

ICOMOS

international council on monuments and sites

UNHCR Special Rapporteur in the Field of Cultural Rights Call for contributions: Cultural rights and the governance of development (extended deadline 28th April)

Submission by ICOMOS (International Council on Monuments and Sites) 28 April 2023

MAIN QUESTIONS (for all stakeholders)

- 1. How are human rights generally integrated in your policies and programmes? Please indicate if human rights are mandatory considerations, at what stage of the programme they are integrated and if any, what kind of impact assessment and monitoring is done of their implementation.**

The International Council on Monuments and Sites (ICOMOS) on behalf of which this submission is made, is a global non-governmental membership organisation of 10,500 professionals that work in cultural heritage advocacy, protection, conservation, restoration, and management.

It is one of three Advisory Bodies to the World Heritage Committee on the implementation of *The UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage 1972*, together with the International Union for Conservation of Nature (IUCN) and the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM). Over the past 20 years human rights and cultural rights have been increasingly emphasised and integrated into the development of governance policy, doctrinal texts, guidance documents, and the professional and advisory work of the ICOMOS administration, National Committees, and its individual expert members together with its partner organisations (especially IUCN and ICCROM).

ICOMOS works at a national level through its National Committees, at a regional level (regional groupings of National Committees for Africa, America, Arab States, Asia Pacific and Europe), and at an international level through its thirty-one International Scientific Committees, its elected Executive Board and its International Secretariat in Paris. The Board and Secretariat coordinate the work of ICOMOS in its role as an Advisory Body to the World Heritage Committee and the selection of experts from its 10,500-membership base to assist with this work.

Together with its partner organisations, ICOMOS works transversally for the integration of People-Centred and Rights-Based Approaches to the management of cultural heritage, including World Heritage, and for the integration of human rights and cultural rights in the promotion of heritage as a driver of sustainable development and the management of cultural tourism.

ICOMOS has a dedicated working group, entitled *Our Common Dignity – Rights Based Approaches Working Group (OCD-RBA WG)*, whose main objective is to build awareness of rights-based issues in World Heritage and heritage management in general, to promote “good practice” in rights-based approaches and to develop and promote relevant tools and guidelines, in particular for World Heritage from tentative lists and nominations through conservation and management of the sites.

The ICOMOS Working Groups – *Our Common Dignity Rights-based Approaches Working Group (OCD RBA)*, *Climate Action Working Group (CCHWG)*, *Sustainable Development Goals Working Group (SDG WG)* and *Indigenous Heritage Working Group (IHWG)* work transversally, integrating Rights-based Approaches in their projects and work. ICOMOS also has a Task Force on Gender Equity linked to the SGD WG and OCD-RBA WG. (see also response to question 2 which includes hyperlinks to all relevant ICOMOS documents and initiatives).

In 2021, ICOMOS published the [ICOMOS Heritage and the Sustainable Development Goals: Policy Guidance for Heritage and Development Actors \(2021\)](#). The document highlights where cultural heritage can be embedded in approaches to realising most of the SDGs and not simply with reference to Goal 11.4.

The [2022 ICOMOS International Charter for Cultural Heritage Tourism](#), already translated into seven languages for accessibility, considers cultural and natural heritage as common resources whose responsible, ethical, equitable, inclusive and fair governance and enjoyment are shared rights and responsibilities. This policy orientation is promoted across all aspects of the work of ICOMOS. The charter, a doctrinal text, recognizes and

reinforces the rights of communities, Indigenous Peoples and tradition bearers by reinforcing their rights to access, benefit, share and enjoyment of heritage, and to engagement in participatory governance of the cultural and natural heritage commons used in tourism.

2. Please provide examples of any programmes that contribute to the respect, protection and implementation of cultural rights, in particular:

- ***The right to choose and maintain one's identity, and to take part in the cultural life of one's choice;***
- ***The right to access, enjoy and transmit cultural heritage, including languages and ways of life;***
- ***The right to access and transmit creative expressions and knowledge, and to access the creativity and knowledge of others;***
- ***The right to access to the benefits of science and its applications, including scientific knowledge, technology, and opportunities to contribute to the scientific enterprise;***

All the above are integrated into the policies on governance, praxis, and advocacy of ICOMOS. This includes the Open Access publication of all policy, General Assembly resolutions, doctrinal texts, declarations, guidance documents, webinars, presentations, analytical reports, cultural thematic studies and reports on capacity-building in partnership with the other Advisory Bodies to the World Heritage Committee. Most documents are translated into several languages.

*"Living heritage is connected to people's daily lives, histories, identities, economic and social wellbeing. ICOMOS recommends that a deep awareness of the intangible values of heritage among the younger generation needs to be encouraged through formal and informal education. For sustainability of intangible cultural heritage (ICH) to occur, young people need to be immersed in ecosystems which transmit cultural skills and knowledge, from generation to generation. **These concepts are integrated in ICOMOS doctrine, which calls for people-centered approaches to cultural heritage, intercultural dialogue and understanding, synergizing cultural heritage conservation and management with the diverse cultural, environmental, and socio-economic concerns of people when addressing local, national, and international heritage policies and practices**" (ref. ICOMOS Resolution 20 GA/19).*

- ***The right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which one is the author;***

Embedded in the Open Access publication policy of ICOMOS and, in relation to its work as an Advisory Body to UNESCO.

- ***The right to take part in decision making processes that have an impact on one's cultural life, including: the right of effective participation and consultation for minorities;***

These key considerations are integrated into all of ICOMOS's work, governance, praxis and advocacy as a professional expert-based membership organisation. It is an important focus of ICOMOS's work internationally through its National Committees, International Scientific Committees, Working Groups, Task Forces and as an Advisory Body to the World Heritage Committee.

- ***the right to free, prior and informed consent by indigenous peoples and by local populations.***

Since its establishment in 2011, the OCD-RBA Working Group has been working towards the inclusion of Human Rights-related policies, guidelines and good practice in cultural heritage protection, management, conservation and restoration and, in regard to the UNESCO World Heritage nomination process, to be inclusive of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and "the right to free, prior and informed consent by indigenous peoples and by local populations."¹

¹ The UNDRIP is mentioned in the 2011 World Heritage Operational Guidelines <https://whc.unesco.org/document/178167>

Para 40 "Partners in the protection and conservation of World Heritage can be those individuals and other stakeholders, especially local communities, indigenous peoples, governmental, non-governmental and private organizations and owners who have an interest and involvement in the conservation and management of a World Heritage property. (Text Box) The Declaration on the Rights of Indigenous Peoples (2007) Decision 39 COM

Para 123 "Participation in the nomination process of local communities, indigenous peoples, governmental, non-governmental and private organizations and other stakeholders is essential to enable them to have a shared responsibility with the State Party in the maintenance of the property. States Parties are encouraged to prepare nominations with the widest possible participation of stakeholders and to demonstrate, as appropriate, that the **free, prior and informed consent of indigenous**

- **the expression of cultural diversity is respected, protected and implemented;**
- **marginalized voices and aspirations are identified and heard;**

The principle of widespread, representative consultation and stakeholders' engagement and participation in cultural heritage management is promoted by ICOMOS, and also in the process of selection, nomination and management of World Heritage.

- **commitments to ensure that development is self-determined and community led are included;**

This is one of the fundamental principles of the OCD-RBA Working Group – community-based, people-centred, rights-based approaches in all aspects of the safeguarding of cultural heritage.

- **commitments to take into account the local aspirations, values and priorities, rather than work on a one-size-fits-all model, are explicit;**

ICOMOS is committed to the integration of all cultural and heritage values. As a global organisation based on National Committees, it celebrates cultural diversity and promotes cultural diversity and living heritage in its work.

- **commitments are made to ensure forward looking development.**

Through the integration of its work on the SDGs and Agenda 2030 and Climate Action, ICOMOS is committed to the mobilisation of heritage in sustainable development though localised, people-centred and rights-based approaches. Capacity-Building activities (open in cooperation with IUCN and ICCROM) are regionally and locally-based using 'on the ground' initiatives.

3. Please provide recent examples of programmes, policies and commitments where:

- **sustainable development is discussed beyond wealth accumulation model; mentioned**

This is now embedded in ICOMOS doctrine within the 2022 ICOMOS International Cultural Tourism Charter, it is also promoted by the ICOMOS SDG Working Group and the Climate Action Working Group.

- **cultural rights are mentioned and explained;**

- International Journal of Heritage Studies, (special issue on rights) vol 18, no. 3, 2012 published papers presented at the founding workshop of the *Our Common Dignity Initiative*
- Understanding rights practices in the World Heritage system: lessons from the Asia-Pacific and the global arena. Global Science Policy Dialogue held in Caux, Switzerland, January 18-19 (2016) [includes Caux call for action] <https://snis.ch/projects/understanding-rights-practices-in-the-world-heritage-system-lessons-from-the-asia-pacific/>
- REPORT: The Advisory Body "Our Common Dignity Initiative" on Rights-based approaches in World Heritage: Taking stock and looking forward. Project Report. ICOMOS Norway.
- ICOMOS Canada Background Research for Indigenous Heritage Working Group <https://canada.icomos.org/wp-content/uploads/2020/02/ICOMOS-Indigenous-Heritage-Background-Research-FINAL-2.pdf>

- **cultural development is mentioned and explained; the expression of cultural diversity is respected, protected and implemented;**
- **marginalized voices and aspirations are identified and heard;**

These are integrated into the work of the OCD-RBA Working Group

peoples has been obtained, through, inter alia making the nominations publicly available in appropriate languages and public consultations and hearings.

Annex 6B (development of IUCN evaluation procedure) re. Indigenous People re. FPIC.

- **commitments to ensure that development is self-determined and community led are included;**

This is one of the fundamental principles of the OCD-RBA Working Group – community-based, people-centred, rights-based approaches in all aspects of the safeguarding of cultural heritage.

- **commitments to take into account the local aspirations, values and priorities, rather than work on a one-size-fits-all model, are explicit;**

This is one of the fundamental principles of the OCD-RBA Working Group – community-based, people-centred, rights-based approaches in all aspects of the safeguarding of cultural heritage.

ICOMOS and Rights-Based Approaches

ICOMOS integrates a perspective on all the above aspects through its policies, documents, guidelines, and good practices, while in recent years it has increasingly disseminated transversally on the theme of People-Centred and Rights-Based Approaches, Climate Action and the orientation of heritage management policy and practice on the SDGs and Agenda 2030. In cultural heritage promotion, protection, conservation and management, these are cross-cutting issues.

Brief Historical Perspective

ICOMOS formally approved the mandate of the Our Common Dignity – Rights-Based Approaches Working Group (OCD-RBA) in December 2011 (ICOMOS Resolution 17GA 2011/30) following an international workshop and meetings with UNHCR and UNESCO, all attended also by representatives of IUCN and ICCROM. https://www.icomos.org/images/DOCUMENTS/Working_Groups/RBA-OCDI/2011-17AGA-OCDI-resolution30.pdf

Following the inclusion of Communities as the 5th “C” of the World Heritage Strategy (Decision WHC-07/31.COM/13B) in 2007, the Norwegian ICOMOS National Committee together with IUCN and ICCROM began to actively promote the integration of rights-based approaches in the designation and management of heritage generally and to World Heritage in particular.

Between 2012-2015, concerted consultation on people-centred and rights-based approaches between the three Advisory Bodies to the World Heritage Committee culminated with a report entitled Rights-based approaches in World Heritage: Taking stock and looking forward.(2016)

https://openarchive.icomos.org/id/eprint/1817/1/Report_web.pdf. The objective of the report was to

- i) contribute towards building awareness of rights issues in World Heritage and heritage management in general,
- ii) to promote ‘good practice’ approaches to rights and their enabling conditions, and
- iii) to develop and recommend relevant tools and guidelines especially for World Heritage.

This work by ICOMOS with IUCN and ICCROM on community engagement, people-centred and rights-based approaches is to a considerable extent responsible for Articles 7, 17, 18, and 20 of the World Heritage Committee Policy for the Integration of a Sustainable Development Perspective Into the Processes of the World Heritage Convention (2015)

“20. (...) To ensure policy coherence in conserving and managing World Heritage properties, States Parties should commit to uphold, respect and contribute to the implementation of the full range of international human rights standards as a pre-requisite for effectively achieving sustainable development. To this end, States Parties should:

- i. Ensure that the full cycle of World Heritage processes from nomination to management is compatible with and supportive of human rights;*
- ii. Adopt a rights-based approach, which promotes World Heritage properties as exemplary places for the application of the highest standards for the respect and realization of human rights;*
- iii. Develop, through equitable participation of concerned people, relevant standards and safeguards, guidance tools and operational mechanisms for assessment, nomination, management, evaluation and reporting processes compatible with and effective rights-based approach for both existing and potential new properties;*
- iv. Promote technical cooperation and capacity-building to ensure effective rights-based approaches”.*

The work of the three Advisory Bodies and partner organisations on the promotion of rights also resulted in revisions to the World Heritage Operational Guidelines, firstly in 2015 and especially in 2019 when the revisions and new text related to rights were significant. The inclusion of rights can be attributed to the work of ICOMOS and its partner advisory bodies IUCN and ICCROM. Eg. Op.G.Para 12.

“States Parties to the Convention are encouraged to adopt a human-rights based approach, and ensure gender-balanced participation of a wide variety of stakeholders and rights-holders, including site managers, local and regional governments, local communities, indigenous peoples, nongovernmental organizations (NGOs) and other interested parties and partners in the identification, nomination, management and protection processes of World Heritage properties.”

Further text was added on rights in OP.G. Paras. 14, 64, 111, and 117. <https://whc.unesco.org/document/178167>

In 2018, ICOMOS developed the European Quality Principles for EU-funded interventions with potential impact upon cultural heritage, prepared under mandate of the European Union as a flagship initiative of the European Year of Cultural Heritage 2018. These Principles integrate rights-based approaches and sustainable development principles within a range of Recommendations (40) to be applied to development projects subject to EU funding and which have the potential to impact on cultural heritage. <https://www.icomos.org/en/about-icomos/committees/regional-activities-europe/90984-quality-principles-new-version-available>

4. Please provide information on any monitoring or evaluation mechanisms assessing the impacts of your development programmes or policies on cultural rights. Also please discuss any mechanism to submit complaints and seek reparation in cases of violations.

ICOMOS as an international Advisory Body to the UNESCO World Heritage Committee does not have development programmes as such, but has integrated rights into its policies, formal governance documents including its Ethical Principles and its recent doctrinal texts (e.g. the ICOMOS Cultural Tourism Charter). Through the dissemination activity and output of its Working Groups, it seeks to integrate all the aspects identified in Question 3. In addition, some National Committees and regional Vice-presidencies are particularly active in the promotion of cultural rights in their global region.

Following inscription on the World Heritage List, all States Parties are obliged to monitor and report on their World Heritage properties. In this context, the World Heritage Centre accepts 3rd party submissions, including submissions on Human Rights issues (3rd party submissions can also be made to the World Heritage Centre in relation to issues concerning Human Rights, minorities and Indigenous Peoples at candidate World Heritage sites undergoing evaluation.

Development Impact Assessment and Heritage Impact Assessment

Together with its partner Advisory Bodies IUCN and ICCROM, ICOMOS provides guidance on the assessment of the impact of development programmes on cultural and natural heritage and its multiple values.

The Guidance and Toolkit for Impact Assessment (in a World Heritage Context), published by UNESCO in 2022 with ICOMOS, IUCN and ICCROM, applies to all heritage, not just to World Heritage <https://whc.unesco.org/en/guidance-toolkit-impact-assessments/>

It replaces the earlier ICOMOS (2011) Guidance on Heritage Impact Assessment and similar guidance (2013) by IUCN. The guidance and toolkit provide advice on the identification of “rights-holders, local communities and other stakeholders, and their engagement and participation in the assessment of development impacts – or the impact of proposed change.”(UNESCO 2022, Section 6.2, Box 6.1).

Special Indigenous Peoples: Indigenous Peoples Working Group and ICOMOS International Scientific Committees

The ICOMOS OCD-RBA Working Group strives to advocate for the inclusion of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) and the inclusion of Indigenous ways of knowing, traditions and practices, with the right to free and prior consent, recognising the regional diversity of Indigenous peoples, through the development of governance, policies, and good practices in the management, conservation, and restoration of cultural heritage and cultural rights. This is manifested in the work of ICOMOS, its Working Groups and International Scientific Committees, through the advocacy and implementation of cultural heritage as a human right, the implementation of the ICOMOS Nara Document (1994), the UNESCO Universal Declaration on Cultural Diversity (2001), the UNESCO Convention on Intangible Cultural Heritage (2003), the UNESCO Convention of Diversity of Cultural Expressions (2005), and the inclusion of Indigenous communities and local communities as actors in protecting culture and climate action. Work is advancing on the inclusion of nature-culture approaches in protecting World Heritage through the joint efforts of the three Advisory Bodies, ICOMOS, IUCN, and ICCROM.

These initiatives have been further supported by the Heritage Thursdays Webinars, organised by the OCD-RBA Working Group, and the work of the ICOMOS International Scientific Committees (ISC).

For example, the international conference organised by the ISC Theory and Philosophy of Conservation and Restoration, in full partnership with the Indigenous communities of the Pacific Northwest Coast of Canada and with the participation of Indigenous representatives from diverse global regions.

Indigenous Cultural Heritage: Developing New Approaches and Best Practices for World Heritage Based on Indigenous Perspectives and Values. Proceedings, Recommendations, and Outcomes of the ICOMOS International Scientific Committee Conference and Forum on Indigenous Cultural Heritage, 2019. e-ISSN 2543-6422 <https://ph.pollub.pl/index.php/odk/index>

During 2020-21, ICOMOS Canada (hosting the secretariat for the Indigenous Peoples WG) supported the preparation of an important report on Indigenous culture Background Research for Indigenous Heritage Working Group <https://canada.icomos.org/wp-content/uploads/2020/02/ICOMOS-Indigenous-Heritage-Background-Research-FINAL-2.pdf> and convened international stakeholders in seminars to work towards formal Terms of Reference to guide ICOMOS on Indigenous Heritage in the coming years.