

UN Special Rapporteur in the field of cultural rights - Call for inputs for a report on cultural rights and migration

Response by the International Council on Monuments and Sites (ICOMOS), through the ICOMOS Our Common Dignity Initiative/Rights-Based Approaches Working Group (at date 21/11/2022)

Below is a collection of comments provided by individual members of ICOMOS. Where relevant, they refer to particular circumstances in specific countries and localities.

No	Question	Answer
1	<p><i>What are the issues relating to cultural rights that you see in your country's migration processes? Please provide relevant information concerning laws and regulations, programmes and measures, services and practices that seem relevant.</i></p>	<p>Note conditions within the European Union. The EU provides free movement of people for citizens of EU-members; this is one of the basic elements of the EU Treaty. (note: free movement of capital, goods, services and people)</p> <p>In Germany, migrants who come from a country that does not belong to the European Union have to meet more requirements than migrants who are EU citizens. The Federal Agency for Migration and Refugees requires 400- 600 hours of instruction in German language and an orientation course must be taken that teaches basic knowledge of the German political and legal system, recent history and people and society. (On this see also Tamar de Waal, Integration Requirements for Immigrants in Europe: A Legal-Philosophical Inquiry (Bloomsbury 2021). These tasks enable the immigrant to meet the criteria of their visa so that they may stay in Germany and are quite some steps before becoming a naturalized German citizen. To be eligible for naturalization, a person has to have lived legally in Germany for at least eight years and possess the appropriate residence permit. Migrants who have successfully completed an integration course are eligible for naturalization after seven years. The challenge of this process is that the language and integration courses require the migrants to have a certain level of scholastic ability. However, Germany's Federal Ministry of Interior and Community notes that special rules apply to persons with special status (such as displaced or stateless persons), making it easier for them to become naturalized citizens.</p> <p>It is not unusual that countries set up exams for those who wish to become a national citizen and that this includes questions about national history.</p>

It is the case in the **UK**. However, this can raise a number of issues as in the following example.

Not unsimilar to Germany, the **Government of Flanders (Belgium)** seeks to integrate the immigrants. An expert group of historians was set up to determine which basic facts about Flanders' history should be known by its citizens (the canon), included in the school curriculum and integration projects of immigrants who will have to pass an exam. The aim of the Government with this canon is to create a sense of belonging to Flanders and to improve social cohesion.

The expert group hasn't finished its work yet, but whatever the results will be, it has already met with a lot of resistance. More recently the Flemish Academy for the Arts and Sciences published a well-researched report providing the context for the initiative and presenting the dangers of a political use of history. The report is available at <https://kvab.be/nl/standpunten/een-canon-van-vlaanderen>

- Loss of heritage related to the experience of migration because it is not valued by the receiving state as 'culturally significant', see e.g. <https://www-2doc-nl.translate.goog/docs/2022/89-Maquette-zonder-verblijfsvergunning.html? x tr sl=auto& x tr tl=en& x tr hl=en& x tr pto=wapp>.
- In the case of intangible heritage (particularly in the case of forced migration/refugees): loss of necessary places, tools or instruments; impact of rising costs of goods and services on ability to continue practicing ICH; loss of broader supportive community which fosters intergenerational transmission; opposition to continue certain heritage practices in new home country.
- A question for the group: what role should governance regimes such as the World Heritage Convention play in safeguarding migrant/refugee heritage? See e.g. <https://www.theguardian.com/artanddesign/2021/oct/14/dheisheh-palestinian-refugee-camp-stateless-heritage-world-status-unesco-taj-mahal-macchu-picchu>.

Ireland:

The Galway City Development Board has taken measures relating to cultural rights by creating an anti-racism policy in its strategy, Gaillimh Beo agus Bromhar (A Strategy for Economic, Social and Cultural Development of Galway City), in 2002.

The Galway City Anti Racism Strategy Towards a City of Equals 2005–2008 was published by Galway City Partnership in collaboration with Galway City Council and other non-profit, cultural

		<p>groups, communities, and statutory organisations.</p> <p>The Strategy was notable because it was the first of its type in Ireland and established Galway as a leader in taking effective, cogent action on cultural rights and racism. It was determined in 2008 to launch a follow-up strategy to move Galway closer to becoming a "City of Equals" once the Anti Racism Strategy was completed. The Galway City Development Board Strategy 2002-2012.</p> <p>The Central Statistics Office and the Department of Children, Equality, Disability, Integration, and Youth are creating the National Equality Statistics Strategy, which will implement a comprehensive approach to enhancing the collection, use, and dissemination of equality data.</p> <p>The Strategy is expected to be in place starting in 2023.</p>
2	<p><i>Do migrants have access to the cultural services and institutions of the host society? How about undocumented migrants, asylum seekers and refugees? How is such access ensured?</i></p>	<p>The European Parliament and the European Commission organised on 16 November 2022 a hearing on "Culture: a driver for health and wellbeing in the EU". There seem to be many projects, initiatives and cultural projects that are specifically aimed at migrants. Culture for Health has gathered evidence and information on its website, including a publication by the World Health Organization, and initiated by the Culture For Health project, "outlining important ways arts activities can be relevant activities to improve the health and well-being of forcibly displaced people". See https://www.cultureforhealth.eu/</p> <p>One of the conclusions of the meeting was that time has come to adopt policy measures, programmes and to mainstream culture and art in health measures, policies and programmes. Importantly, this was a general call, with no distinction made between groups of people.</p> <p>Under certain conditions, naturalization of migrants is possible in Germany even without valid identity documents. As the Mainz Administrative Court ruled in April 2022, see: https://jungfreiheit.de/politik/deutschland/2022/ein-buergerung-ohne-pass/</p> <p>Ireland: Migrants, asylum seekers and refugees have access to different services and institutions like schools, healthcare, Language interpretations etc. They can now work 20 hours a week. The case is not the same for undocumented migrants to access services and institutions.</p>

3	<p><i>Are tangible artefacts belonging to migrants protected by the state? Does their use affect the cultural rights of migrants?</i></p>	<p>Ireland: There have been examples of artefacts belonging to migrants, that have been protected while on display for festivities. Like the Africa day, where Africans showcase their cultures, artefacts</p>
4	<p><i>Which institutions have been successful in respecting and protecting the cultural resources and assets of migrants? Please provide examples when possible, including on how this was achieved.</i></p>	<p>In India, a place called 'Dharamshala' has been like a second home for Tibetan Refugees including the Dalai Lama who has his office etc. all set there. There are also other towns in South India (I forgot the name now) which has specifically catering to the Tibetan refugees.</p> <p>Ireland: The dept of Foreign affairs hosts and funds the Africa day events. The dept also assist cultural communities that showcase assets from their home communities during these events. The dept of Justice and the Health services ensure that adequate translation services are provided for. Institutions like Diversity Matters are receiving support in ensuring cultural resources are protected.</p>
5	<p><i>What are the steps that relevant local and national authorities take to ensure that the rights of migrants to access, practice, maintain and transmit living cultural resources are protected, especially forced migrants?</i></p>	<p>Laws effective in Germany: Geneva Refugee Convention 1951, UN Guidelines on Internal Displacement 1998 (not legally binding), United Nations New York Declaration for Refugees and Migrants September 2016, United Nations Global Compact for Safe, Orderly and Regular Migration December 2018.</p> <p>Germany ratified the International Covenant on Economic, Social and Cultural Rights on December 17, 1973. The "Social Pact" came into force on January 3, 1976 (Federal Law Gazette 1973 II, p. 1659) and it promotes economic, social and cultural rights forming an indivisible whole with civil and political rights. In the Bundestag session on November 10, 2022, the ratification of the optional protocol to the social pact was decided in accordance with the federal government's draft law on the optional protocol . The law introduces an individual complaints procedure in Germany that gives individuals and groups the opportunity to complain to the UN Committee on Economic, Social and Cultural Rights about violations of their rights (individual complaints procedure). See: https://www.institut-fuer-menschenrechte.de/menschenrechtsschutz/deutschland-im-menschenrechtsschutzsystem/vereinte-nationen/vereinte-nationen-menschenrechtsabkommen/umsetzung-sozialpakt-in-deutschland</p> <p>Germany has the "Initiative Kulturelle Integration", which is a network of governmental ministries such as the Federal Ministry of the Interior and Home Affairs, the Federal Government Commissioner for Migration, Refugees and Integration, along with</p>

		<p>civil society groups, churches and religious communities and they collate funding opportunities, events and resources on diversity and social cohesion: https://www.kulturelle-integration.de/</p> <p>Germany also has the Federal Agency for Civic Education which provides citizenship education and information on political issues: https://www.bpb.de/</p> <p>Ireland: The migrant council of Ireland ensure that migrants rights are protected when they access services.</p>
6	<p><i>What is the position of governmental authorities when cultural practices of migrants are not in line with those of the majority of the population?</i></p>	<p>Ireland: The government have been proactive with diversity and inclusion initiatives in schools and health services. More trainings are taken place in institutions and government dept.</p>
7	<p><i>Please provide examples of how the tensions have been handled in the past.</i></p>	<p>Ireland - Numerous problems and obstacles that migrants confront can frequently hinder them from fully integrating into host societies. This can thus cause misconceptions, fear of the unknown, and fear of the loss or dilution of cultural identity in the majority culture. By providing opportunities for productive discourse and engagement, basing plans on an intercultural approach helps to reduce potential tensions.</p> <p>Within Dublin City Council, there is a specific Office for Integration. Towards Integration - A City Framework is the name of the Dublin City Integration Strategy. A city "Charter" was created by the council as part of this procedure</p>
8	<p><i>How do the different sectors of the population learn about the cultures of the migrants, especially new and forced migrants? Please provide information about existing spaces, including media spaces, and opportunities for the host society to encounter and engage with cultural resources of migrants.</i></p>	<p>There are some great immigration museums, such as the Immigration Museum in Melbourne in Australia: https://museumsvictoria.com.au/immigrationmuseum/</p> <p>The International Coalition of Sites of Conscience has a Migration Museums Network, https://www.sitesofconscience.org/</p> <p>"MigratieMuseumMigration (MMM) is a project by Foyer vzw, opened in 2019 at Molenbeek (Brussels) in a typical migration "arrival area" in the Brussels canal zone. The MMM gives a clear view of the various waves of migrants and refugees to Europe after WW2. It shows how migrants and migration have contributed substantially to the development and promotion of Europe, especially on common values such as multicultural diversity and multilingualism that underpin European integration." The museum and the stories it brings are the result of participatory</p>

		<p>approaches. It was awarded the European Heritage Label. https://culture.ec.europa.eu/cultural-heritage/initiatives-and-success-stories/european-heritage-label/european-heritage-label-sites/migratiemuseummigration-mmm-belgium</p> <p>Germany offers an online migration museum space: https://virtuelles-migrationsmuseum.org/</p> <p>Ireland - There has been an increase of diversity and inclusion trainings across Ireland. Diversity Matters, Phoenixrize are some of the cultural resources of migrants that are raising awareness in the media space and broader communities.</p>
9	<p><i>What challenges do migrants face currently in practicing, maintaining and transmitting their culture, especially when they are new and/or forced migrants?</i></p>	<p>Migrants do not have the ability to contribute to the governance of the society that they are living in. For example, in Germany, only German citizens and ex-pats from EU member states can vote in elections in Germany. To become a German citizen, the migrant must have lived in Germany for a minimum of eight years.</p>
10	<p><i>Please share good practices in protecting the cultural rights of migrants to access cultural resources and services, to enjoy their heritage and that of others, to use their language in private and in public, to participate in cultural life, to freedom of artistic expression and to take part in decisions that impact their cultural life. Please focus more on new and/or forced migrants.</i></p>	<ul style="list-style-type: none"> - A good example of an initiative fostering access of forced migrants/refugees to cultural resources and services is the Rohingya Cultural Memory Centre in Bangladesh: https://rohingyaculturalmemorycentre.iom.int/default.aspx?lang=en The Asian University for Women in Chittagong, Bangladesh is also helping girls from the Rohingya Refugee camp to get through educational processes, although not sure if it is fully approved by the government of Bangladesh as a policy. - In the case of Ukraine, there have been a lot of recent initiatives which sought to provide shelter or residency programmes to displaced Ukrainian artists, or access to Ukrainian literature for child refugees.
11	<p><i>Please advise how cultural rights of vulnerable and marginalised sections of migrants are protected.</i></p>	<p>In Nepal, Tibetan refugees are well treated in terms of practicing their culture due to cultural similarities. In the 1990s, the Bhutanese refugees to Nepal were treated well, again due to their language and cultural similarity to Nepal, but their resettlement to the US and Europe seems to have weakened their own fight for their right to return to their homeland.</p> <p>Similarly, Hindu migrants to India from Pakistan are treated well I think, although I am not sure how it is for other religious/ethnic groups.</p>