACAD. POL. & SOC. SCI. 92, 99 (1993).

20. Sinha et al., *supra* note 18, at 114.

was to increase crop yields to combat starvation and feed a growing global population.<sup>21</sup> This focus led to advances in plant breeding for higher yields, intensive agricultural techniques, and the development of chemical fertilizers and pesticides.<sup>22</sup> By the late twentieth century, most industrial countries had food surpluses, and a U.S. Agency for International Development Administrator, William S. Gaud, began calling twentieth century agriculture the “Green Revolution.”<sup>23</sup> Now, some are calling for a “Second Green Revolution” based on sustainable agriculture.<sup>24</sup> This is because it is now apparent that the first Green Revolution has harmed human health and caused environmental degradation, including soil damage and water pollution, and has made plants more prone to pests and diseases.<sup>25</sup> The debate over whether to continue to advance the chemical-based, intensive agriculture of the first Green Revolution or whether to shift to a sustainable agricultural model with potentially lower crop yields is ongoing.<sup>26</sup>

For the purposes of this Note, however, the more important point is that the Second Green Revolution in sustainable agriculture is renewing international interest in how culture and traditions are connected to agriculture.<sup>27</sup> The first Green Revolution, when it displaced “age-old,” traditional agricultural practices with scientific and technology-based agriculture, also displaced the practices and cultures associated with traditional agricultural systems.<sup>28</sup> The Second Green Revolution and sustainable agriculture, on the other hand, affirm that traditional and

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21. INT’L FOOD POLICY RESEARCH INST., GREEN REVOLUTION, CURSE OR BLESSING? (2002), available at <http://www.ifpri.org/sites/default/files/pubs/pubs/ib/ib11.pdf>.

22. *Id.*

23. *Id.*

24. Sinha et al., *supra* note 18, at 113.

25. *Id.*; Daniel Pepper, *The Toxic Consequences of the Green Revolution*, U.S. NEWS (Jul. 7, 2008), <http://www.usnews.com/news/world/articles/2008/07/07/the-toxic-consequences-of-the-green-revolution>.

26. Compare R.E. Evenson & D. Collin, *Assessing the Impact of the Green Revolution, 1960 to 2000*, 300 SCI. 758, 758–62 (2003), available at <http://www.sciencemag.org/content/300/5620/758.full>, with David Tilman et al., *Agricultural Sustainability and Intensive Production Practices*, 418 NATURE 671, 671–77 (2002), available at <http://www.nature.com/nature/journal/v418/n6898/full/nature01014.html?lang=en7>.

27. Harwood, *supra* note 16, at 12.

28. *Bid to Revive State’s Traditional Farm Culture*, THE HINDU (Feb. 20, 2012), <http://www.thehindu.com/todays-paper/tp-national/tp-kerala/article2911926.ece>; see also VANDANA SHIVA, *THE VIOLENCE OF THE GREEN REVOLUTION: THIRD WORLD AGRICULTURE, ECOLOGY, AND POLITICS* 19–21 (1991) (a lengthier discussion of India’s traditional agriculture and the Green Revolution).

cultural agricultural methods are valuable and that preserving culture is integral to promoting viable sustainable agriculture in many countries.<sup>29</sup>

Aldo Leopold aptly summarized the state of the relationship between land and communities in 1948; he wrote, “that land yields a cultural harvest is a fact long known, but latterly often forgotten.”<sup>30</sup> The link between agriculture and culture was forgotten in the first Green Revolution, but it is now at the forefront of the agricultural and sustainability debate.<sup>31</sup> The following Parts describe how the two treaties, the WHC and the CSICH, are helping to advance sustainable agriculture through their recognition of cultural heritage and their emphasis on sustainable development.<sup>32</sup>

### III. THE WORLD HERITAGE CONVENTION AND ITS AGRICULTURAL SITES

#### *A. Background: Cultural and Natural Landscapes in the WHC*

An international movement for protecting our cultural and natural heritage, including monuments, mountains, and masterpieces, emerged after World War II.<sup>33</sup> In 1965, a conference in the United States recommended creating an international “World Heritage Trust” to protect natural and scenic areas and historic sites.<sup>34</sup> Eventually, on November 16, 1972, the UN General Conference of UNESCO adopted the WHC.<sup>35</sup>

The WHC’s underlying theme was how to conserve cultural sites and nature.<sup>36</sup> To these ends, it established two categories of “permanent and immovable” landscapes that it would protect: cultural heritage sites

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29. Parviz Koohafkan, *Welcome Address (Oct. 21–23, 2009)*, in PROCEEDINGS OF THE SECOND INTERNATIONAL FORUM ON GLOBALLY IMPORTANT AGRICULTURAL HERITAGE SYSTEMS, BUENOS AIRES, ARG., at 25, available at [http://www.fao.org/fileadmin/templates/giahs/PDF/Buenos\\_Aires\\_Proceedings.pdf](http://www.fao.org/fileadmin/templates/giahs/PDF/Buenos_Aires_Proceedings.pdf).

30. LEOPOLD, *supra* note 15, at ix.

31. See, e.g., THE HINDU, *supra* note 28; SHIVA, *supra* note 28, at 19–21.

32. Operational Guidelines for the Implementation of the World Heritage Convention, UNESCO, Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage, at 2, I.B(6), U.N. Doc. WHC.11/01 (Nov. 2011), available at <http://whc.unesco.org/archive/opguide11-en.pdf> (the WHC promotes sustainable development).

33. *The World Heritage Convention: Brief History*, UNESCO, <http://whc.unesco.org/en/convention> (last visited Mar. 18, 2013).

34. *Id.* at *Linking the Protection of Cultural and Natural Heritage*.

35. *Id.*

36. *Id.*

and natural heritage sites.<sup>37</sup> Cultural heritage landscapes include monuments, buildings, and other man-made works that have “outstanding universal value” from a historical, artistic, scientific, aesthetic, ethnological, or anthropological perspective.<sup>38</sup> Natural heritage landscapes include sites with natural physical or biological features; geological and physiographical formations; and other natural sites that have “outstanding universal value” from a scientific, conservationist, or aesthetic perspective.<sup>39</sup> A landscape can also be a “mixed” cultural and natural heritage site, if it has both outstanding universal cultural and natural values.<sup>40</sup> Outstanding universal value means that a landscape is so exceptional that its significance and value transcend national boundaries and are important to all humanity.<sup>41</sup>

The WHC recognized that cultural heritage and natural heritage sites were “increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions.”<sup>42</sup> The WHC thus sought to stop the destruction of these sites by maintaining a balance between human use and conservation<sup>43</sup> in order to preserve the “parts of the cultural or natural heritage [that] are of outstanding interest . . . [for the] world heritage of mankind.”<sup>44</sup> Hundreds of these outstanding cultural and natural sites are inscribed on a WHC list of landscapes (“WHC List”).<sup>45</sup> In its attempt to preserve these sites, the WHC disseminates information about the cultural and natural heritage sites and also calls on State Parties to the WHC to “take all appropriate legal, scientific, technical, administrative, and financial measures to protect the heritage.”<sup>46</sup>

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37. WHC Text, *supra* note 6, arts. 1-2; Operational Guidelines for the Implementation of the World Heritage Convention, *supra* note 32, at 14, II.A(45).

38. WHC Text, *supra* note 6, art. 1.

39. *Id.* art. 2.

40. Operational Guidelines for the Implementation of the World Heritage Convention, *supra* note 32, at 13-14, II.A(46).

41. *Id.* at 14, II.A(49).

42. WHC Text, *supra* note 6, preamble.

43. *Id.* at Recommendation Concerning the Protection, at National Level, of the Cultural and Natural Heritage.

44. *Id.*

45. Operational Guidelines for the Implementation of the World Heritage Convention, *supra* note 32, at 14, II.A(51). “Inscription” is the formal term for adding an intangible heritage to the WHC List; see *Frequently Asked Questions: What Does it Mean for a Site to be Inscribed on the List?*, UNESCO, <http://whc.unesco.org/en/faq/> (last visited Mar. 18, 2013).

46. *Id.* at 4, I.C(15(f)).

The WHC assigns State Parties the responsibility to identify cultural and natural heritage sites within their boundaries and to nominate them for inscription.<sup>47</sup> In other words, the WHC places the onus on the State Parties to identify, protect, conserve, present, and transmit these cultural and natural heritage sites to future generations.<sup>48</sup> When a cultural or natural heritage site is nominated, the State Party must describe its commitment to making policy, legal, scientific, technical, administrative, and financial measures to protect the site.<sup>49</sup> Thus, the WHC, while it recognizes that these sites are globally valuable for humanity and calls for international cooperation to protect these sites, emphasizes that state sovereignty must be respected as to how these sites are managed.<sup>50</sup> This has been called “cultural property nationalism” because of its emphasis on state laws and policies, as opposed to international or local laws and policies, for the management of the cultural and natural property sites.<sup>51</sup>

The WHC is thought to have been very successful in achieving its purposes of protecting cultural and natural heritage sites.<sup>52</sup> As of January 2013, the WHC List included twenty-nine mixed cultural/natural heritage sites, 745 cultural heritage sites, and 188 natural heritage sites.<sup>53</sup>

### *B. The Inclusion of Agricultural Landscapes in the WHC*

A significant number of the sites inscribed on the WHC List include agricultural areas.<sup>54</sup> Although UNESCO does not classify the sites based on agriculture, the Appendix of this Note lists the sites that have incorporated agricultural elements, based on this author’s review of the WHC List site descriptions on the UNESCO website.<sup>55</sup> The first agricultural landscape to be inscribed on the WHC List was the Rice Terraces of the Philippine Cordilleras in 1995; that inscription “established an important precedent by identifying the significance of

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47. *Id.* art. 4; “Inscription” is the technical term for when UNESCO recognizes a landscape under the WHC.

48. WHC Text, *supra* note 6, art. 4.

49. Operational Guidelines for the Implementation of the World Heritage Convention, *supra* note 32, at 14, II.A(53).

50. WHC Text, *supra* note 6, art. 6.

51. Rachel Anglin, Note, *The World Heritage List: Bridging the Cultural Property Nationalism-Internationalism Divide*, 20 YALE J.L. & HUMAN. 241, 244 (2008).

52. *Id.* at 248.

53. *World Heritage List*, UNESCO, <http://whc.unesco.org/en/list/> (last visited Mar. 18, 2013).

54. *See infra* Appendix (these include including pastoral activities, but do not include purely historic agricultural uses).

55. *See infra* Appendix.

landscapes that evolved in the production of significant staple and economic crops.”<sup>56</sup> Many agricultural sites subsequently inscribed on the WHC are connected to wine production; the other sites are related to staple crops, nomadic and pastoral activities, scenic agrarian landscapes, and landscapes with vernacular infrastructure and buildings related to agriculture.<sup>57</sup>

Even though there are now many agricultural sites inscribed on the WHC List, agricultural sites still do not seem to fit neatly into the WHC site selection criteria.<sup>58</sup> Agriculture is different from both man-made monuments and pristine natural landscapes; agricultural traditions, crops, and practices can and must evolve with the agricultural community instead of being relatively permanent monuments and landscapes.<sup>59</sup> Agricultural sites can thus be found in both the natural heritage and cultural heritage site categories in the WHC because they are neither purely natural landscapes nor man-made monuments.<sup>60</sup>

Following this somewhat awkward incorporation of agricultural landscapes into the WHC, the major criticisms of the WHC are that, first, it tends to exclude environmentally important but “mundane” agricultural sites that do not fit into the “outstanding value” WHC criteria; second, it only offers partial protection for the agricultural sites that it does include by protecting, or “freezing,” only the current physical state of the site, but not the evolving traditions, culture, and knowledge of the people who live and interact with the land.<sup>61</sup> Yet this might be changing because the International Council on Monuments and Sites (“ICOMOS”), a UNESCO body that evaluates landscapes nominated for inscription on the WHC and monitors the management of inscribed sites, recently studied “The Heritage of Agriculture” and concluded that it was important to protect traditional cultural landscapes, including “properties

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56. Yanez, *supra* note 8, at A.

57. *Id.*

58. See generally *The Criteria for Selection*, UNESCO, <http://whc.unesco.org/en/criteria> (last visited Mar. 18, 2013).

59. See generally Operational Guidelines for the Implementation of the World Heritage Convention, *supra* note 32, at 14, II.A (48–49).

60. See *infra* Appendix; Yanez, *supra* note 8, at A.

61. Clark L. Erickson, *Agricultural Landscapes as World Heritage: Raised Field Agriculture in Bolivia and Peru*, in *MANAGING CHANGE: SUSTAINABLE APPROACHES TO THE CONSERVATION OF THE BUILT ENVIRONMENT* 181, 181–204 (Jeanne-Marie Teutonico & Frank Matero eds., 2003), available at <http://www.sas.upenn.edu/anthropology/system/files/EricksonGetty1.pdf>.

related to agricultural activity and its landscapes.”<sup>62</sup> It is still too early to tell, however, what practical effect the ICOMOS study will have.<sup>63</sup>

Agricultural sites are thus still found in the natural heritage category, the cultural heritage category, and the mixed cultural/natural heritage category of the WHC.<sup>64</sup> The criteria that are relevant to an inscription of an agricultural landscape as a natural heritage, cultural heritage, or mixed cultural/natural heritage include, among other criteria, that the site (a) “exhibit an important interchange of human values . . . on developments in . . . landscape design”;<sup>65</sup> (b) “bear a unique or at least exceptional testimony to a cultural tradition or to a civilization . . .”;<sup>66</sup> (c) “be an outstanding example of a traditional human . . . land-use . . . which is representative of a culture . . ., or human interaction with the environment . . .”;<sup>67</sup> or (d) “be directly or tangibly associated with events or living traditions, with ideas, or with beliefs . . .”<sup>68</sup> A site’s cultural value may be expressed through “use and function,” “traditions, techniques, and management systems,” and “form and design.”<sup>69</sup> Thus, if a specific agricultural use of land is connected to the culture of a people or location in some unique way, it would generally be eligible for inclusion on the WHC.<sup>70</sup>

After a site is inscribed, the WHC directs State Parties to protect the site.<sup>71</sup> For agricultural sites, however, the protection might only be partial because agriculture cannot be preserved or conserved as a permanent landscape in cultural heritage sites and because any agriculture is only peripherally protected in natural heritage sites.<sup>72</sup> For cultural heritage sites, the unique land use practices and culture that should be protected are “relationships and dynamic functions present in cultural landscapes . . . or other living properties essential to [a landscape’s] distinctive character.”<sup>73</sup> For natural heritage sites, the WHC guidelines provide that “human activities, including those of traditional

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62. Yanez, *supra* note 8, at A.

63. *See generally id.*

64. *See infra* Appendix.

65. Operational Guidelines for the Implementation of the World Heritage Convention, *supra* note 32, at 20, II.D(77(ii)).

66. *Id.* at 20, II.D(77(iii)).

67. *Id.* at 20, II.D(77(v)).

68. *Id.* at 20, II.D(77(vi)).

69. *Id.* at 22, II.E(82).

70. *See id.*

71. *Id.* at 25, II.F(96)-(119).

72. *Id.* at 23, II.E(90).

73. *Id.* at 23, II.E(89).

societies and local communities ... may be consistent with the outstanding universal value of the area where they are ecologically sustainable.”<sup>74</sup> In essence, agricultural practices in a cultural site may only be “maintained” and agricultural practices can only be peripherally protected in natural sites if they are sustainable and consistent with the value of the natural landscape.<sup>75</sup>

Not surprisingly, it appears that most of the inscribed agricultural sites are either still relatively rural or isolated and/or have indigenous populations who practice traditional agriculture; or they are more developed locations that have a particular type of agriculture that is economically profitable either through tourism or because of its national significance.<sup>76</sup> This probably reflects policy considerations and politics; State Parties must nominate the sites for inscription, not local groups, indigenous populations, or the international community. It is reasonable to presume that the location must have a specific economic or political value to the State Party to be nominated.<sup>77</sup> For the rural or isolated heritage sites, the State Party might not have an interest in developing the area, but might instead find it more economical, profitable, or politically popular to promote eco-tourism or preservation.<sup>78</sup> For the more urban or developed heritage sites, the State Party might nominate the site to promote tourism, promote its particular agricultural products internationally, or to benefit a politically-strong industry.<sup>79</sup>

Thus, the debates over agriculture and the WHC are ongoing. Many agricultural landscapes, however, have already acquired special recognition by the State Party and the WHC and have thus merited special protection through state laws and policies. It is to the effects of these state protections that we now turn.

### *C. Selected WHC Landscape Analysis: Legal, Political, and Economic Protections for Sustainable Agriculture*

According to the WHC, State Parties are supposed to protect, conserve, present, and transmit sites within their territories to future

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74. *Id.* at 23, I.I.E(90).

75. *Id.* at 23, I.I.E(89).

76. See Simon Osborne, *Is UNESCO Damaging the World's Treasures?*, THE INDEP., Apr. 29, 2009, available at <http://www.independent.co.uk/travel/news-and-advice/is-unesco-damaging-the-worlds-treasures-1675637.html>.

77. See *id.*

78. See *id.*

79. See *id.*

generations.<sup>80</sup> State Parties are supposed to do this “to the utmost of [their] own resources, and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.”<sup>81</sup> State Parties should also adopt a policy to protect these sites, which could include the appropriation of resources and staff for protection, management of site operations, site rehabilitation, and fostering scientific and conservation work.<sup>82</sup>

State Parties have performed these duties to varying degrees and with varying results. This can be seen by examining three of the agricultural sites that have been inscribed on the WHC List. Sites in France, Italy, and Mexico are selected for this analysis because those State Parties later received culinary heritage inscriptions under the CSICH.<sup>83</sup>

### 1. France: The Jurisdiction of Saint-Emilion

Inscribed in 1999,<sup>84</sup> France’s Jurisdiction of Saint-Emilion was the first viticultural, or wine-growing, landscape inscribed on the WHC List.<sup>85</sup> The Romans introduced viticulture to this region, and it is an example of a historic vineyard landscape “that has survived intact and in activity to the present day.”<sup>86</sup> Vineyards dominate the landscape, occupying over 67.5 percent of the Jurisdiction.<sup>87</sup> The Saint-Emilion

80. WHC Text, *supra* note 6, art. 4.

81. *Id.*

82. *Id.* art. 5.

83. See *Traditional Mexican Cuisine – Ancestral, Ongoing Community Culture, the Michoacán Paradigm*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00400> (last visited Mar. 18, 2013) [hereinafter *Traditional Mexican Cuisine*]; *The Mediterranean Diet*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00394> (last visited Mar. 18, 2013) [hereinafter *The Mediterranean Diet*]; *The Gastronomic Meal of the French*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00437> (last visited Mar. 18, 2013) [hereinafter *Meal of the French*].

84. *Jurisdiction of Saint-Emilion*, UNESCO, <http://whc.unesco.org/en/list/932> (last visited Mar. 18, 2013).

85. *History of the Saint Emilion Appellation*, MAISONS, MARQUES & DOMAINES, <http://mmdusa.net/ets-jean-pierre-moueix/History-of-the-Saint-Emilion-Appellation> (last visited Mar. 18, 2013).

86. *Jurisdiction of Saint-Emilion*, *supra* note 84.

87. *Id.*

vineyards produce 230,000 hectolitres<sup>88</sup> of red wine annually, and the quality of the wine is exceptional.<sup>89</sup>

Saint-Emilion has viticulture-specific laws to protect the wine economy. It has a land use plan that regulates development.<sup>90</sup> A 1980 Ministry of Agriculture Decree and 1990 and 1998 statutes further discourage any land uses that could prejudice the wine-producing area's integrity.<sup>91</sup>

Twelve years after being granted inscription on the WHC List, however, Saint-Emilion is having financial difficulties,<sup>92</sup> overrun and overwhelmed by more than a million yearly visitors and their garbage.<sup>93</sup> The mayor complained about the "dark side" of being a WHC site: "To remain worthy of this reputation, [Saint-Emilion] must finance, seven days a week, town police and sanitation crews . . . Saint-Emilion, despite its world reputation, is sparsely populated and must take on the large expense of receiving nearly a million visitors a year and maintaining its major historical heritage."<sup>94</sup> It is claimed that the WHC recognition has primarily benefited the wine-growers, at the expense of other business and local heritage sites in Saint-Emilion.<sup>95</sup> The financial trouble was so bad that Saint-Emilion recently sold off a medieval monument to pay its debts.<sup>96</sup>

In Saint-Emilion's case, France nominated a particular agricultural practice, a traditional viticulture landscape, within a community.<sup>97</sup> As a result, tourism to the vineyards increased and Saint-Emilion's wine achieved international acclaim; the rest of the town, however, and the other historically significant monuments in the community, are relatively unknown internationally and have borne the costs of heavy tourist use. It

88. This corresponds to producing over 30 million standard 0.75 liter bottles of wine.

89. *Jurisdiction of Saint-Emilion*, *supra* note 84.

90. U.N. Advisory Body Evaluation, The Jurisdiction of Saint-Emilion, France, No. 932, June 30, 1998, at 40, *available at* [http://whc.unesco.org/archive/advisory\\_body\\_evaluation/932.pdf](http://whc.unesco.org/archive/advisory_body_evaluation/932.pdf).

91. *Id.*

92. *Saint-Emilion Is Selling the Family Jewels*, TERRE DE VINS, Oct. 21, 2011, <http://tdv.enprojet.net/saint-emilion-is-selling-the-family-jewels/?lang=en>.

93. *Id.*

94. Suzanne Mustacich, *Cash-Strapped French Wine Town Forced to Sell of Monuments*, AFP (Nov. 12, 2011), <http://www.google.com/hostednews/afp/article/ALeqM5iKGFA36dOj0cxugGnLCKrprTYA0A?docId=CNG.c770bd78ee6f2e104d86c0139d85cd9e.111>.

95. *Saint-Emilion Is Selling the Family Jewels*, *supra* note 92.

96. Mustacich, *supra* note 94.

97. *Jurisdiction of Saint-Emilion*, *supra* note 84.

is thus clear that the laws have protected the viticultural practices, but not the overall environmental or financial health of the rest of the community.

*2. Italy: Val d'Orcia, Managed as a Scenic Renaissance Landscape*

Italy's Val d'Orcia is "part of the agricultural hinterland of Siena" and still retains the "distinctive aesthetics" of well-managed Renaissance agricultural landscapes.<sup>98</sup> It was inscribed in 2004 on the WHC List.<sup>99</sup> Val d'Orcia "is significant in that the large farmhouses assume a dominant position in the landscape and are enriched by prominent architectural elements such as loggias, belvederes, porches and avenues of trees bordering the approach roads."<sup>100</sup> Moreover, "the Val d'Orcia [is] a model of sustainable rural development" and has "manifested the highest aesthetic qualities."<sup>101</sup> Val d'Orcia has outstanding universal value because it is an exceptional reflection of a colonized agricultural area where the "development of land use practices reflected an ideal of good governance, innovative land tenure systems, and the deliberate creation of beautiful landscapes . . ."<sup>102</sup> and because it "constitutes an exceptional testimony to architectural, town planning, landscape and environmental values as seen in the integration between structures urban and rural."<sup>103</sup>

The landscape of Val d'Orcia is protected by several laws. Specifically, Law No. 1089/1939 provides for the conservation of items of historic or artistic interest,<sup>104</sup> and Law No. 1497/1939 provides for landscape conservation.<sup>105</sup> The overall management of Val d'Orcia "emphasizes the living landscape as its main focus."<sup>106</sup>

Val d'Orcia declined as an agricultural region following the Industrial Revolution, but it is now slowly being repopulated, thanks in

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98. *Val d'Orcia*, UNESCO, <http://whc.unesco.org/en/list/1026> (last visited Mar. 18, 2013).

99. *Id.*

100. *Id.*

101. *Id.*

102. WORLD HERITAGE SCANNED NOMINATION, VAL D'ORCIA, ITALY 136 (Jul. 7, 2004), available at <http://whc.unesco.org/uploads/nominations/1026rev.pdf> (PDF p. 260 in the linked version of the file).

103. *Id.*

104. *Id.* at 134.

105. *Id.*

106. *Id.*

part to the inscription on the WHC List.<sup>107</sup> Tourism is a growing source of revenue for the region, and the fields and farms are being redeveloped in a sustainable manner.<sup>108</sup> The 2003–2006 management plan objectives included environmental tourism development and the promotion and support of traditional agriculture and its products.<sup>109</sup> The use of modern agricultural techniques is limited by law, and some viticulture projects that were incompatible with traditional agriculture techniques have been successfully rejected.<sup>110</sup> Val d’Orcia has also begun a “tourist-monitoring” program, even while it recognizes that “agritourism” is a way to sustain a living agricultural economy.<sup>111</sup>

Unlike France’s Saint-Emilion, the WHC List inscription for Val d’Orcia includes the entire agricultural landscape and the traditional agricultural methods for a number of crops, including viticulture. It does not appear to be experiencing an overwhelming number of tourists eager to see one historic site; instead, it promotes the entire “living” landscape aesthetic, which comes closer to a sustainable agricultural landscape than France’s Saint-Emilion.

### *3. Mexico: Agave Landscape and Ancient Industrial Facilities of Tequila*

Mexico’s Agave Landscape recognizes an extensive history of agave cultivation that began in the sixteenth century.<sup>112</sup> The Agave Landscape was inscribed on the WHC List in 2006, and is situated in central Mexico, between the foothills of the Tequila Volcano and the Rio Grande River valley.<sup>113</sup> Within the Agave Landscape is “a living, working landscape of blue agave fields and the urban settlements of Tequila, Arenal, and Amatitan with large distilleries where the agave ‘pineapple’ is fermented and distilled.”<sup>114</sup> Unlike other “traditional

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107. See generally Alice Pfeiffer, *Respecting the Tuscan Land*, N.Y. TIMES, Nov. 16, 2011, available at <http://www.nytimes.com/2011/11/17/business/energy-environment/respecting-the-tuscan-land.html>; see also Claire Wrathall, *Italy: Val d’Orcia, Tuscany’s Happy Valley*, TELEGRAPH (Aug. 24, 2012, 6:57 PM), <http://www.telegraph.co.uk/travel/destinations/europe/italy/tuscany/9498072/Italy-Val-dOrcia-Tuscany-happy-valley.html>.

108. *Id.*

109. WORLD HERITAGE SCANNED NOMINATION, VAL D’ORCIA, *supra* note 102, at 134.

110. *Id.* at 135.

111. *Id.*

112. *Agave Landscape and Ancient Industrial Facilities of Tequila*, UNESCO, <http://whc.unesco.org/en/list/1209> (last visited Mar. 18, 2013).

113. *Id.*

114. *Id.*

landscapes,” the Agave Landscape has large, urban, mechanized distilleries, and a large amount of farmland used for agave plant agriculture.<sup>115</sup> However, the Agave Landscape is still “an exceptional testimony to the harmonious and sustainable adaptation of use of the soil on a natural environment: fusing together the European distillation techniques with the pre-Hispanic tradition of fermentation of agave plant.”<sup>116</sup> The agave culture is also central to Mexican identity in this region.<sup>117</sup>

Mexico has several legal mechanisms for protecting the Agave Landscape. The Mexican Constitution contains provisions to protect and preserve the nation’s cultural heritage.<sup>118</sup> There is a federal law for Archeological, Artistic, and Historical Monuments and Sites, which established judicial protection for the cultural heritage sites in Mexico, including the tequila factories.<sup>119</sup> There is a General Law Regarding Human Establishments, which enables state authorities to amend laws and regulations for the reservation of cultural heritage.<sup>120</sup> There is a General Law of Ecological Balance and Environmental Protection, which coordinates the management and protection of natural and cultural patrimony, which is applicable to the “balanced development of the Valley of Tequila.”<sup>121</sup> There are also several state and local laws which offer protection for the Agave Landscape.<sup>122</sup>

The inscription of the Agave Landscape on the WHC List has generated local pride and increased tourism.<sup>123</sup> “The increase in tequila-loving tourists has given the otherwise modest pueblo an economic boost and provided jobs in a remote corner of Mexico that might be considered risky, given the recent violence with drug traffickers.”<sup>124</sup> There are

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115. *Id.*

116. *The Agave Landscape*, RUTA TEQUILA, [http://www.rutatequila.org.mx/index.php?option=com\\_content&view=article&id=157&Itemid=62&lang=en](http://www.rutatequila.org.mx/index.php?option=com_content&view=article&id=157&Itemid=62&lang=en) (last visited Mar. 18, 2013).

117. *Id.*

118. WORLD HERITAGE SCANNED NOMINATION, AGAVE LANDSCAPE AND ANCIENT INDUSTRIAL FACILITIES OF TEQUILA, MEXICO 582 (July 16, 2006), *available at* <http://whc.unesco.org/uploads/nominations/1209.pdf> (PDF p. 588 in the linked version of the file).

119. *Id.*

120. *Id.* at 586.

121. *Id.*

122. *Id.*

123. *A Shot of Tequila History in the Town by the Same Name*, FOX NEWS LATINO (Oct. 21, 2011), <http://latino.foxnews.com/latino/lifestyle/2011/10/21/shot-tequila-history-in-town-by-same-name/>.

124. *Id.*

Tequila Express trains from Guadalajara to the Agave Landscape, tequila-themed hotels, a Tequila Museum, and tequila bus tours.<sup>125</sup> The Agave Landscape remains authentic even with the tourism gimmicks.<sup>126</sup>

Mexico's Agave Landscape thus has a broader inscription on the WHC List than either France's Saint-Emilion or Italy's Val d'Orcia. It covers a vast amount of land, from agave fields to urban tequila factories. The economy has grown around the tourism and the international recognition the Agave Landscape has received through the WHC List. The Agave Landscape appears to be a highly successful heritage site because it integrates the entire agave industry and community in a sustainable manner.

#### 4. Summary

The WHC sites in France, Italy, and Mexico are all agriculture-based, yet distinct in how successful the inscriptions have been at protecting agriculture. France has the narrowest inscription, which includes only its viticulture. As a result, tourists have overrun and nearly bankrupted the surrounding community in their travels to the viticulture site, even though the viticulture landscape is healthy and sustainable. Italy's inscription focuses on its agricultural traditions and landscape patterns. It is predominantly a scenic landscape, but the inscription focuses on the whole landscape, not just one crop, which incorporates sustainable agriculture into the whole local community. Mexico's Agave Landscape is the broadest agricultural landscape inscription and includes everything from agave fields to tequila factories. Its tourist economy is thriving, and Mexican laws appear to have been successful in maintaining the agriculture in the vast Agave Landscape, even with large numbers of tourists. Based on these three inscriptions, it appears that the broader the inscription, or the more of the surrounding community it covers, the broader the legal protection for sustainable agriculture.

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125. *Id.*

126. Tracie Cone, *Tequila: It's Not Just a Drink, It's a Place*, SAN JOSE MERCURY NEWS (Oct. 22, 2011), [http://www.mercurynews.com/travel/ci\\_19147700](http://www.mercurynews.com/travel/ci_19147700).

#### IV. THE CONVENTION ON SAFEGUARDING INTANGIBLE CULTURAL HERITAGE AND ITS AGRICULTURAL SITES

##### *A. Background: From Tangible Landscapes to Intangible Culture*

State Parties to UNESCO conventions began raising the issue of protecting intangible cultural heritage as early as 1973.<sup>127</sup> In the 1980s and 1990s, UNESCO created several nonbinding programs to recognize intangible cultural heritage, including the Recommendation on the Safeguarding of Traditional Culture and Folklore, the Living Human Treasures Program, and the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity program.<sup>128</sup> In 2001, the UNESCO General Conference decided to draft a convention to comprehensively protect intangible cultural heritage, and the CSICH was eventually adopted in 2003.<sup>129</sup>

The purpose of the CSICH was to recognize and protect intangible cultural heritage by “safeguard[ing] the practices, representations, expressions, knowledge and skills that communities, groups and, in some cases, individuals recognize as part of their cultural heritage.”<sup>130</sup> Intangible heritage is specifically defined as linked to the natural environment; the CSICH recognizes that cultural heritage is formed by peoples “in response to their environment” and through their interactions with nature.<sup>131</sup> The CSICH also recognized that cultural heritage must promote sustainable development.<sup>132</sup> One of the specific categories for intangible cultural heritage is “knowledge and practices concerning nature and the universe.”<sup>133</sup>

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127. *Culture: Brief History*, UNESCO, [http://portal.unesco.org/culture/en/ev.php-URL\\_ID=29915&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=29915&URL_DO=DO_TOPIC&URL_SECTION=201.html) (last visited Mar. 18, 2013).

128. *Id.*

129. *Id.*

130. *Working Towards a Convention*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00004> (last visited Mar. 18, 2013).

131. The Convention on Safeguarding Intangible Cultural Heritage art. 2(1), Oct. 17, 2003, *available at* <http://unesdoc.unesco.org/images/0013/001325/132540e.pdf> [hereinafter CSICH Text].

132. *Id.*

133. *Id.* art. 2(1). The entire definition of cultural heritage is:

[T]he practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artifacts and cultural spaces associated therewith—that

The CSICH is thus distinct from the WHC. While the WHC recognizes only physical, immovable sites and structures, the CSICH recognizes intangible culture.<sup>134</sup> The CSICH noted that the WHC has provided “far-reaching” impacts by establishing protection for cultural and natural heritage, but that no international instrument had sought to protect intangible heritage.<sup>135</sup> The categories of intangible culture thus include what the WHC does not: oral traditions; performing arts; social practices, rituals, and festive events; knowledge and traditional practices concerning nature and the universe; and traditional craftsmanship.<sup>136</sup>

The CSICH, like the WHC, also contains various mechanisms by which State Parties can further the objectives of the treaty to protect intangible cultural heritage.<sup>137</sup> State Parties should define and inventory their intangible heritages; create heritage planning programs; fund scientific, artistic, and technical studies of the intangible heritage; fund training programs or courses to manage intangible heritages; and educate the public about the intangible heritages.<sup>138</sup> The State Parties are responsible for identifying, nominating, and then protecting and preserving cultural heritage within their boundaries.<sup>139</sup> State Parties may also seek international aid to help preserve intangible heritage because “the safeguarding of intangible cultural heritage is of general interest to humanity,” and thus State Parties should “undertake to cooperate at the bilateral, subregional, regional and international levels.”<sup>140</sup>

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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. For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.

134. *Id.*

135. *Id.* at preamble.

136. *Id.* art. 2.

137. *Id.* arts. 12–14.

138. *Id.*

139. *Id.* arts. 11–15.

140. *Id.* arts. 19–24.

### *B. The Inclusion of Culinary Heritage in the CSICH*

UNESCO recently, and surprisingly, decided to interpret the CSICH to include culinary heritage.<sup>141</sup> In 2010, UNESCO inscribed<sup>142</sup> three cuisines, the “Gastronomic Meal of the French,” the “Mediterranean Diet,” and “Traditional Mexican Cuisine,” on the CSICH Representative List of the Intangible Cultural Heritage of Humanity (the “CSICH List”).<sup>143</sup> In 2011, UNESCO inscribed one additional cuisine, Turkey’s “Ceremonial Keşkek Tradition,” to the CSICH List.<sup>144</sup>

The culinary heritage additions to CSICH followed years of lobbying.<sup>145</sup> As recently as 2008 it had seemed that culinary heritage did not fit into the CSICH categories for intangible cultural heritages, which had thus far only recognized other aspects of cultures, including oral traditions, performing arts, rituals, traditional knowledge, and traditional craftsmanship.<sup>146</sup> Cherif Khaznadar, Chairman of the Second Session of the General Assembly of the States Parties in 2008,<sup>147</sup> thought that “neither in spirit nor in writing can the convention include gastronomy” because cuisines did not fulfill the CSICH criteria to be classified as an intangible cultural heritage.<sup>148</sup> In 2009, however, UNESCO State Parties Peru and France organized a small “meeting on culinary practices” to discuss the “role of culinary practices in implementing” the CSICH.<sup>149</sup>

141. See generally *Intangible Heritage Lists*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011> (last visited Mar. 18, 2013).

142. “Inscription” is the formal term for adding an intangible heritage to the Representative List of the Intangible Cultural Heritage of Humanity (“CSICH List”); see CSICH Text, *supra* note 131, art. 7(i).

143. *Traditional Mexican Cuisine*, *supra* note 83; *The Mediterranean Diet*, *supra* note 83; *Meal of the French*, *supra* note 83.

144. *Ceremonial Keşkek Tradition*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00388> (last visited Mar. 18, 2013).

145. Henry Samuel, *French Cuisine ‘Not a World Treasure,’ says UN*, THE TELEGRAPH (Jul. 6, 2008, 4:18 PM), <http://www.telegraph.co.uk/news/worldnews/europe/france/2257965/French-cuisine-not-a-world-treasure-says-UN.html>.

146. See CHISCH Text, *supra* note 132, art. 2.

147. See *Second Session of the General Assembly of States Parties*, UNESCO, <http://www.unesco.org/culture/ich/index.php?pg=00152> (last visited Mar. 18, 2013).

148. Samuel, *supra* note 145.

149. *Expert Meeting on Culinary Practices, Meetings (co-)organized by the Section of Intangible Cultural Heritage*, UNESCO, [http://www.unesco.org/culture/ich/index.php?meeting\\_id=00112](http://www.unesco.org/culture/ich/index.php?meeting_id=00112) (last visited Mar. 18, 2013).

Then, in 2010, UNESCO added the three culinary heritages to the List.<sup>150</sup> In 2011, UNESCO added one more culinary heritage to the List.<sup>151</sup> Other nations, including Britain, a network of European nations,<sup>152</sup> Japan,<sup>153</sup> Korea,<sup>154</sup> and Peru<sup>155</sup> are also poised to apply for their own culinary heritage recognitions under the CSICH in the coming years.<sup>156</sup>

While State Parties must still nominate a particular culinary heritage, the culinary heritage can transcend state boundaries or be a regional food within a state.<sup>157</sup> Thus, France recommended French cuisine; Mexico nominated a regional Michoacán Mexican cuisine; and four Mediterranean nations, Spain, Greece, Italy, and Morocco, collectively nominated the Mediterranean diet.<sup>158</sup>

UNESCO's decision to recognize culinary heritage has generated both praise and criticism about what inscription means for a nation's culinary culture and traditions.<sup>159</sup> Having a nation's culinary heritage recognized by UNESCO is both a source of national pride and "an important factor in maintaining cultural diversity in the face of growing globalization."<sup>160</sup> One culinary professional observes, however, that it is

150. *Traditional Mexican Cuisine*, *supra* note 83; *The Mediterranean Diet*, *supra* note 83; *Meal of the French*, *supra* note 83.

151. *Ceremonial Keşkek Tradition*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00388> (last visited Mar. 18, 2013).

152. Rachel Laudan, *Is 'Culinary Heritage' A Good Idea?*, ZESTER DAILY (Nov. 1, 2010), <http://zesterdaily.com/cooking/unesco-culinary-heritage/>.

153. *Spat Over Yee Sang*, MY SINCHIEW (Jan. 29, 2012), <http://www.mysin Chew.com/node/69495> (originally published in the *Guangming Daily* and translated by Dominic Loh).

154. *Korea Seeks UNESCO Intangible Cultural Heritage Status for its Cuisine*, HANCINEMA, (Jul. 7, 2011), <http://www.hancinema.net/korea-seeks-unesco-intangible-cultural-heritage-status-for-its-cuisine-31225.html>.

155. Danielle Lane, *Peruvian Food Receives International Recognition*, YOUR PERU GUIDE (May 6, 2011), <http://www.yourperuguide.com/2011/05/06/peruvian-food-receives-international-recognition>.

156. Laudan, *supra* note 152.

157. *The Mediterranean Diet*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00394> (last visited Mar. 18, 2013).

158. *Traditional Mexican Cuisine*, *supra* note 83; *The Mediterranean Diet*, *supra* note 83; *Meal of the French*, *supra* note 83.

159. Laudan, *supra* note 152.

160. Christina Potters, *UNESCO Intangible Cultural Heritage of Humanity: Mexico's Cuisine*, MEXICO COOKS! (Nov. 20, 2010), [http://mexicocooks.typepad.com/mexico\\_cooks/2010/11/unesco-intangible-cultural-heritage-of-humanity-mexicos-cuisine.html](http://mexicocooks.typepad.com/mexico_cooks/2010/11/unesco-intangible-cultural-heritage-of-humanity-mexicos-cuisine.html).

often lobbyist groups who fund the culinary heritage proposals, often relying on dubious interpretations of a nation's culinary history.<sup>161</sup> In essence, culinary heritage "can, at its best, encourage local pride and cooperation as well as drawing tourists to an unforgettable experience," but it could also "become an end in itself, blocking the change that keeps societies alive and making second class citizens of minorities, migrants and others" who do not share that specific culinary heritage.<sup>162</sup> Recognizing culinary heritage could thus benefit a nation and hinder a nation's culinary evolution.<sup>163</sup>

The potentially beneficial and harmful aspects of culinary heritage inscriptions in the CSICH can also be examined in terms of legal incentives or disincentives for traditional and sustainable agricultural practices.<sup>164</sup> While the primary goal of inscribing culinary heritage on the CSICH is not to promote sustainable agriculture, UNESCO has recognized that culture and sustainable agricultural practices are connected in many nations.<sup>165</sup> Indeed, some of the nations that have had their culinary heritage inscribed on CSICH have represented to UNESCO that they will fund programs to promote protections for the traditional, sustainable agricultural practices that are necessary to maintain the culinary heritage.<sup>166</sup> Because the culinary heritage inscriptions are so new, it remains to be seen how effective they will be in protecting sustainable agriculture.<sup>167</sup> The hope of this Note is that culinary heritage inscriptions will be successful, even if indirectly, in protecting sustainable agriculture; this Note also argues that any further culinary heritage additions to the CSICH should more explicitly describe and offer legal protections for any traditional and sustainable agricultural practices that are linked to culinary heritage.

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161. Laudan, *supra* note 152.

162. *Id.*

163. *Id.*

164. *See, e.g.,* Yanez, *supra* note 8, at B; TOWARDS SUSTAINABLE AGRICULTURE, *supra* note 3.

165. *Id.*

166. FR. NOM. FORM, *supra* note 12, criterion R.3, at 7–8; NOMINATION FILE NO. 00400 FOR INSCRIPTION ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE IN 2010, at 9–10 (Nov. 2010), *available at* <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00400> [hereinafter MEXICAN NOM. FORM]; NOMINATION FILE NO. 00394 FOR INSCRIPTION ON THE REPRESENTATIVE LIST OF THE INTANGIBLE CULTURAL HERITAGE IN 2010, at 9–13 (Nov. 2010), *available at* <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011&RL=00394> [hereinafter MEDITERRANEAN NOM. FORM].

167. *Id.*

This hope is also based on the author's expectation that the CSICH culinary heritage inscriptions will not be subject to the same criticisms as the WHC agricultural landscape inscriptions. Those criticisms were, first, that the WHC tends to exclude environmentally-important but "mundane" agricultural sites that do not fit into the "outstanding universal value" WHC criteria; and, second, that the WHC offers only partial protection for the agricultural sites that it does include by protecting, or "freez[ing]," only the current physical state of the site but not the evolving traditions, culture, and knowledge of the people who live and interact with the land.<sup>168</sup>

In regards to the first criticism, it is more likely that culinary heritage can offer indirect protections for the "mundane," or typical, traditional agricultural traditions. A nation's culinary heritage, while itself of outstanding value, can extend to the "mundane" agricultural practices that are necessary to grow the unique foods or to foster the food traditions.<sup>169</sup> Second, as opposed to the WHC, the CSICH does not look for value in the land use by itself, but in the combination of land use, culinary culture, and culinary traditions.<sup>170</sup> Importantly, the CSICH protects culture, which necessarily evolves and changes over time.<sup>171</sup> Overall, the CSICH has potential to exceed the WHC in terms of providing protections for sustainable agriculture.

### *C. Analysis of Culinary Heritage and Sustainable Agriculture*

#### *1. France: Gastronomic Meal of the French*

The Gastronomic Meal of the French is a "festive meal" that brings French families and communities together "to enjoy the art of good eating and drinking."<sup>172</sup> The Gastronomic Meal has "flourished in France for centuries" and is practiced across all of France.<sup>173</sup> The Gastronomic Meal of the French does not include specific dishes or foods, but is

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168. Clark L. Erickson, *Agricultural Landscapes as World Heritage: Raised Field Agriculture in Bolivia and Peru*, in *MANAGING CHANGE: SUSTAINABLE APPROACHES TO THE CONSERVATION OF THE BUILT ENVIRONMENT* 181, 181–204 (Jeanne-Marie Teutonico & Frank Matero eds., 2003), available at <http://www.sas.upenn.edu/anthropology/system/files/EricksonGetty1.pdf>.

169. See, e.g., FR. NOM. FORM, *supra* note 12, C.1–C.3, D, at 2–3.

170. See generally CHISCH Text, *supra* note 133, art. 2.

171. *Id.*

172. FR. NOM. FORM, *supra* note 12, at C.3, D, at 2–3.

173. *Id.* at C.1, C.2, D, at 2–3.

“constantly changing” because it is more related to a “shared vision of eating well” than to particular foods.<sup>174</sup>

The French recognize, however, that “eating well” is connected to local, sustainable agriculture.<sup>175</sup> Eating well includes using “good products” to prepare the meal.<sup>176</sup> Good products are defined as “local food products” because they have a “high cultural value.”<sup>177</sup> To the French, such local foods “symbolize non-standardization and quality” in terms of the taste of the food, better nutritional value, and food safety.<sup>178</sup> The French also recognized that incorporating local food products into the CSICH inscription would contribute to “maintaining and strengthening respect for the harmonious management of the environment, biodiversity, and landscapes” and would promote sustainable development.<sup>179</sup> When France nominated the Gastronomic Meal, it thus nominated it under the CSICH category for “social practices, rituals, and festive events,” but also under the category of “knowledge and practices concerning nature and the universe,” which France interpreted as including a “choice of products [and] knowledge of the characteristics of local production areas.”<sup>180</sup>

France has passed a number of laws that benefit local, sustainable agriculture in the process of protecting the Gastronomic Meal.<sup>181</sup> France incorporates culinary heritage, including “choosing the right product” and “traditional know-how,” in a national inventory.<sup>182</sup> France organized a “Taste Week” for schools that covers nutrition and “choice of the right product” for the gastronomic meal.<sup>183</sup> More generally, France pledged to inventory and gather more information on the Gastronomic Meal, establish a research program on food and the gastronomic heritage, and encourage national cultural events related to the Gastronomic Meal.<sup>184</sup>

Moreover, after the 2011 scandal involving French restaurants serving “industrial ready-made, vacuum-packed, or canned dishes, or products bought from the large wholesale restaurant supply warehouse,” the French government “pounce[d]” on these dishonest food practices

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174. *Id.* at C.3, D, at 2–3.

175. *Id.* criterion R.1, at 5–6.

176. *Id.* at D, at 3.

177. *Id.*

178. *Id.*

179. *Id.*

180. *Id.* at C.3, at 2.

181. *Id.* at criterion R.3, at 7–8.

182. *Id.*

183. *Id.*

184. *Id.* at criterion R.3, at 8–9.

that were inconsistent with the gastronomic meal inscription.<sup>185</sup> The international interest in the Gastronomic Meal apparently spurred investigations into the source of the food that French restaurants served.<sup>186</sup> Roland Héguy, the President of the Union of Hotel and Restaurant Workers, estimated that of the 120,000 restaurants in the country, only 20,000 cook strictly with fresh products.<sup>187</sup> Many French restaurants actually served frozen food that the chefs had just microwaved.<sup>188</sup> In response to this scandal, France first passed Decree No. 2011-1227, which aimed to improve the nutritional quality of meals served in schools.<sup>189</sup> Among other things, it requires school caterers to serve fresh fruits and vegetables in half of the meals.<sup>190</sup> France then passed the “Siré Amendment,” which is an attempt to promote menu transparency in restaurants.<sup>191</sup> This Amendment forces restaurants to inform the consumer “as to the source of the dish they are ordering, whether frozen, canned or fresh as well as where it was frozen if it was, whether industrially or in the restaurant’s own kitchen.”<sup>192</sup>

In the case of France, the CSICH Gastronomic Meal inscription is beginning to have important ramifications for local agriculture. The international community, the French government, and the French people are more aware of what food products they are being served and eating. Because France explicitly linked the use of local food to the cultural importance of the Gastronomic Meal, it is now scandalous, dishonest, or possibly *un*French to prepare a Gastronomic Meal with frozen, microwavable ingredients instead of fresh local foods.

## 2. Spain, Morocco, Greece, and Italy: The Mediterranean Diet

The Mediterranean Diet is a transnational nutritional model that originated in the Mediterranean basin.<sup>193</sup> The Mediterranean Diet, over

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185. Jamie Schler, *Eating and the Law in France: In the News*, HUFFINGTON POST BLOG (Jan. 17, 2012, 10:13 PM), [http://www.huffingtonpost.com/jamie-schler/food-laws-in-france\\_b\\_1208444.html](http://www.huffingtonpost.com/jamie-schler/food-laws-in-france_b_1208444.html).

186. *Id.*

187. *Id.*

188. *Id.*

189. *Id.* For a partial translation of Decree No. 2011-1227, see *The Legal Texts Banning Vegetarianism in School Canteens in France*, INITIATIVE CITOYENNE POR LES DROITS DES VÉGÉTARIENS (Oct. 23, 2011), <http://www.icdv.info/index.php?post/2011/10/23/The-legal-texts-banning-vegetarianism-in-school-canteens-in-France>.

190. Schler, *supra* note 185.

191. *Id.*

192. *Id.*

193. MEDITERRANEAN NOM. FORM, *supra* note 166, at 1.

centuries, has had “essentially . . . the same food structure and same proportions.”<sup>194</sup> The Mediterranean Diet foods include olive oil, grains, fresh fruits, fresh vegetables, nuts, lesser amounts of fish, dairy products, and meat, and other condiments and spices.<sup>195</sup> It also includes moderate consumption of wine or tea during meals.<sup>196</sup>

To nominate the Mediterranean Diet, Spain, Morocco, Greece, and Italy chose four symbolic communities, one in each nation, that each exemplify the importance of the Mediterranean Diet.<sup>197</sup> In Spain, the Mediterranean Diet is “a major component of the identity of the members” of the community of Soria.<sup>198</sup> In Greece, the community of Koroni is well known for olive growing, other traditional Mediterranean crops, and millenary activity, and for its wise management of its natural resources.<sup>199</sup> In Italy, the Mediterranean Diet is a “characteristic element of each individual” in the community of Cilento.<sup>200</sup> In Morocco, the Mediterranean Diet is reflected in the “wise management” of natural resources and in the “close relation, from the landscape to the cuisine, between the people and the land” in the community of Chefchaouen.<sup>201</sup>

The Mediterranean Diet thus fits under the CSICH categories of “oral traditions and expressions,” “social practices, rituals, and festivities,” and also “knowledge linked to nature and the universe”<sup>202</sup> because the farmers and fisherman are “wise” in their use of the land and sea.<sup>203</sup> The Mediterranean Diet, as exemplified in the four symbolic communities, includes all the traditions, knowledge, and practices “ranging from the landscape to the cuisine,” including farming, harvesting, fishing, conservation, and food processing.<sup>204</sup> The four nations also explicitly acknowledge that sustainable agriculture is a foundation for their diet:

The landscapes express the close relation between these communities, their lands and their common sea. In the communities of Chefchaouen, Cilento, Koroni or Soria, the landscapes announce the cuisine, and the cuisine evokes the landscapes. Out of respect for

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194. *Id.* at criterion R.1, at 6.

195. *Id.*

196. *Id.*

197. *Id.* at C.1, at 2.

198. *Id.*

199. *Id.*

200. *Id.* at C.1, at 3.

201. *Id.*

202. *Id.* at C.3, at 4.

203. *Id.*

204. *Id.* at D. at 4.

the seasonal cycles, they speak of tenacity, meticulousness, passion, millenary wisdom, always applied to the sustainable management of natural resources, to the unique efficiency in the traditional use of water, to the safeguarding of species and varieties, to the achievement of harmony on a fragile land and sea in a demanding climate.

The Mediterranean Diet, a system rooted in the respect for the territory, ensures the conservation and development of traditional activities and crafts linked to fishing and farming in the four communities, thereby guaranteeing the balance between the territory and the people.<sup>205</sup> The Mediterranean Diet is thus explicitly linked to sustainable agricultural practices.<sup>206</sup>

The four symbolic communities and the State Parties have all begun to enact laws to protect the Mediterranean Diet.<sup>207</sup> Spain and Soria have begun holding events to celebrate the Mediterranean Diet and to raise awareness of it.<sup>208</sup> Greece and Koroni are working toward “reasserting the value” of local traditions, expertise, knowledge, and practices “with particular attention to” the landscapes, specialties, and products.<sup>209</sup> Italy and Cilento have created, among other events and policies, a Minister of Agricultural Food and Forestry Policies; Circular No. 10, which lists the criteria and procedures for the preparation of regional lists and autonomous provinces for traditional food products; and Ministerial Decree No. 350, which regulates standards for the “individuation” of traditional products.<sup>210</sup> Morocco and Chefchaouen have created regulations related to strawberry production, olive tree growing, vineyards, almond and fig plants, and citrus fruits.<sup>211</sup>

### *3. Mexico: Traditional Mexican Cuisine – Ancestral, Ongoing Community Culture, and the Michoacán Paradigm*

Traditional Mexican Cuisine in the State of Michoacán is based on a “trilogy” of basic foods, “corn, beans, and chili,” to which other “original” crops, including tomatoes, squash, avocados, cocoa, and vanilla, can be added in different regions of Mexico.<sup>212</sup> These foods are the staples of the Michoacán community’s diet, are integral to ritual and

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205. *Id.* at D, at 6.

206. *Id.* at D, at 7.

207. *Id.* at criterion R.2, at 9.

208. *Id.* at criterion R.3, at 9–11.

209. *Id.* at criterion R.3, at 11.

210. *Id.* at criterion R.3, at 12.

211. *Id.* at criterion R.3, at 13.

212. MEXICAN NOM. FORM, *supra* note 166, at D, at 3.

ceremonial life, and form the basis of unique food preparation techniques.<sup>213</sup> Many ancient food preparation techniques are still used, including “nixtamalization,” a cooking process for corn; “milpa,” a sustainable corn growing technique; “chinampa,” farming islets in lake areas; and “metate” grinding stones and “molcajete” stone mortars.<sup>214</sup> In essence, Mexican Cuisine is a “comprehensive cultural model” that includes ancient and sustainable agricultural practices and techniques that have been used successfully for thousands of years.<sup>215</sup> Mexico sees the protection of its culinary heritage as “a means of sustainable development” because it

[assures] visibility of demonstrably effective culinary customs that have kept a nation well fed throughout time [and] further means preserving the sustaining cultural system. This will be achieved by preventing breakdown between food production and preparation, as well as through respect for the means of environmental management already established and farming practices that have historically proven their self-sustaining capacity.<sup>216</sup>

Mexico is attempting to protect its culinary heritage by promoting “farming and culinary practices,” encouraging “local development” and the retention of community customs in spite of tourism, and protecting “traditional crops and products.”<sup>217</sup> Mexico is also entrusting the Conservatory of Mexican Gastronomic Culture to “rescue indigenous cuisines,” train small businesses, and research local food chains.<sup>218</sup> Other Mexican communities also recognized that traditional cuisine was linked to sustainability, “cultural landscapes and environmental concerns,” and are committed to progress in those areas.<sup>219</sup> Thus, Mexico is protecting sustainable agriculture through the culinary heritage inscription.

#### 4. Turkey: Ceremonial Keşkek Tradition

The Ceremonial Keşkek Tradition is widely practiced in Turkey, especially in rural areas.<sup>220</sup> Keşkek is a combination of meat and wheat; it is cooked on “huge cauldrons” over fire and then served to guests at ceremonies, including wedding ceremonies, circumcisions, national and

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213. *Id.*

214. *Id.*

215. *Id.* at criterion R.1, at 4.

216. *Id.* at criterion R.2, at 6.

217. *Id.* at criterion R.3, at 8–9.

218. *Id.*

219. *Id.* at criterion R.4, at 12–13.

220. TURK. NOM. FORM, *supra* note 13, at C, at 2.

religious holidays, and prayer gatherings.<sup>221</sup> The Keşkek Tradition includes “hulling the wheat” and a rhythmic mashing of the wheat.<sup>222</sup> It does not appear to include any agricultural practices.<sup>223</sup> Turkey categorized this culinary heritage as falling under the CSICH categories of “social practices, rituals, and festive events” and under “knowledge and practices concerning nature and the universe.”<sup>224</sup>

UNESCO’s decision to inscribe the Keşkek Tradition on the CSICH List, however, has angered Armenians.<sup>225</sup> Armenians claim that keşkek, known as “harissa” in Armenia, is actually an Armenian culinary tradition and has been unjustly appropriated by Turkey.<sup>226</sup> Apparently, Greece and Iran also have dishes similar to keşkek and harissa, so a solution to what one journalist calls this “regional food fight” is not apparent.<sup>227</sup>

The confusion might stem from the lack of an agricultural link to the culinary heritage. For France, Mexico, and the Mediterranean nations, it was clear that the culinary heritage involved geographically unique and/or ancient agricultural practices and crops that were connected to the cultural preparation and consumption of the food at issue.<sup>228</sup> Turkey, however, did not make this connection in its nomination document.<sup>229</sup> While this connection might exist, Turkey did not provide the information to substantiate it. Turkey’s nomination form was much less clear than those submitted by France, Mexico, and the Mediterranean nations because it lacked a careful explanation of how it fulfilled the “knowledge and practices concerning nature and the universe” category in the CSICH.<sup>230</sup>

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221. *Id.* at D, at 2–3.

222. *Id.* at D, at 3.

223. *Id.* at criterion R.1, at 3–4.

224. *Id.* at C, at 2.

225. Yigal Schleifer, *Armenia: More Fallout from UNESCO’s Culinary Heritage Decision*, EURASIANET (Dec. 7, 2011, 4:26 PM), <http://www.eurasianet.org/node/64651>.

226. *Id.*; *It’s Time to Save Armenian National Dishes from ‘Occupants,’* ARM INFO (Sep. 23, 2011, 5:18 PM), <http://www.arminfo.info/english/politics/article/23-09-2011/13-18-00>.

227. Yigal Schleifer, *UNESCO Decision Helps Start a Turkish-Armenian Food Fight*, EURASIANET (Dec. 5, 2011, 4:37 PM), <http://www.eurasianet.org/node/64639>.

228. *See, e.g.*, MEXICAN NOM. FORM, *supra* note 166, at criterion R.1, at 5–6.

229. *See* TURK. NOM. FORM, *supra* note 13, at criterion R.1, at 3–4.

230. *Id.* at C, at 2.

### 5. Summary

Culinary heritage inscriptions have the potential to greatly benefit sustainable agriculture. In France, it is now an embarrassment to prepare a Gastronomic Meal without local, fresh ingredients, even though the French inscription does not protect any specific type of local agriculture. The Mediterranean nations are more explicit in the connection between the culinary heritage and sustainable agriculture, as is Mexico. The Turkish inscription is the only culinary heritage so far that does not make any link between its traditions and sustainable agriculture, and it is at least subject to debate whether the Turkish culinary heritage is uniquely Turkish. Moreover, unlike the cultural and natural heritage inscriptions in the WHC, the foods that are included in the culinary heritages are unique, but the agricultural methods behind them can be “mundane”; neither does the CSICH attempt to preserve the current state of the food—rather it recognizes that the culture can evolve.

## V. CONCLUSIONS

Two UNESCO treaties, the WHC and the CSICH, that were not explicitly adopted to promote sustainable agriculture are being reinterpreted to incentivize State Parties to protect sustainable agriculture economically, institutionally, politically, and legally.<sup>231</sup> This Note has reviewed the growing body of evidence that State Parties to these treaties are promoting and protecting sustainable agriculture to fulfill their treaty obligations to protect cultural heritage.<sup>232</sup>

The WHC, which recognizes the most outstanding cultural and natural landscapes in the world, already includes many landscapes that have been and continue to be shaped by sustainable agriculture.<sup>233</sup> Many State Parties, including France, Italy, and Mexico, have interpreted their

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231. See, e.g., Henri Djombo, *supra* note 5, at 14.

232. See, e.g., Embassy of France in Washington, *Ambassador Francois Delattre Presents this New Website*, FRENCH FOOD IN THE US (May 5, 2012), <http://www.frenchfoodintheus.org/spip.php?article3091>; Embassy of France in Washington, *The Gastronomic Meal of the French: A Great Tradition*, FRENCH FOOD IN THE US (Dec. 13, 2011), <http://www.frenchfoodintheus.org/spip.php?article3004> (France links sustainable agriculture to French culinary heritage, the Gastronomic Meal, in both articles); see also Yanez, *supra* note 8.

233. *Cultural Landscape: History and Terminology*, UNESCO, <http://whc.unesco.org/en/culturallandscape/> (last visited Mar. 18, 2013).

WHC obligations to include promoting and protecting those sustainable agricultural practices that are included their WHC landscape.<sup>234</sup>

UNESCO also recently decided to interpret the CSICH, which recognizes intangible cultural heritages and traditions, to include culinary heritage.<sup>235</sup> Of the four culinary heritages that UNESCO has recognized, three are linked to sustainable agriculture, and it appears that State Parties are interpreting their obligation to preserve a culinary heritage to include an obligation to protect its agricultural origins.<sup>236</sup>

In conclusion, the State Parties should interpret their treaty obligations to include promoting and protecting sustainable agriculture in the future. This would include State Parties making any links between proposed landscape or culinary heritage and sustainable agriculture explicit in the nomination submissions.<sup>237</sup> And after a successful nomination, the State Party should enact explicit state-level protections for sustainable agriculture in the inscribed site. It could also potentially include lobbying the UN to create more specific criteria that discuss sustainable agricultural practices in the WHC and CSICH treaties.

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234. See, e.g., *Columbia Halts Hydrocarbon Exploration in World Heritage Area*, ENV'T NEWS SERV. (Mar. 5, 2012), <http://ens-newswire.com/2012/03/05/colombia-halts-hydrocarbon-exploration-in-world-heritage-area/>; Yanez, *supra* note 8, at A.

235. See *Intangible Heritage Lists*, UNESCO, <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00011> (last visited Mar. 18, 2013).

236. See, e.g., FR. NOM. FORM, *supra* note 12, at criterion R.1, R.3, at 6, 8–9.

237. This is unlike the most recent culinary heritage inscription. See TURK. NOM. FORM, *supra* note 13.

## APPENDIX

### A. *Mixed Sites*

Of the mixed sites, five have modern agricultural and culinary importance.<sup>238</sup> These include: (1) France's Pyrenees – Mont Perdu – and its transhumant system of livestock grazing;<sup>239</sup> (2) the Historic Sanctuary of Machu Picchu in Peru, which is surrounded by valleys that have been “cultivated continuously for well over 1,000 years, providing one of the world's greatest examples of a productive man-land relationship”;<sup>240</sup> (3) Spain's Ses Feixes in Ibiza, which features a unique irrigation system for crops;<sup>241</sup> (4) Sweden's Laponian Area, which involves an ancestral way of life and pastoral transhumance, based on the seasonal movement of livestock;<sup>242</sup> and (5) Tanzania's Ngorongoro Conservation Area, which includes “grazing land for semi-nomadic Maasai pastoralists.”<sup>243</sup>

### B. *Natural Sites*

Of the natural sites, twenty-seven have modern agricultural and culinary importance.<sup>244</sup> These include: (1) Cameroon's Dja Faunal Reserve, which has a population of Baka pygmies who “live in a relatively traditional manner” in terms of agriculture and hunting, and

238. Based on a reading of UNESCO descriptions of the sites. *World Heritage List*, UNESCO,

[http://whc.unesco.org/en/list/?search=&searchSites=&search\\_by\\_country=&search\\_year\\_inscribed=&type=Mixed&themes=&media=&region=&criteria\\_restriction=&order=](http://whc.unesco.org/en/list/?search=&searchSites=&search_by_country=&search_year_inscribed=&type=Mixed&themes=&media=&region=&criteria_restriction=&order=) (last visited Mar. 18, 2013) [hereinafter *World Heritage List*].

239. *Pyrenees – Mont Perdu*, UNESCO, <http://whc.unesco.org/en/list/773> (last visited Mar. 18, 2013).

240. *Historic Sanctuary of Machu Picchu*, UNESCO, <http://whc.unesco.org/en/list/274> (last visited Mar. 18, 2013).

241. *Ibiza, Biodiversity and Culture*, UNESCO, <http://whc.unesco.org/en/list/417> (last visited Mar. 18, 2013); see also *Amics de Ses Feixes*, IBIZA PRESERVATION FUND, <http://www.ibizapreservationfund.org/wp-content/uploads/Ses-Feixes-project-pdf> (This site appears to be nearly abandoned and ill-protected, but might be restored) (last visited Mar. 18, 2013).

242. *Laponian Area*, UNESCO, <http://whc.unesco.org/en/list/774> (last visited Mar. 18, 2013).

243. *Ngorongoro Conservation Area*, UNESCO, <http://whc.unesco.org/en/list/39> (last visited Mar. 18, 2013).

244. Based on a reading of UNESCO descriptions of the sites. *World Heritage List*, *supra* note 238.

who “confer a recognized cultural value to the site”,<sup>245</sup> (2) the Central African Republic’s Manovo-Gounda St Floris National Park, which nomadic pastoralists use in the winter;<sup>246</sup> (3) the Democratic Republic of Congo’s Kahuzi-Biega National Park, which is inhabited by tribal groups in fifteen villages that rely on “shifting agriculture and subsistence hunting”,<sup>247</sup> (4) the Democratic Republic of Congo’s Okapi Wildlife Reserve, which is inhabited by indigenous semi-nomadic pygmy hunter-gatherers and shifting cultivators”,<sup>248</sup> (5) the Democratic Republic of Congo’s Salonga National Park, which has traditional fishing, hunting, and gathering;<sup>249</sup> (6) Ethiopia’s Simien National Park has extensive agricultural and pastoral activities, which threaten the integrity of the park environment;<sup>250</sup> (7) Finland’s High Coast/ Kvarken Archipelago, which is a “mosaic of human and natural landscapes with agriculture, fishing, and tourism as the main economic activities”,<sup>251</sup> (8) France’s Gulf of Porto: Calanche of Piana, Gulf of Girolata, Scandola Reserve, which “conserves traditional agriculture and grazing activities”,<sup>252</sup> (9) France’s Lagoons of New Caledonia: Reef Diversity and Associated Ecosystems, which includes fishery management;<sup>253</sup> (10) Germany’s Wadden Sea, which includes fisheries management plans;<sup>254</sup> (11) Honduras’ Río Plátano Biosphere Reserve, which sustains the agricultural plots of indigenous peoples;<sup>255</sup> (12) India’s Manas Wildlife

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245. *Dja Faunal Reserve*, UNESCO, <http://whc.unesco.org/en/list/407> (last visited Mar. 18, 2013).

246. *Manovo-Gounda St Floris National Park*, UNESCO, <http://whc.unesco.org/en/list/475> (last visited Mar. 18, 2013).

247. *Kahuzi-Biega National Park*, UNESCO, <http://whc.unesco.org/en/list/137> (last visited Mar. 18, 2013).

248. *Okapi Wildlife Reserve*, UNESCO, <http://whc.unesco.org/en/list/718> (last visited Mar. 18, 2013).

249. *Salonga National Park*, UNESCO, <http://whc.unesco.org/en/list/280> (last visited Mar. 18, 2013).

250. *Simien National Park*, UNESCO, <http://whc.unesco.org/en/list/9> (last visited Mar. 18, 2013).

251. *High Coast / Kvarken Archipelago*, UNESCO, <http://whc.unesco.org/en/list/898> (last visited Mar. 18, 2013).

252. *Gulf of Porto: Calanche of Piana, Gulf of Girolata, Scandola Reserve*, UNESCO, <http://whc.unesco.org/en/list/258> (last visited Mar. 18, 2013).

253. *Lagoons of New Caledonia: Reef Diversity and Associated Ecosystems*, UNESCO, <http://whc.unesco.org/en/list/1115> (last visited Mar. 18, 2013).

254. *The Wadden Sea*, UNESCO, <http://whc.unesco.org/en/list/1314> (last visited Mar. 18, 2013).

255. *Río Plátano Biosphere Reserve*, UNESCO, <http://whc.unesco.org/en/list/196/> (last visited Mar. 18, 2013).

Sanctuary, which is home to hundreds of varieties of wild rice;<sup>256</sup> (13) Indonesia's Lorentz National Park, which is inhabited by eight or nine isolated indigenous groups that cultivate bananas, taro, sweet potatoes, and other subsistence agriculture;<sup>257</sup> (14) Italy and Switzerland's Monte San Giorgio, of which ten percent is cultivated;<sup>258</sup> (15) Japan's Shirakami-Sanchi has occasional bear hunting by the Matagi group;<sup>259</sup> (16) Kiribati's Phoenix Islands Protected Area, which has fishing management;<sup>260</sup> (17) Korea's Jeju Volcanic Island and Lava Tubes sites, which have agricultural management regulations;<sup>261</sup> (18) Malawi's Lake Malawi National Park, which has local villagers that depend on fishing and some agriculture;<sup>262</sup> (19) Nepal's Sagarmatha National Park, in which Sherpas live and engage in agriculture;<sup>263</sup> (20) Niger's Air and Tenere Natural Reserves, which have Twareh inhabitants that are transhumant pastoralists and a settled population that has irrigated agriculture;<sup>264</sup> (21) Panama's Darien National Park, which conserves the Chocó and Kuna Indians' traditional culture and subsistence agriculture;<sup>265</sup> (22) Peru's Manu National Park, which is home to at least four different native groups who have subsistence crops, "shifting cultivation," and fish;<sup>266</sup> (23) Russia's Central Sikhote-Alin, which has a

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256. *Manas Wildlife Sanctuary*, UNESCO, <http://whc.unesco.org/en/list/338> (last visited Mar. 18, 2013).

257. *Lorentz National Park*, UNESCO, <http://whc.unesco.org/en/list/955> (last visited Mar. 18, 2013) <http://whc.unesco.org/en/list/955> ); NOMINATION FILE, LORENTZ NATIONAL PARK 65 (1999), *available at* <http://whc.unesco.org/uploads/nominations/955.pdf> (PDF p. 90 in the linked version of the file).

258. *Monte San Giorgio*, UNESCO, <http://whc.unesco.org/en/list/1090> (last visited Mar. 18, 2013).

259. *Shirakami-Sanchi*, UNESCO, <http://whc.unesco.org/en/list/663> (last visited Mar. 18, 2013).

260. *Phoenix Islands Protected Area*, UNESCO, <http://whc.unesco.org/en/list/1325> (last visited Mar. 18, 2013).

261. *Jeju Volcanic Island and Lava Tubes*, UNESCO, <http://whc.unesco.org/en/list/1264> (last visited Mar. 18, 2013).

262. *Lake Malawi National Park*, UNESCO, <http://whc.unesco.org/en/list/289> (last visited Mar. 18, 2013).

263. *Sagarmatha National Park*, UNESCO, <http://whc.unesco.org/en/list/120> (last visited Mar. 18, 2013).

264. *Air and Ténéré Natural Reserves*, UNESCO, <http://whc.unesco.org/en/list/573> (last visited Mar. 18, 2013).

265. *Darien National Park*, UNESCO, <http://whc.unesco.org/en/list/159> (last visited Mar. 18, 2013).

266. *Manú National Park*, UNESCO, <http://whc.unesco.org/en/list/402> (last visited Mar. 18, 2013).

small indigenous population;<sup>267</sup> (24) Russia's Golden Mountains of Altai, in which local populations live with "traditional pastoralism, low-intensity agriculture, hunting, and gathering";<sup>268</sup> (25) Saint Lucia's Pitons Management Area, which allows some agriculture and "artisan fishing";<sup>269</sup> (26) the Solomon Island's East Rennell, which is home to a small Polynesian population who practice subsistence agriculture, fishing, and hunting;<sup>270</sup> and (27) Venezuela's Canaima National Park, which is home to a sparse population of Permon, who maintain traditional swidden agriculture, hunting, and gathering.<sup>271</sup>

### C. Cultural Sites

Of the cultural sites, many have modern agricultural and culinary importance. Listed are the eighteen sites that primarily focus on agricultural practices:<sup>272</sup> (1) Andorra's Mandri-Perafita-Claror Valley, whose inhabitants practice traditional pastoralism and terraced agriculture;<sup>273</sup> (2) Austria's Wachau Cultural Landscape, which is used for viticulture;<sup>274</sup> (3) Colombia's Coffee Cultural Landscape, which has six farming landscapes that carry on a tradition of "growing coffee in small plots in the high forest" in mountain terrain;<sup>275</sup> (4) Cuba's Vinales Valley, which has traditional (mostly tobacco) agriculture;<sup>276</sup> (5) France's Jurisdiction of Saint-Emilion, which is a viticulture region;<sup>277</sup> (6) France's Causses and the Cevennes, Mediterranean agro-pastoral

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267. *Central Sikhote-Alin*, UNESCO, <http://whc.unesco.org/en/list/766> (last visited Mar. 18, 2013).

268. *Golden Mountains of Altai*, UNESCO, <http://whc.unesco.org/en/list/768> (last visited Mar. 18, 2013).

269. *Pitons Management Area*, UNESCO, <http://whc.unesco.org/en/list/1161> (last visited Mar. 18, 2013).

270. *East Rennell*, UNESCO, <http://whc.unesco.org/en/list/854> (last visited Mar. 18, 2013).

271. *Canaima National Park*, UNESCO, <http://whc.unesco.org/en/list/701> (last visited Mar. 18, 2013).

272. Based on a reading of the site descriptions on the *World Heritage List*. See *World Heritage List*, *supra* note 238.

273. *Madriu-Perafita-Claror Valley*, UNESCO, <http://whc.unesco.org/en/list/1160> (last visited Mar. 18, 2013).

274. *Wachau Cultural Landscape*, UNESCO, <http://whc.unesco.org/en/list/970> (last visited Mar. 18, 2013).

275. *Coffee Cultural Landscape of Colombia*, UNESCO, <http://whc.unesco.org/en/list/1121> (last visited Mar. 18, 2013).

276. *Viñales Valley*, UNESCO, <http://whc.unesco.org/en/list/840> (last visited Mar. 18, 2013).

277. *Jurisdiction of Saint-Emilion*, *supra* note 84.

cultural landscape, which is one of the last places traditional transhumance is practiced;<sup>278</sup> (7) Hungary's Tokaj Wine Region Historic Cultural Landscape, which has a "long tradition" of traditional wine production;<sup>279</sup> (8) Italy's Val d'Orcia, which is an "agrarian and pastoral landscape" that reflects Renaissance aesthetics and land management;<sup>280</sup> (9) Mexico's Agave Landscape and Ancient Industrial Facilities of Tequila, which is a "working landscape of blue agave fields" and urban towns with distilleries;<sup>281</sup> (10) Mongolia's Orkhon Valley Cultural Landscape, which is "still grazed by Mongolian nomadic pastoralists";<sup>282</sup> (11) Papua New Guinea's Kuk Early Agricultural Site, where traditional agricultural practices are in the process of being restored;<sup>283</sup> (12) Philippines' Rice Terraces of Philippine Cordilleras, which are huge rice fields that "follow the contours of the mountains" and continue to be cultivated in a traditional fashion;<sup>284</sup> (13) Portugal's Alto Douro Wine Region, where wine has been produced by "traditional landholders" for 2,000 years;<sup>285</sup> (14) Portugal's Landscape of the Pico Island Vineyard Culture, which contains the remnants of traditional small-scale winegrowing, and which produces the highly prized Verdelho desert wine;<sup>286</sup> (15) South Africa's Richtersveld Cultural and Botanical Landscape, which is still used by traditional semi-nomadic "Nama pastoralists";<sup>287</sup> (16) Spain's Cultural Landscape of the Serra de Tramuntana, which has agriculture practiced in terraces with "interconnected water works" on a "sheer-sided" mountain;<sup>288</sup> (17) Sweden's Agricultural Landscape of Southern Oland, which has

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278. *The Causses and the Cévennes, Mediterranean agro-pastoral Cultural Landscape*, UNESCO, <http://whc.unesco.org/en/list/1153> (last visited Mar. 18, 2013).

279. *Tokaj Wine Region Historic Cultural Landscape*, UNESCO, <http://whc.unesco.org/en/list/1063> (last visited Mar. 18, 2013).

280. *Val d'Orcia*, *supra* note 98.

281. *Agave Landscape*, *supra* note 112.

282. *Orkhon Valley Cultural Landscape*, UNESCO, <http://whc.unesco.org/en/list/1081> (last visited Mar. 18, 2013).

283. *Kuk Early Agricultural Site*, UNESCO, <http://whc.unesco.org/en/list/887> (last visited Mar. 18, 2013).

284. *Rice Terraces of the Philippine Cordilleras*, UNESCO, <http://whc.unesco.org/en/list/722> (last visited Mar. 18, 2013).

285. *Alto Douro Wine Region*, UNESCO, <http://whc.unesco.org/en/list/1046> (last visited Mar. 18, 2013).

286. *Landscape of the Pico Island Vineyard Culture*, UNESCO, <http://whc.unesco.org/en/list/1117> (last visited Mar. 18, 2013).

287. *Richtersveld Cultural and Botanical Landscape*, UNESCO, <http://whc.unesco.org/en/list/1265> (last visited Mar. 18, 2013).

288. *Cultural Landscape of the Serra de Tramuntana*, UNESCO, <http://whc.unesco.org/en/list/1371> (last visited Mar. 18, 2013).

traditional farmsteads that have persisted for over 1,000 years;<sup>289</sup> and (18) Togo's Koutammakou, the Land of the Batammariba, which has traditional and sustainable farming practices.<sup>290</sup>

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289. *Agricultural Landscape of Southern Öland*, UNESCO, <http://whc.unesco.org/en/list/968> (last visited Mar. 18, 2013).

290. *Koutammakou, the Land of the Batammariba*, UNESCO, <http://whc.unesco.org/en/list/1140> (last visited Mar. 18, 2013).