

## **Outcome Document: International expert workshop on recognizing and respecting Indigenous Peoples' heritage values in World Heritage sites**

### ***Introduction***

The International Expert Workshop on Recognizing and Respecting Indigenous Peoples' Heritage Values in World Heritage Sites was hosted by the International Indigenous Peoples' Forum on World Heritage (IIPFWH) and held from 17 to 19 January 2024 in Geneva, Switzerland. The workshop was organized by the IIPFWH with the assistance of the International Work Group for Indigenous Affairs (IWGIA). Financial support for the expert workshop was provided by the Australian Government, UNESCO's World Heritage Fund, and IWGIA.

The overall objective of the expert workshop was to contribute to the realization of the provisions of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), particularly Article 31 on the right of Indigenous Peoples to maintain, protect and develop their cultural heritage, as well as the goals of the UNESCO Policy on Engaging with Indigenous Peoples and the World Heritage Sustainable Development Policy. More specifically, the aims of the workshop were to discuss the concerns of Indigenous Peoples regarding the nature-culture divide in the implementation of the World Heritage Convention and the lack of recognition, respect and protection for Indigenous Peoples' heritage and values in many World Heritage sites, and to make recommendations on how to address these concerns (see the concept note in Annex 3).

The expert workshop was attended by Indigenous experts from the seven Indigenous socio-cultural regions recognized by the United Nations, representatives of UNESCO, the World Heritage Centre, and the World Heritage Convention's Advisory Bodies (IUCN, ICOMOS, and ICCROM), representatives of the UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, and the Office of the UN High Commissioner for Human Rights, the Special Rapporteur on the rights of Indigenous Peoples, the Special Rapporteur in the field of cultural rights, other experts in World Heritage, human rights, and Indigenous Peoples' issues, and some government representatives (see the list of participants in Annex 4).

This Outcome Document reflects the collective view of the Indigenous experts who participated in the expert workshop.

### ***Preamble***

**We, the Indigenous experts assembled in Geneva, recognize:**

- The important contribution of Indigenous Peoples to cultural diversity, which is the common heritage of humankind and must be recognized and affirmed for the benefit of present and future generations, in accordance with the UNESCO Universal Declaration on Cultural Diversity, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and other international instruments.
- The inherent authority of Indigenous Peoples over our culture and heritage, which is empowered by our own governance systems, and continues to be exercised regardless of constructs external to us.
- The large number of World Heritage sites that are fully or partially located within the lands and territories of Indigenous Peoples and the crucial role that Indigenous Peoples have played and continue to play in protecting, creating, developing, and safeguarding these places.
- The large number of sites on States Parties' Tentative Lists (of potential World Heritage sites) that are fully or partially located within or have potential impacts on the lands and territories of Indigenous Peoples.

**We recall:**

- UNESCO's constitutional purpose to "further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations" (Art. 1.1).
- The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the obligation of UNESCO and the World Heritage Committee to promote respect for and contribute to the full realization of the provisions of the Declaration (Arts. 41 and 42 UNDRIP).
- The obligation of UN Member States to promote respect for and full application of the provisions of the UNDRIP and follow up on its effectiveness (Art. 42 UNDRIP).
- The UN General Assembly's recognition of "the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources" (UNDRIP Preamble).
- The UN General Assembly's conviction "that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs" (UNDRIP Preamble).
- The UN General Assembly's recognition "that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment" (UNDRIP Preamble).

- The duty of States to provide effective mechanisms for prevention of, and redress for: any action which has the aim or effect of depriving us of our integrity as distinct peoples, or of our cultural values or ethnic identities; and any action which has the aim or effect of dispossessing us of our lands, territories or resources (UNDRIP, Art. 8).
- The duty of States to consult and cooperate in good faith with Indigenous Peoples in order to obtain our free, prior and informed consent before adopting and implementing measures or projects that may affect us (UNDRIP, Arts. 19, 32).
- UNESCO's commitment to implement the UNDRIP across all relevant programme areas as reaffirmed in their Policy on Engaging with Indigenous Peoples.
- The specific mandate entrusted to UNESCO to promote culture in its diversity based upon respect for shared values, human rights and the dignity of all cultures, and UNESCO's commitment to treat all cultures, including the cultures of Indigenous Peoples, with equal dignity and respect, as reaffirmed in the UNESCO Policy on Engaging with Indigenous Peoples.
- The UNESCO Universal Declaration on Cultural Diversity, which designates the defense of cultural diversity as "an ethical imperative, inseparable from respect for human dignity" that "implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples" (Art. 4).
- The Nara Document on Authenticity, which recognizes that "[c]ultural heritage diversity ... demands respect for other cultures and all aspects of their belief systems" and emphasizes that "the respect due to all cultures requires that heritage properties must be considered and judged within the cultural contexts to which they belong" (para. 11).
- The Memorandum of Understanding between UNESCO and the Office of the UN High Commissioner for Human Rights to cooperate and coordinate between the two agencies based on the recognition of the significance of human rights.
- The commitment of the States Parties to the World Heritage Convention that the conservation and management of World Heritage sites should contribute to reducing inequalities, as well as its structural causes, including discrimination and exclusion (World Heritage Sustainable Development Policy, para. 7.ii.).

**We take note of and acknowledge:**

- Decision 30 COM 9 (2006) of the World Heritage Committee, according to which "outstanding universal value is a concept that shall embrace all cultures, regions and peoples, and does not ignore differing cultural interpretations of outstanding universal value because they originate from minorities, indigenous groups and/or local peoples."

- The “Promise of Sydney” adopted by the 2014 IUCN World Parks Congress, which emphasizes that “the World Heritage Convention should fully and consistently recognise Indigenous Peoples’ cultural values as universal and develop methods for recognition and support for the interconnectedness of natural, cultural, social, and spiritual significance of World Heritage sites, including natural and cultural sites and cultural landscapes.”
- Advice No. 8 of the UN Expert Mechanism on the Rights of Indigenous Peoples (“Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage,” 2015), which calls on the World Heritage Committee to “adopt changes to the criteria and regulations for the assessment of ‘outstanding universal value’ so as to ensure that the values assigned to World Heritage sites by indigenous peoples are fully and consistently recognized as part of their outstanding universal value.”
- The 2022 report of the Special Rapporteur on the rights of Indigenous Peoples, José Francisco Calí Tzay, on “Protected areas and indigenous peoples’ rights: the obligations of States and international organizations.”
- Resolution 21GA 2023/18 of the 21st General Assembly of ICOMOS (2023), entitled “Recognizing Indigenous Peoples’ Values and Interconnections between Culture and Nature in the Outstanding Universal Value of World Heritage Sites.”
- Decision 41 COM 7 (2017) of the World Heritage Committee, recognizing the International Indigenous Peoples’ Forum on World Heritage (IIPFWH) as an “important reflection platform on the involvement of Indigenous Peoples in the identification, conservation and management of World Heritage properties, with a particular focus on the nomination process” (para. 41).

**We emphasize:**

- The rights of Indigenous Peoples to our lands, territories and resources, as recognized, inter alia, in the United Nations Declaration on the Rights of Indigenous Peoples.
- The right of Indigenous Peoples to maintain, control, protect, and develop our cultural heritage and to practice and revitalize our cultural traditions and customs (UNDRIP, Art. 31).
- The right of Indigenous Peoples to full and effective participation in decision-making affecting us, through representatives chosen by ourselves in accordance with our own procedures (UNDRIP, Art. 18).
- The right of Indigenous Peoples to free, prior and informed consent (UNDRIP Arts. 10, 11, 19, 28, 29, 32).

- The need for an evolutive interpretation of the World Heritage Convention in order to harmonize and align its implementation with the UN Declaration on the Rights of Indigenous Peoples, the UNESCO Universal Declaration on Cultural Diversity, and the Convention for the Safeguarding of the Intangible Cultural Heritage and ensure conformity with, and respect for, international human rights standards and jurisprudence concerning Indigenous Peoples' rights.
- That for Indigenous Peoples, "cultural and natural values are inseparably interwoven and should be managed and protected in a holistic manner" (EMRIP Advice No. 8).
- That "heritage policies, programmes, and activities affecting Indigenous Peoples should be based on full recognition of the inseparability of natural and cultural heritage, and the deep-seated interconnectedness of intangible cultural heritage and tangible cultural and natural heritage" (EMRIP Advice No. 8).
- The imperative need for the Outstanding Universal Value (OUV) of World Heritage sites in Indigenous Peoples' territories to reflect our own understandings and perspectives of the sites, to respect the cultural context of Indigenous Peoples, and to embrace, recognize, and respect our holistic world views, which are the basis of our diverse and distinct cultural identities and directly derived from our extraordinary, multi-generational adaptation to the natural world, ecosystems, environment, lands, and territories that have sustained us, our knowledge, strength, and ingenuity for generations.

#### **We welcome:**

- The UNESCO Policy on Engaging with Indigenous Peoples, which underlines, *inter alia*, that policies, interventions and practices of conservation and management in and around cultural and natural heritage sites should "[r]ecognize, respect, and take into account the spiritual and cultural values, the interconnections between biological and cultural diversity as well as cultural and environmental knowledge of indigenous peoples", and should "[e]nsure adequate consultations, the free, prior and informed consent, and equitable and effective participation of indigenous peoples where nomination, management and policy measures of international designations affect their territories, lands, resources and ways of life."<sup>1</sup>
- The World Heritage Sustainable Development Policy (WH-SDP), particularly its emphasis on respecting, protecting, and promoting human rights; respecting, consulting, and involving Indigenous Peoples; and recognizing the close links and interdependence of biological and cultural diversity in the implementation of the World Heritage Convention.
- The desire of the General Assembly of the States Parties to the Convention that States Parties "[a]dopt 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" (WH-SDP, para. 20).

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<sup>1</sup> Likewise, World Heritage Sustainable Development Policy, para. 22.ii (in relation to World Heritage specifically).

- The initial efforts of the World Heritage Committee to integrate a human rights-based approach into the Operational Guidelines for the Implementation of the World Heritage Convention (Decision 43 COM 11A).
- The commitment of the World Heritage Centre and the Advisory Bodies (IUCN, ICOMOS, ICCROM) to work collaboratively with the IIPFWH in order to ensure comprehensive recognition and respect for the heritage values of Indigenous Peoples in World Heritage sites and their cooperation with the IIPFWH in the organization of the international expert workshop in Geneva.
- The commitment of IUCN and ICOMOS to work together on the preliminary assessment of potential World Heritage nominations in such a way that matters relevant to Indigenous Peoples' rights and heritage are detected as early as possible in the nomination process.

**We reaffirm and reiterate:**

- The Call to Action of the International Expert Workshop on the World Heritage Convention and Indigenous Peoples (Copenhagen, 2012).<sup>2</sup>

***Key findings***

- The World Heritage Convention continues to be implemented in ways that violate Indigenous Peoples' rights to their cultures, livelihoods, and lands, territories and resources, which is unacceptable for an institution like UNESCO and a Convention that aims to be "a global leader and standard-setter for best practice" (WH-DSP, para. 5). This is occurring despite international and regional human rights mechanisms and Indigenous Peoples' organizations consistently urging UNESCO and the World Heritage Committee to take corrective action.
- Although some initial efforts have been made by the World Heritage Committee, the General Assembly of States Parties, the UNESCO World Heritage Centre, and the Advisory Bodies to prevent violations of Indigenous Peoples' rights in the implementation of the World Heritage Convention, they have been insufficient and have not been systematically and consistently operationalized.
- Human rights violations continue to be perpetrated against Indigenous Peoples in many World Heritage sites, as evidenced by the large number of reports, interventions, and cases being brought by Indigenous Peoples at multilateral and regional mechanisms and forums.

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<sup>2</sup> The Copenhagen Call to Action (including its annexes with proposed revisions to the Operational Guidelines) is available at <https://whc.unesco.org/en/events/906/>.

- Disrespect for Indigenous Peoples' right to Free, Prior and Informed Consent (FPIC) in World Heritage processes persists despite the provisions in the Operational Guidelines requiring States Parties to obtain the FPIC of Indigenous Peoples before submitting nominations affecting Indigenous Peoples and before including sites affecting Indigenous Peoples on their Tentative Lists (paras. 64 and 123 Operational Guidelines).
- The definitions of "cultural heritage" and "natural heritage" in Articles 1 and 2 of the World Heritage Convention were developed and adopted without the participation of Indigenous Peoples. They are based upon "Western," Eurocentric understandings of heritage and "outstanding universal value" that are not compatible with Indigenous Peoples' perspectives.
- The concepts of "scientific point of view," "aesthetic point of view," "point of view of science, conservation or natural beauty," "historical, aesthetic, ethnological or anthropological point of view", etc., in Articles 1 and 2 of the World Heritage Convention continue to be interpreted in largely Western perspectives by the World Heritage Committee and the Advisory Bodies. The perspectives of Indigenous Peoples and Indigenous Peoples' knowledge are not taken sufficiently into account.
- The criteria for the assessment of Outstanding Universal Value were developed and adopted without the participation of Indigenous Peoples and conflict with Indigenous Peoples' world views and cultural perspectives in significant ways. They are not well suited for capturing the values attributed to sites by Indigenous Peoples or for identifying and assessing Outstanding Universal Value in ways that are respectful of the cultural context of Indigenous Peoples.
- Most of the World Heritage sites located in the lands and territories of Indigenous Peoples were nominated and inscribed without the free, prior, and informed consent of the Indigenous Peoples concerned, and often without any consultation at all.
- The Outstanding Universal Value (OUV) of most World Heritage sites in the lands and territories of Indigenous Peoples was identified and defined without the meaningful participation of the Indigenous Peoples concerned and therefore does not reflect their values and perspectives or their cultural context, their profound relationships with the land and the interconnectedness of nature and culture.
- The retrospective OUV Statements for some of the Indigenous World Heritage sites listed under criteria N (ii) or N (iii) between 1979 and 1994 fail to adequately reflect Indigenous cultural aspects, although these aspects were recognized as part of the Outstanding Universal Value at the time of inscription (as being outstanding examples of "human interaction with the natural environment" or "exceptional combinations of natural and cultural elements").
- A large number of the sites on States Parties' Tentative Lists are fully or partially located in the lands and territories of Indigenous Peoples. Most of these sites have been included on the Tentative Lists without the free, prior, and informed consent of the Indigenous Peoples concerned and, in most cases, Indigenous Peoples' perspectives and cultural values are not adequately reflected in the statement of potential Outstanding Universal Value.
- The World Heritage Convention's separation between cultural and natural heritage, which is wholly inconsistent with the holistic world views of Indigenous Peoples, has prevented respect for and recognition of Indigenous Peoples' values in many World Heritage sites and this has had, and continues to have, deleterious and negative impacts upon the rights, traditional practices, livelihoods, cultures, and heritage of Indigenous Peoples.

- The nomination process and other key processes of the World Heritage Convention are plagued by a serious lack of transparency and access to information that is inconsistent with Indigenous Peoples' right to participate in decision-making. Most World Heritage sites in the lands and territories of Indigenous Peoples were inscribed without the nomination documents having been made publicly available, thus preventing Indigenous Peoples' organizations from reviewing the information they contain.
- The decisions of the World Heritage Committee increasingly appear to prioritize economic and political interests of States Parties, including members of the Committee, over the conservation objectives of the Convention and human rights principles. This politicization of the World Heritage Committee is particularly visible in three essential areas of decision-making: in relation to nominations, State of Conservation recommendations, and the inscription of sites on the List of World Heritage in Danger.<sup>3</sup>

## ***Key demands and objections***

### **We demand:**

- That the World Heritage Committee, UNESCO, and States Parties ensure respect for the rights of Indigenous Peoples, as affirmed in the UNDRIP and other international instruments, in all World Heritage sites and all processes of the World Heritage Convention, from the site level to the international level, including our rights to full and effective participation in decision-making and free, prior, and informed consent.
- That our living relationships with sites, as well as our own values, cultural understandings, and interpretations of sites be consistently reflected in the Outstanding Universal Value of World Heritage sites in our lands and territories.
- That our cultural values, cultural heritage, traditional knowledge, and traditional cultural expressions be recognized, respected, protected, and safeguarded in the management and protection of all World Heritage sites.
- That effective measures be taken, at the national and international levels, to remedy the pervasive lack of recognition of Indigenous Peoples' own interpretations of sites in the Outstanding Universal Value of World Heritage sites located in the lands and territories of Indigenous Peoples and in the management and protection frameworks for those sites.
- That our traditional livelihoods be respected, protected, and safeguarded in World Heritage sites.

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<sup>3</sup> See WWF (2019) *Our Natural World Heritage at Risk – How Politicization is Limiting the Effectiveness of the World Heritage Convention*. (A report for WWF by Dalberg). Gland: WWF; World Heritage Watch (2021) *The Potsdam Papers – Results of the Potsdam Consultation for the Future of World Heritage*. Potsdam: WHW.



- That the World Heritage Committee make clear that there is zero tolerance for human rights violations in World Heritage sites and all processes of the World Heritage Convention.
- That effective measures be taken to prevent human rights violations at World Heritage sites and that effective grievance and redress mechanisms be established at the international level to help remedy human rights violations related to World Heritage sites, including the legacy of past and ongoing injustices, and chronic, persistent human rights violations experienced by Indigenous Peoples as a result of the establishment and management of protected areas inscribed on the World Heritage List.

**We object to:**

- The failure of the World Heritage Committee to rigorously and consistently uphold our right to free, prior and informed consent, particularly in the context of World Heritage nominations affecting our lands, territories, resources, and ways of life.
- The lack of equitable and effective participation of Indigenous Peoples in the management and monitoring of many World Heritage sites incorporating or affecting Indigenous Peoples' territories.
- The failure of UNESCO and the World Heritage Committee to enable our effective participation in decisions affecting us during the sessions of the World Heritage Committee.
- The serious lack of transparency that permeates the implementation of the World Heritage Convention, starkly illustrated by the fact that World Heritage nomination dossiers are not made publicly available prior to inscription.
- The description of values associated with World Heritage sites in our ancestral territories as “universal values” if they do not embrace our own cultural interpretations of those sites.
- Statements of Outstanding Universal Value written and adopted without the effective participation and free, prior, and informed consent of the Indigenous Peoples in whose lands and territories the respective World Heritage sites are located.
- The separation between natural and cultural values in the context of World Heritage sites in our territories, and the separate assessment of those values in the evaluations of the Advisory Bodies and decisions of the World Heritage Committee.
- The labelling of World Heritage sites in the lands and territories of Indigenous Peoples as purely “natural sites.”

- The Eurocentric interpretation of the notions “scientific point of view,” “aesthetic point of view,” “point of view of science, conservation or natural beauty,” “historical, aesthetic, ethnological or anthropological point of view” etc. in Articles 1 and 2 of the Convention (definition of “cultural heritage,” definition of “natural heritage”) by the World Heritage Committee and the Advisory Bodies, and the lack of consideration given to Indigenous Peoples’ science, knowledge, and perspectives in this context.
- Any measure or policy action under the World Heritage Convention that has an adverse impact on our traditional practices, livelihoods, cultures, or ways of life, or our distinctive spiritual relationship with our traditional lands, territories, waters and coastal seas and other resources.
- The increasing politicization of the World Heritage Committee’s decision-making, which allows States’ Parties vested economic and political interests to outweigh human rights principles and conservation objectives, thereby undermining the credibility of the Convention and limiting its effectiveness as a tool for the protection of heritage.
- The lack of strong action by the World Heritage Committee to remedy the chronic and persistent human rights violations experienced by Indigenous Peoples in many World Heritage sites and ensure that the protection and management of World Heritage sites is compatible with and supportive of human rights.

## ***Recommendations***

### **1. Refine the interpretation of the concept of Outstanding Universal Value so that it accommodates and is respectful of Indigenous Peoples’ values and perspectives, in consistency with the international community’s commitment to the protection of cultural diversity**

The interpretation of the concept of Outstanding Universal Value must be refined so that it is ensured that Indigenous Peoples’ own cultural interpretations of sites are consistently reflected when the Outstanding Universal Value of World Heritage sites in the lands and territories of Indigenous Peoples is defined.<sup>4</sup> We strongly object to an interpretation of OUV that does not embrace our own cultural interpretations of sites, and comes at the expense of the cultural, social and spiritual values that we have attached to our territories for generations and are the basis of our diverse and distinct cultural identities and survival.

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<sup>4</sup> This has also been emphasized by the UN Expert Mechanism on the Rights of Indigenous Peoples: “The World Heritage Committee should adopt changes to the criteria and regulations for the assessment of ‘outstanding universal value’ so as to ensure that the values assigned to World Heritage sites by indigenous peoples are fully and consistently recognized as part of their outstanding universal value” (Expert Mechanism Advice No. 8, 2015, para. 29).

Similarly, the 2014 IUCN World Parks Congress recommended: “The World Heritage Convention should fully and consistently recognize Indigenous Peoples’ cultural values as universal, and develop methods for recognition and support for the interconnectedness of natural, cultural, social, and spiritual significance of World Heritage sites, including natural and cultural sites and cultural landscapes” (Promise of Sydney, Recommendations for Enhancing World Heritage).

From the discussions at the expert workshop in Geneva it is clear that the Outstanding Universal Value of most World Heritage sites in the lands and territories of Indigenous Peoples does not recognize or reflect the perspectives, values and cultural contexts of the Indigenous Peoples concerned, often with highly negative consequences for Indigenous Peoples' rights, traditional practices, livelihoods, cultures, and heritage. This results firstly from the current interpretation of the concept of Outstanding Universal Value which is not easily amenable to expressing the cultural values of Indigenous Peoples, and secondly from the fact that the values and perspectives of Indigenous People have not been actively or consistently sought in the development of World Heritage nominations.

To enable a more consistent recognition of Indigenous Peoples' own perspectives and cultural interpretations when the OUV of World Heritage sites in Indigenous Peoples' territories is defined, we suggest that the interpretation of the concept of Outstanding Universal Value be refined in a way that renders justice to the cultural diversity of the world, the different philosophies and visions of the different peoples of the world, and the contemporary concern of the international community to protect and foster this diversity. Associated with, and as a consequence of such a refinement of the concept, we call for Indigenous Peoples' values and cultural interpretations of sites to be consistently reflected in the Statements of Outstanding Universal Value for sites located in the lands and territories of Indigenous Peoples.

More concretely, we consider that the concept of Outstanding Universal Value should be reinterpreted in a way that recognizes that exceptional universal significance may exist not only in heritage values that are commonly acknowledged and perceived by the totality, or the majority, of the peoples of the world, but also in heritage values that are of special importance for specific peoples or communities as a fundamental basis of their cultural identity, and as such represent an irreplaceable element of cultural diversity.<sup>5</sup> This would be in accordance with the value the international community attaches to cultural diversity, which, "embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind... is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations."<sup>6</sup>

As underscored by the World Heritage Committee in Decision 30 COM 9 (2006), "outstanding universal value is a concept that shall embrace all cultures, regions and peoples, and does not ignore differing cultural interpretations of outstanding universal value because they originate from minorities, indigenous groups and/or local peoples." The Committee's desire to "accord full respect to the social and cultural values of all societies" in establishing the outstanding universal value of sites is also reflected in the Nara Document on Authenticity (Annex 4 of the Operational Guidelines), which underlines that "[c]ultural heritage diversity demands respect for other cultures and all aspects of their belief system." Further, the Nara Document on Authenticity emphasizes that "the respect due to all cultures requires that heritage properties must be considered and judged within the cultural contexts to which they belong."

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<sup>5</sup> This suggestion builds upon a proposal made by Francesco Francioni and Federico Lenzerini in "The Future of the World Heritage Convention: Problems and Prospects." In: F. Francioni and F. Lenzerini, eds. (2023) *The 1972 World Heritage Convention: A Commentary* (2nd Edition). Oxford: Oxford University Press, p. 426 f.

<sup>6</sup> *UNESCO Universal Declaration on Cultural Diversity*, Art. 1. Similarly, *United Nations Declaration on the Rights of Indigenous Peoples*, Preamble; and *Convention on the protection and promotion of the diversity of cultural expressions*, Preamble.

On this basis we make the following **recommendations**:

- a) The World Heritage Centre and the Advisory Bodies should develop, in collaboration with the International Indigenous Peoples' Forum on World Heritage, options for changes to the definition of Outstanding Universal Value (para. 49 of the Operational Guidelines) and the World Heritage criteria (para. 77 of the Operational Guidelines) to enable the consistent inclusion of the values and cultural interpretations of Indigenous Peoples in the OUV of World Heritage sites in their lands and territories. The proposed amendments to the Operational Guidelines contained in Annex 1 of this Outcome Document should be considered in this context.
- b) The World Heritage Committee should request the World Heritage Centre and the Advisory Bodies to undertake the tasks mentioned in recommendation 1a) and prepare recommendations for the consideration of the Committee.

## **2. Make changes to the natural criteria to help overcome the Eurocentric nature-culture divide in the implementation of the World Heritage Convention**

A renewed, concerted effort must be made to overcome the Eurocentric nature-culture divide in the implementation of the World Heritage Convention, which is contrary to the spirit of the Convention<sup>7</sup> and incompatible with Indigenous Peoples' perspectives of heritage. "For Indigenous Peoples, cultural and natural values are inseparably interwoven and should be managed and protected in a holistic manner," as the EMRIP has underlined.<sup>8</sup> Accordingly, "heritage policies, programmes and activities affecting Indigenous Peoples should be based on full recognition of the inseparability of natural and cultural heritage, and the deep-seated interconnectedness of intangible cultural heritage and tangible cultural and natural heritage."<sup>9</sup>

The World Heritage Committee recognized in Decision 37 COM 8B.19 (2013) that there are "fundamental questions in terms of how the indissoluble bonds that exist in some places between culture and nature can be recognized on the World Heritage List, in particular the fact that the cultural and natural values of one property are currently evaluated separately and that the present wording of the criteria [for the assessment of Outstanding Universal Value] may be one

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<sup>7</sup> According to UNESCO's website, "The most significant feature of the 1972 World Heritage Convention is that it links together in a single document the concepts of nature conservation and the preservation of cultural properties. The Convention recognizes the way in which people interact with nature, and the fundamental need to preserve the balance between the two." These ideas are also reflected in the official emblem of the Convention, which symbolizes the interdependence of cultural and natural heritage and is supposed to convey the principles embodied in the Convention and the essential objectives of the Convention.

<sup>8</sup> EMRIP (2015) Expert Mechanism advice No. 8: Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage, UN Doc. A/HRC/30/53, Annex, para. 7.

<sup>9</sup> EMRIP (2015) Expert Mechanism advice No. 8: Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage, UN Doc. A/HRC/30/53, Annex, para. 6.

contributor to this difficulty.” The Committee requested the World Heritage Centre and the Advisory Bodies to examine options for changes to the criteria to address this issue,<sup>10</sup> however, such options for changes to the criteria have never been developed.

In light of the fact that the overwhelming majority of World Heritage sites in the lands and territories of Indigenous Peoples are inscribed under natural criteria only (as “natural sites”), and that there are dozens of Indigenous sites on States Parties’ Tentative Lists that are presented as “natural sites” by the respective States Parties (to be nominated under natural criteria only), we consider it imperative that the natural criteria be revised to enable the recognition of Indigenous Peoples’ values and perspectives in the OUV of sites that are nominated/inscribed under natural criteria only.

We call for the following **actions** to be taken:

- a) The World Heritage Centre and the Advisory Bodies, in consultation with the International Indigenous Peoples’ Forum on World Heritage, should develop options for changes to the natural criteria to enable the recognition of interconnections between culture and nature in the OUV of “natural sites,” in particular with regard to Indigenous Peoples’ values.<sup>11</sup> We recommend that the references to “human interaction with the natural environment” and to “exceptional combinations of natural and cultural elements,” which were included in the natural criteria from 1978 to 1994, be re-inserted into the natural criteria.<sup>12</sup> The deletion of these references from the natural criteria has deepened the nature-culture divide under the Convention and has prevented the recognition of Indigenous Peoples’ perspectives and heritage values in the OUV of countless World Heritage sites.
- b) The World Heritage Committee should request the World Heritage Centre and the Advisory Bodies, in consultation with the International Indigenous Peoples’ Forum on World Heritage, to examine, options for changes to the criteria to address the issue mentioned in recommendation 2a).
- c) IUCN should undertake a thorough review of the World Heritage sites inscribed under criteria N (ii) and N (iii) between 1979 and 1994 to see if the aspects of “human interaction with the natural environment” and “exceptional combinations of natural and cultural elements” are adequately reflected in the retrospective OUV statements. Where this is not the case, IUCN and UNESCO should initiate a process of consultation with any affected Indigenous Peoples to see if they want these aspects to be incorporated into the explanation of OUV and to define them with their full and effective participation and free, prior and informed consent.

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<sup>10</sup> Decision 37 COM 8B.19 (2013), para. 7; Decision 38 COM 9B, para. 8.

<sup>11</sup> This recommendation corresponds with Resolution 21GA 2023/18 of the ICOMOS General Assembly (2023) on “Recognizing Indigenous Peoples’ Values and Interconnections between Culture and Nature in the Outstanding Universal Value of World Heritage Sites.”

<sup>12</sup> A similar recommendation was made by the World Heritage Global Strategy Natural and Cultural Heritage Expert Meeting (Amsterdam, 1998). See Doc. WHC-98/CONF.203/INF.7, p. 13.

- d) The World Heritage Committee should request the World Heritage Centre and the Advisory Bodies to investigate the potential for removal of the formal distinction between natural, cultural, and mixed World Heritage sites with all sites being referred to simply as “World Heritage sites.”<sup>13</sup>

### **3. Ensure that the implementation of the World Heritage Convention is consistent with a human rights-based approach**

Given the many cases of human rights violations and abuses related to World Heritage sites that are being brought before international and regional human rights bodies and mechanisms, it is crucial that a concerted effort is made to ensure that the implementation of the World Heritage Convention is consistent with a human rights-based approach, as defined in the UN Common Understanding on a Human-Rights-Based Approach to Development Cooperation<sup>14</sup> and the UN Development Group’s Guidelines on Indigenous Peoples’ Issues.<sup>15</sup> The promotion of respect for human rights is a fundamental purpose of the United Nations system,<sup>16</sup> and all States Parties to the World Heritage Convention, as well as the organs of the Convention (including the Secretariat and the Advisory Bodies), are obliged to implement the Convention in accordance with existing human rights obligations under treaty and customary international law. The World Heritage Convention and the core international human rights treaties are not self-contained regimes but, rather, mutually reinforcing.

As recognized in the World Heritage Sustainable Development Policy, “[t]he human rights embedded in the UN Charter and the range of broadly ratified human rights instruments reflect fundamental values that underpin the very possibility for dignity, peace and sustainable development.”<sup>17</sup> The obligation to promote and protect human rights and fundamental freedoms is affirmed in Article 1 of the UNESCO Constitution, and UNESCO has committed to integrating a human rights-based approach into all its programmes and activities.<sup>18</sup> This includes contributing to the full realization of the rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples, which are “at the heart of UNESCO’s mandate,” as the UNESCO Policy on Engaging with Indigenous Peoples underlines, highlighting the central importance of the rights of Indigenous Peoples for the defense of cultural diversity.<sup>19</sup> UNESCO has also signed a

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<sup>13</sup> The recommendation to abolish this distinction has previously been made by all three of the Advisory Bodies. See the report of the World Heritage Global Strategy Natural and Cultural Heritage Expert Meeting (Amsterdam, 1998), WHC-98/CONF.203/INF.7, p. 4 (“Consolidated view of the Advisory Bodies”).

<sup>14</sup> UN Development Group (2003) The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies. Available at: <https://hrbportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies/>

<sup>15</sup> UN Development Group (2008) Guidelines on Indigenous Peoples Issues. Available at: [https://unsdg.un.org/sites/default/files/UNDG\\_guidelines\\_EN.pdf](https://unsdg.un.org/sites/default/files/UNDG_guidelines_EN.pdf)

<sup>16</sup> United Nations Charter, Art. 1. Also see UNESCO Constitution, Art. I.1.

<sup>17</sup> World Heritage Sustainable Development Policy, para. 7.

<sup>18</sup> UNESCO Strategy on Human Rights (2003); World Heritage Sustainable Development Policy, para. 20; UNESCO Policy on Engaging with Indigenous Peoples, para. 3.

<sup>19</sup> UNESCO Policy on Engaging with Indigenous Peoples, paras. 2, 71; UNESCO Universal Declaration on Cultural Diversity, Art. 4.

Memorandum of Understanding with the Office of the UN High Commissioner for Human Rights (OHCHR), agreeing to cooperate and coordinate with the OHCHR in order to promote the protection and promotion of human rights in actions at all levels.<sup>20</sup>

According to the World Heritage Sustainable Development Policy, States Parties to the World Heritage Convention should “[e]nsure that the full cycle of World Heritage processes from nomination to management is compatible with and supportive of human rights,” and “[a]dopt 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” (para. 20). However, the Operational Guidelines merely “encourage” States Parties to adopt a human rights-based approach and only state that common elements of an effective management system “could” include respect for human rights (paras. 12 and 111). Human rights violations against Indigenous Peoples and others continue to occur unabated in many World Heritage sites and World Heritage processes, sometimes as a direct result of the implementation of the World Heritage Convention and actions of the World Heritage Committee. This situation is exacerbated by the lack of a dedicated mechanism under the existing World Heritage framework to address violations of international human rights law in World Heritage sites and processes.

To address these concerns, we call for the following **actions**:

- a) The World Heritage Centre should develop, in cooperation with the OHCHR, options for changes to the Operational Guidelines and the Rules of Procedure of the World Heritage Committee in order to ensure that the implementation of the World Heritage Convention is consistent with a human rights-based approach. The proposed amendments to the Operational Guidelines and Rules of Procedure contained in Annexes 1 and 2 of this Outcome Document should be considered in this context.
- b) The World Heritage Committee should request the World Heritage Centre to develop, in cooperation with the OHCHR, options for changes to the Operational Guidelines and the Committee’s Rules of Procedure, in order to ensure that the implementation of the World Heritage Convention is consistent with a human rights-based approach.
- c) A standing advisory body/mechanism on human rights should be established with a mandate to provide advice and technical assistance to the World Heritage Committee – as well as the Advisory Bodies, the Secretariat, and States Parties – on human rights issues related to World Heritage sites and the implementation of the Convention. The purpose of this advisory body/mechanism should be to assist the Committee in ensuring that the full cycle of World Heritage processes from nomination to management is consistent with internationally recognized human rights standards and to aid States Parties and the organs of the Convention in complying with their international obligations in the field of human rights.
- d) UNESCO and the OHCHR should initiate a process to develop a concrete proposal for the establishment of an advisory body/mechanism on human rights in the framework of the World Heritage Convention. We recommend that the Convention’s relationship with the UN human rights system be formalized and the OHCHR be installed as a standing advisory body on human rights. In carrying out this function, the OHCHR could draw on the

<sup>20</sup> [https://en.unesco.org/sites/default/files/mou\\_ohchr-unesco.pdf](https://en.unesco.org/sites/default/files/mou_ohchr-unesco.pdf)

network of special procedures of the Human Rights Council (special rapporteurs, working groups, independent experts), consistent with the OHCHR's mandate to coordinate the human rights promotion and protection activities throughout the United Nations system and its administration role for the special procedures.

- e) The three UN mechanisms on Indigenous Peoples (Permanent Forum on Indigenous Issues, EMRIP, Special Rapporteur) should continue to engage proactively with the World Heritage Committee, UNESCO, and the Advisory Bodies to ensure that the implementation of the World Heritage Convention is made consistent with the UNDRIP and a human rights-based approach.

#### **4. Ensure that Indigenous Peoples' right to free, prior, and informed consent is operationalized in the processes of the World Heritage Convention in a systematic, consistent, and constant manner, in accordance with international standards and obligations**

Additional measures must be taken to ensure that States Parties meet their obligation to obtain the free, prior, and informed consent of Indigenous Peoples when identifying and nominating sites in the lands and territories of Indigenous Peoples for inscription on the World Heritage List. The regulations for demonstrating the free, prior and informed consent of Indigenous Peoples have to be applied in an effective, systematic, and consistent manner.

As affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples*, States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free and informed consent before adopting and implementing legislative or administrative measures that may affect them and before approving any project affecting their lands or territories and other resources (Arts. 19, 32). This obligation is reaffirmed in the Operational Guidelines in relation to both the inclusion of sites on States Parties' Tentative Lists (para. 64) and the nomination of sites to the World Heritage List (para. 123). It is also reaffirmed in the UNESCO Policy on Engaging with Indigenous Peoples (paras. 11 and 77) and the World Heritage Sustainable Development Policy (para. 22). However, despite these provisions, sites in Indigenous Peoples' territories continue to be included on States' Parties Tentative Lists and nominated and inscribed as World Heritage sites without the meaningful participation and free, prior and informed consent of the Indigenous Peoples concerned and without an appropriate recognition of their perspectives, cultural heritage values and relationship to the land.

In order to ensure an effective and consistent operationalization of Indigenous Peoples' right to free, prior and informed consent in the context of World Heritage and in accordance with international standards, we consider that the following additional **measures** are needed:

- a) The Tentative List Submission Format (Annexes 2A and 2B of the Operational Guidelines) should be amended to ensure that States Parties provide evidence of Indigenous Peoples' free, prior and informed consent when adding sites affecting Indigenous Peoples to their Tentative Lists, in accordance with paragraph 64 of the Operational Guidelines.



- b) Paragraph 132 of the Operational Guidelines should be amended so that evidence of the free, prior and informed consent of affected Indigenous Peoples (para. 123 of the Operational Guidelines; para. 5.a (ii) of the Nomination Format) becomes a necessary requirement for a nomination dossier to be considered as “complete.”
- c) A provision should be added to the Operational Guidelines ensuring that all nomination documents are published on UNESCO’s website upon receipt by the World Heritage Centre, so that Indigenous Peoples and civil society organizations have an opportunity to review and comment on the information contained therein before the World Heritage Committee takes a decision.
- d) The World Heritage Committee’s Rules of Procedure should be revised to ensure that Indigenous Peoples’ representatives and United Nations human rights experts are able to effectively participate in any discussions and decision-making processes affecting Indigenous Peoples and have the right to speak at Committee meetings prior to decisions being made by the Committee.
- e) The World Heritage Centre and the Advisory Bodies, in collaboration with the IIPFWH and with technical support from the OHCHR and the three UN mechanisms on Indigenous Peoples, should develop technical/practical guidance for States Parties on obtaining, documenting, and demonstrating Indigenous Peoples’ free, prior and informed consent in the context of the World Heritage Convention. This should include guidance to assist the Advisory Bodies and World Heritage Committee members to determine whether the requirement of obtaining Indigenous Peoples’ free, prior and informed consent has been met, in line with international standards on Indigenous Peoples’ rights.<sup>21</sup>

## **5. Ensure the direct and meaningful participation of Indigenous Peoples in all World Heritage Convention processes affecting Indigenous Peoples**

Much stronger concerted efforts must be made by UNESCO, the World Heritage Committee, the Advisory Bodies, and States Parties to ensure the consistent and meaningful participation of Indigenous Peoples in the processes of the World Heritage Convention.

As affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples*, Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures (Art. 18). In accordance with Article 41 of the Declaration, “the organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.”

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<sup>21</sup> The World Heritage Sustainable Development Policy calls for the development of guidance tools to help ensure that the full cycle of World Heritage processes from nomination to management is compatible with and supportive of human rights (para. 20).

However, although the World Heritage Committee encourages States Parties to adopt a human-rights based approach and ensure the equitable and effective participation of Indigenous Peoples where World Heritage nomination, management and policy measures affect their territories, lands, resources and ways of life,<sup>22</sup> the current working methods and Rules of Procedure of the World Heritage Committee prevent Indigenous Peoples from effectively participating in the Committee's own decision-making processes. Although the Committee has recognized the International Indigenous Peoples' Forum on World Heritage (IIPFWH) as an "important reflection platform on the involvement of Indigenous Peoples in the identification, conservation and management of World Heritage properties, with a particular focus on the nomination process" (Decision 41 COM 7), the IIPFWH has not been given any official functions and has not received the financial support necessary to play an effective role. At the 44<sup>th</sup> and 45<sup>th</sup> sessions of the World Heritage Committee (in 2021 and 2023), the IIPFWH was not permitted to speak before decisions were made by the Committee.

The following **measures** will help to address these concerns and provide a pathway to enhance the direct participation of Indigenous Peoples in World Heritage Convention processes:

- a) The World Heritage Committee's Rules of Procedure should urgently be revised to ensure that the IIPFWH and other Indigenous Peoples' organizations can meaningfully participate in all decision-making processes affecting Indigenous Peoples, including relevant intra-sessional and inter-sessional working groups and consultative bodies, and are given the floor by the Chairperson *before* the Committee adopts decisions affecting Indigenous Peoples.
- b) A voluntary funding mechanism should be established to support the participation of Indigenous Peoples' representatives in World Heritage processes at the international level, including the sessions of the World Heritage Committee and inter-sessional meetings and activities affecting Indigenous Peoples. The beneficiaries of the voluntary funding mechanism should be chosen by a Board of Trustees or Selection Committee consisting of Indigenous Peoples' representatives. A possibility that should be explored in this regard is the expansion of the mandate of the UN Voluntary Fund for Indigenous Peoples (administered by the UN Secretary General with the assistance of the OHCHR) to include support for Indigenous Peoples to participate in processes related to the World Heritage Convention.
- c) States Parties, conservation organizations, conservation donors, and other private and public actors active in the field of heritage should provide funding to the abovementioned voluntary funding mechanism to support the participation of Indigenous Peoples' representatives in World Heritage processes.
- d) States Parties should ensure the full and effective participation of Indigenous Peoples in all World Heritage processes affecting Indigenous Peoples at the national and local levels, and provide the necessary financial and technical assistance to Indigenous Peoples to be able to meaningfully engage in World Heritage processes affecting them through their own representative institutions.

<sup>22</sup> See, e.g., Operational Guidelines, para. 12 and World Heritage Sustainable Development Policy, paras. 21-22.

- e) The Advisory Bodies and the World Heritage Centre should consistently support, enable and facilitate the meaningful engagement of Indigenous Peoples' representatives, including the IIPFWH, in their work relevant to Indigenous Peoples.
- f) The Advisory Bodies should include Indigenous experts and human rights experts on their World Heritage Panels, and involve Indigenous experts and human rights experts in on-site missions and desk reviews where they concern the lands and territories of Indigenous Peoples, including Preliminary Assessments, Evaluation of Nominations, Reactive Monitoring, and Advisory missions.
- g) The Advisory Bodies should undertake a systematic, comprehensive review of the sites included on States Parties' Tentative Lists to identify all sites affecting Indigenous Peoples. This will be crucial for being able to assess impacts on Indigenous Peoples' rights and provide upstream advice and support to States Parties and Indigenous Peoples towards ensuring adequate consultations, the free, prior, and informed consent and equitable and effective participation of Indigenous Peoples from the earliest stage in the nomination process.
- h) States Parties, UNESCO, and the World Heritage Committee should provide the necessary financial and other support to the International Indigenous Peoples' Forum on World Heritage (IIPFWH) to consolidate the role of the Forum as a platform for the engagement and participation of Indigenous Peoples in World Heritage processes and as a source of expertise for the World Heritage Committee, the World Heritage Centre, and the Advisory Bodies regarding Indigenous Peoples' heritage.
- i) Indigenous Peoples' organizations should enhance their engagement with the World Heritage Convention and contribute to the efforts of the IIPFWH towards ensuring respect for the rights of Indigenous Peoples in the implementation of the Convention.

## **6. Establish independent grievance/redress mechanisms at the UNESCO/WHC level to help remedy injustices suffered by Indigenous Peoples in World Heritage sites and World Heritage processes**

There is an urgent need for independent, accessible, and culturally appropriate mechanisms at the UNESCO/WHC level through which Indigenous Peoples can document grievances and pursue redress by States Parties for injustices and human rights violations they have suffered, or are suffering, in World Heritage sites and processes of the World Heritage Convention. These mechanisms should be mandated to address rights violations suffered by Indigenous Peoples in the protection and management of inscribed World Heritage sites; rights violations in the context of World Heritage nomination processes and inscriptions; and rights violations related to the establishment and management of protected areas that predate World Heritage listing but continue to affect the human rights situation of Indigenous Peoples at World Heritage sites. The redress mechanisms must also include a procedure at the UNESCO/WHC level for revisiting and revising the Outstanding Universal Value of World Heritage sites that were nominated and inscribed without the full and effective participation and free, prior and informed consent of the Indigenous Peoples in whose territories they are located, in order to ensure that Indigenous Peoples' own cultural interpretations of sites are reflected in the OUV of those sites.

Ensuring redress for past injustices and rights violations suffered by Indigenous Peoples as a result of, *inter alia*, dispossession of their lands, territories and resources and denial of their right to self-determination, is a key objective of the UNDRIP. Indeed, the UNDRIP in its entirety can be understood as fundamentally a remedial instrument, “seeking to redress the systemic obstacles and discrimination that indigenous peoples have faced in their enjoyment of basic human rights.”<sup>23</sup> Without meaningful and effective efforts to redress historical wrongs, which have ongoing consequences in the present day that continue to affect the human rights situation of Indigenous Peoples, “it will be difficult for indigenous peoples to overcome their situations of extreme marginalization, and to ensure sustainable relationships based on trust, mutual respect and partnership, between indigenous peoples and the States within which they live.”<sup>24</sup> We emphasize the importance of this consideration for the protection of World Heritage sites and the implementation of the Convention.

The responsibility of States to provide redress to Indigenous Peoples, through effective mechanisms, is underscored throughout the UNDRIP in numerous provisions. The Declaration provides, *inter alia*, that States shall provide redress to Indigenous Peoples for any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities (Art. 8); dispossessing them of their lands, territories or natural resources (Art. 8); misappropriating their cultural, intellectual, religious and spiritual property (Art. 11); depriving them of their means of subsistence and development (Art. 20); confiscating, taking, occupying, using or damaging, without their free, prior and informed consent, the lands, territories and resources which they have traditionally owned or otherwise occupied or used (Art. 28); and developing, utilising or exploiting their mineral, water or other resources without their free, prior and informed consent (Art. 32).

The establishment of international grievance/redress mechanisms for Indigenous Peoples in the realm of the World Heritage Convention would help to fulfil the aims of the World Heritage Sustainable Development Policy, as well as the fifth strategic objective of the Convention.<sup>25</sup> “To fulfil this strategic objective... and ensure policy coherence for sustainable development,” the WH-SDP calls on States Parties to “[a]ctively promote indigenous and local initiatives to develop equitable governance arrangements, collaborative management systems and, when appropriate, redress mechanisms” (para. 22). Additionally, the Operational Guidelines recognize the importance of redress mechanisms for the effective management of World Heritage sites. According to paragraph 117 of the Operational Guidelines, States Parties should implement effective management activities for World Heritage sites in close collaboration with, *inter alia*, Indigenous Peoples, “by developing, when appropriate, equitable governance arrangements, collaborative management systems and redress mechanisms.”

We therefore call for the following **actions** to be taken:

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<sup>23</sup> OHCHR and APF (2013) *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions*, p. 37. Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/IPeoples/UNDRIPManualForNHRIs.pdf>.

<sup>24</sup> UN Doc. A/HRC/27/52 (2014), Report of the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz to the Human Rights Council, para. 27.

<sup>25</sup> The fifth strategic objective of the Convention is to “enhance the role of communities in the implementation of the World Heritage Convention.” See Operational Guidelines, para. 26.

- a) An independent, accessible, and culturally appropriate grievance and redress mechanism should be established within UNESCO through which Indigenous Peoples can document grievances and pursue redress from States Parties for rights violations that they have suffered, or are suffering, in World Heritage sites and World Heritage processes.
- b) In addition, a special procedure should be established within UNESCO, for all World Heritage sites located in Indigenous Peoples' territories, through which Indigenous Peoples and States Parties can initiate a process for the review and revision of Statements of Outstanding Universal Value that were adopted without the free, prior, and informed consent of Indigenous Peoples, in order to allow for the retrospective recognition of Indigenous Peoples' own values and cultural interpretations of World Heritage sites in their territories through a fast-track re-nomination/revision process.
- c) UNESCO/the World Heritage Centre should conduct an analysis<sup>26</sup> and develop concrete recommendations for the establishment of the mechanism(s) and procedure(s) mentioned in points a) and b), in consultation with the Advisory Bodies, the IIPFWH, the OHCHR, the three UN mechanisms on Indigenous Peoples (Permanent Forum on Indigenous Issues, EMRIP, Special Rapporteur), and States Parties. The results of this analysis should be submitted to both the World Heritage Committee and the General Assembly of States Parties for their consideration and action.
- d) The three UN mechanisms on Indigenous Peoples should engage proactively with UNESCO and the World Heritage Centre and provide recommendations on the establishment of the above-mentioned mechanism(s) and procedure(s).
- e) The World Heritage Centre should commission an independent, comprehensive review of World Heritage sites incorporating or affecting Indigenous Peoples' territories to identify unresolved human rights issues and determine whether the governance and management frameworks for the sites are in line with international standards regarding Indigenous Peoples' rights and adequate for the safeguarding of Indigenous heritage. This will provide a crucial basis for proactively addressing the legacy of human rights violations against Indigenous Peoples in many World Heritage sites and promoting redress for past and ongoing injustices and violations.

## **7. Develop capacity building programs to support the effective participation of Indigenous Peoples in World Heritage processes and increase understanding of Indigenous Peoples' status, rights, and heritage within the World Heritage system**

There is a clear need for capacity building and training programs to support Indigenous Peoples in acquiring and/or consolidating the expertise and skills necessary for participating effectively in the processes of the World Heritage Convention. At the same time, capacity building is urgently needed to increase

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<sup>26</sup> In this analysis, relevant experiences with similar mechanisms of other international agencies (e.g. the Compliance Advisor Ombudsman mechanism of the International Finance Corporation, or the UNDP Social and Environmental Compliance Unit) should be taken into account.

understanding and competence among the key actors and decision-makers within the World Heritage system (Advisory Bodies, World Heritage Centre, States Parties, site managers, etc.) concerning the status, rights, heritage, traditional practices, resource management, and knowledge systems of Indigenous Peoples.

Carrying out and supporting such capacity building initiatives would be in line with the World Heritage Sustainable Development Policy, which calls on States Parties to “[p]romote technical cooperation and capacity-building to ensure effective rights-based approaches” aimed at “ensur[ing] that the full cycle of World Heritage processes from nomination to management is compatible with and supportive of human rights” (para. 20). It would also be in line with the UNESCO Policy on Engaging with Indigenous Peoples, according to which “UNESCO supports awareness raising and capacity building for scientists, policymakers and indigenous peoples to improve mutual respect, dialogue across knowledge systems, and more effective partnerships among these constituencies” (para. 35).

We therefore call for the following **actions** to be taken:

- a) The Advisory Bodies and the World Heritage Centre should develop programs, in cooperation with the IIPFWH, aimed at increasing the capacity of Indigenous Peoples to engage effectively in World Heritage processes affecting them. These capacity building programs should cover the full cycle of World Heritage processes from identification and nomination to management and monitoring.
- b) In relation to the nomination of sites for inscription on the World Heritage List, the Advisory Bodies and the World Heritage Centre should provide guidance and capacity building directly to affected Indigenous Peoples, throughout the whole process leading up to the preparation of a possible World Heritage nomination. At the same time, they should provide guidance and capacity building to States Parties on ensuring the adequate consultation, equitable and effective participation, and free, prior, and informed consent of the Indigenous Peoples concerned. For this upstream support to Indigenous Peoples and States Parties to be effective, it should be undertaken from the earliest stage in the nomination process, when sites are considered for Tentative Listing.
- c) States Parties, UNESCO, and the World Heritage Committee should provide financial and other support to the International Indigenous Peoples’ Forum on World Heritage (IIPFWH) in order to enhance the capacity of the IIPFWH to engage effectively in the processes of the World Heritage Convention at the international level.
- d) States Parties, UNESCO, and the World Heritage Committee should provide financial support to the IIPFWH so that it can develop and carry-out capacity-building activities aimed at enhancing respect for Indigenous Peoples’ rights, traditional practices, cultures, and heritage values in World Heritage processes, such as training events, exchanges, resource materials, and dissemination of information.
- e) The Indigenous Fellowship Programme of the OHCHR should include a module on the World Heritage Convention in its curriculum, so that trained fellows are better equipped to assist their organizations and communities to promote and protect Indigenous rights in World Heritage sites.

## Annex

### Annex 1: Proposed amendments to the Operational Guidelines for the Implementation of the World Heritage Convention (Doc. WHC.23/01, Sept. 2023)

Proposed amendments	Comments
<p><b>I.B The World Heritage Convention</b></p> <p>[...]</p> <p>5. To ensure, as far as possible, the proper identification, protection, conservation and presentation of the world's heritage, the Member States of UNESCO adopted the <i>World Heritage Convention</i> in 1972. The <i>Convention</i> foresees the establishment of a “World Heritage Committee” and a “World Heritage Fund”. Both the Committee and the Fund have been in operation since 1976.</p> <p><u>5bis. In implementing the Convention, States Parties, the Committee, the UNESCO Secretariat and the Advisory Bodies must ensure that the protection and conservation of World Heritage properties and the full cycle of World Heritage processes are consistent with and supportive of the human rights embedded in the UN Charter and the relevant rules of customary and conventional international law. The obligation to promote and protect human rights and fundamental freedoms is expressed in Article 1 of the UNESCO Constitution.</u></p> <p>6. Since the adoption of the <i>Convention</i> in 1972, the international community has embraced the concept of “sustainable development”. The protection and conservation of the natural and cultural heritage constitute a significant contribution to sustainable development.</p>	<p>See the World Heritage Sustainable Development Policy, paras. 7 and 20.</p>
<p><b>I.J Other Conventions, <del>Recommendations</del>Instruments and Programmes</b></p>	

<p><b>41.</b> The World Heritage Committee recognizes the benefits of closer coordination of its work with other UNESCO <u>and United Nations</u> programmes,<del>and their</del> as well as relevant conventions <u>and other legal instruments</u>. For a list of relevant global conservation instruments, conventions and programmes see paragraph 44.</p> <p>[...]</p> <p><b>43 bis.</b> <u>The Office of the United Nations High Commissioner for Human Rights (OHCHR) may attend meetings of the Committee and the Bureau in an advisory capacity to provide advice and information on human rights issues related to the implementation of the <i>Convention</i> and assist the Committee and States Parties in ensuring that the full cycle of World Heritage processes from nomination to management is consistent with internationally recognized human rights standards. States Parties, the Advisory Bodies, and the Secretariat should cooperate with the OHCHR with a view to promoting World Heritage properties as exemplary places for the application of the highest standards for the respect and realization of human rights.</u></p> <p><b>44.</b> Selected global <u>instruments</u>, conventions and programmes relating to the protection of cultural and natural heritage</p> <p>UNESCO <u>instruments</u>, conventions and programmes</p> <p>[...]</p> <p><u>UNESCO Universal Declaration on Cultural Diversity (2001)</u>  <a href="https://unesdoc.unesco.org/ark:/48223/pf0000127160">https://unesdoc.unesco.org/ark:/48223/pf0000127160</a></p> <p>Other <del>conventions</del> <u>instruments</u></p> <p>[...]</p> <p><u>United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)</u>  <a href="http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf">http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf</a></p>	<p>See the Memorandum of Understanding between UNESCO and the OHCHR of 22 November 2019. Also see World Heritage Sustainable Development Policy, paras. 7 and 20.</p>
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<p><b>II.A Definition of World Heritage</b></p> <p>[...]</p> <p><u>Outstanding Universal Value</u></p> <p><b>49.</b> Outstanding Universal Value means cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. As such, the permanent protection of this heritage is of the highest importance to the international community as a whole. <u>Such exceptional universal significance exists not only when the value of a property is generally recognizable by the totality, or the majority, of the peoples of the world, but also when a property is of special importance for specific peoples or communities as a fundamental basis of their cultural identity.</u> The Committee defines the criteria for the inscription of properties on the World Heritage List.</p>	<p>See <i>UNESCO Universal Declaration on Cultural Diversity</i>, Art. 1; <i>Convention on the protection and promotion of the diversity of cultural expressions</i>, preambular para. 2; and <i>United Nations Declaration on the Rights of Indigenous Peoples</i>, preambular para. 3. Also see the Nara Document on Authenticity, paras. 5-8, 11; and the World Heritage Sustainable Development Policy, para. 18.</p>
<p><b>II.D Criteria for the assessment of Outstanding Universal Value</b></p> <p><b>77.</b> The Committee considers a property as having Outstanding Universal Value (see paragraphs 49-53) if the property meets one or more of the following criteria. Nominated properties shall therefore:</p> <ul style="list-style-type: none"> <li>(i) represent a masterpiece of human creative genius;</li> <li>(ii) exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design;</li> <li>(iii) bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;</li> </ul>	

<p>(iv) be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;</p> <p>(v) be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;</p> <p>(vi) be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance. (The Committee considers that this criterion should preferably be used in conjunction with other criteria);</p> <p>(vii) contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance <u>or exceptional combinations of natural and cultural elements</u>;</p> <p>(viii) be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features;</p> <p>(ix) be outstanding examples representing significant on-going ecological and biological processes, <u>including human interaction with the natural environment</u>, in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals;</p> <p>(x) contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of Outstanding Universal Value from the point of view of science or conservation.</p>	
<p><b>II.E Authenticity and/or integrity</b></p> <p>[...]</p> <p><b>81.</b> Judgments about value attributed to <b>cultural</b> heritage, as well as the credibility of related information sources, may differ from culture to culture, and even within the</p>	

<p>same culture. The respect due to all cultures requires that cultural <u>and natural</u> heritage must be considered and judged primarily within the cultural contexts to which it belongs.</p>	
<p><b>II.F Protection and management</b></p> <p>[...]</p> <p><b>117.</b> States Parties are responsible for implementing effective management activities for a World Heritage property. States Parties should do so in close collaboration with property managers, the agency with management authority and other partners, local communities and indigenous peoples, rights-holders and stakeholders in property management, by developing, when appropriate, equitable governance arrangements, collaborative management systems and redress mechanisms. <u>The Committee and the UNESCO Secretariat shall actively promote and support the establishment of equitable governance arrangements, collaborative management systems and redress mechanisms, and shall monitor their effectiveness.</u></p>	
<p><b>Participation in the nomination process</b></p> <p><b>123.</b> Effective and inclusive 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 ensure that Preliminary Assessment requests involve appropriate stakeholders and rights-holders engagement. They are also encouraged to prepare nominations with the widest possible participation of stakeholders, <u>through, inter alia, making drafts of the nominations publicly available in appropriate languages and public consultations and hearings,</u> and shall <del>demonstrate, as appropriate,</del> <u>provide evidence</u> that the free, prior and informed consent of indigenous peoples has been obtained, <del>through, inter alia, making the nominations publicly available in appropriate languages and public consultations and hearings.</del> Where appropriate, States Parties are also encouraged to consult potentially concerned States Parties,</p>	

<p>including neighbouring States Parties, to promote consensus, collaboration and to celebrate cultural diversity.</p>	
<p><b>III.A Preparation of Nominations</b></p> <p>[...]</p> <p><b>Secretariat assistance throughout the nomination process</b></p> <p><b>125.</b> States Parties are encouraged to contact the Secretariat, which can provide assistance throughout the nomination process.</p> <p><b>126.</b> The Secretariat can also provide:</p> <p>[...]</p> <p><u>e) guidance on ensuring and demonstrating Indigenous Peoples’ free, prior and informed consent.</u></p>	
<p><b>III.B Format and content of nomination dossiers</b></p> <p><b>132.</b> For a nomination dossier to be considered as “complete”, the following requirements (see format in Annex 5, including Explanatory Notes for each section, and Paragraph 128) are to be met:</p> <p>[...]</p> <p>5. Protection and management</p> <p>Protection: Section 5 shall include the list of the legislative, regulatory, contractual, planning, institutional and/or traditional measures most relevant to the protection of the nominated property and provide a detailed analysis of the way in which this protection actually operates. Legislative, regulatory, contractual planning and/or</p>	

<p>institutional texts, or an abstract of the texts, shall also be attached in English or French.</p> <p><u>If the nominated property might affect the lands, territories or resources of Indigenous Peoples, evidence of the free, prior and informed consent to the nomination from the Indigenous Peoples concerned, through their own representative institutions, shall be attached to the nomination dossier. A nomination dossier which does not include this evidence shall be considered incomplete.</u></p> <p>Management: An appropriate management plan or other management system is essential and shall be provided in the nomination dossier. Assurances of the effective implementation of the management plan or other management system are also expected. Sustainable development principles should be integrated into the management system, for all types of natural, cultural and mixed nominated properties, including their buffer zones and wider setting.</p> <p>A copy of the management plan or documentation of the management system shall be annexed to the nomination dossier. If the management plan exists only in a language other than English or French, an English or French detailed description of its provisions shall be annexed.</p> <p>A detailed analysis or explanation of the management plan or a documented management system shall be provided in Section 5.e of the nomination dossier.</p> <p>A nomination dossier which does not include the above-mentioned documents is considered incomplete unless other documents guiding the management of the nominated property until the finalization of the management plan are provided.</p> <p>[...]</p>	<p>See para. 123 of the Operational Guidelines and para. 5.a (ii) of the Format for the nomination of properties for inscription on the World Heritage List (contained in Annex 5 of the Operational Guidelines).</p>
<p><b>III.D Registration of nomination dossiers</b></p>	

<p><b>140.</b> On receipt of nomination dossiers from States Parties, the Secretariat will acknowledge receipt, check for completeness and register them. The Secretariat will forward complete nomination dossiers to the relevant Advisory Bodies for evaluation. The Secretariat will also make <b>publicly</b> available the electronic format of the main text of the nomination dossiers on the World Heritage Centre’s website. If necessary, the Advisory Bodies will request additional information from the State(s) Party(ies), which will be submitted to and registered by the World Heritage Centre. The timetable for registration and processing of nomination dossiers is detailed in Paragraph 168.</p>	
<p><b>III.E Evaluation of nomination dossiers by the Advisory Bodies</b></p> <p>[...]</p> <p><b>148.</b> The following principles must guide the evaluations and presentations of ICOMOS and IUCN. The evaluations and presentations should:</p> <p>[...]</p> <p><u>k) in the case of nominations that might affect the lands, territories or resources of Indigenous Peoples, clearly indicate whether the nomination meets the requirement of Indigenous Peoples’ free, prior and informed consent.</u></p> <p><b>148 bis.</b> <u>The OHCHR may contribute to the evaluation of nomination dossiers by providing comments on the consistency of nominations with internationally recognized human rights standards. These comments can be provided at the request of the Advisory Bodies or at the OHCHR’s own initiative.</u></p> <p><b>151.</b> ICOMOS<del>and</del>, IUCN <u>and the OHCHR</u> make their recommendations under three categories:</p> <p>a) properties which are <b>recommended for inscription</b> without reservation;</p>	

<p>b) properties which are <b>not recommended</b> for inscription;</p> <p>c) nominations which are recommended for <b>referral</b> or <b>deferral</b>.</p>							
<p><b>III.J Timetable – overview</b></p> <p>168. [...]</p> <p><b>Nomination Dossier Phase</b></p> <table border="1" data-bbox="277 512 1227 805"> <thead> <tr> <th data-bbox="277 512 674 549">Timetable</th><th data-bbox="674 512 1227 549">Procedures</th></tr> </thead> <tbody> <tr> <td data-bbox="277 549 674 585">[...]</td><td data-bbox="674 549 1227 585">[...]</td></tr> <tr> <td data-bbox="277 585 674 805"> <b><u>1 February – 1 March Year 1</u></b> </td><td data-bbox="674 585 1227 805"> [...]  The Secretariat will also make <u>publicly</u> available the electronic format of the text of the nomination dossiers on the World Heritage Centre’s website. </td></tr> </tbody> </table>	Timetable	Procedures	[...]	[...]	<b><u>1 February – 1 March Year 1</u></b>	[...] The Secretariat will also make <u>publicly</u> available the electronic format of the text of the nomination dossiers on the World Heritage Centre’s website.	
Timetable	Procedures						
[...]	[...]						
<b><u>1 February – 1 March Year 1</u></b>	[...] The Secretariat will also make <u>publicly</u> available the electronic format of the text of the nomination dossiers on the World Heritage Centre’s website.						
<p><i>Tentative List Submission Format</i></p> <p><i>Annex 2A</i></p> <p><b>TENTATIVE LIST SUBMISSION FORMAT</b></p> <p>[...]</p> <p><b>DESCRIPTION:</b></p> <p><b>Justification of Outstanding Universal Value:</b>  (Preliminary identification of the values of the property which merit inscription on the World Heritage List)</p>							

<p><b>Criteria met</b> [see Paragraph 77 of the <i>Operational Guidelines</i>]: (Please tick the box corresponding to the proposed criteria and justify the use of each below)</p> <p><b>Statements of authenticity and/or integrity</b> [see Paragraphs 78-95 of the <i>Operational Guidelines</i>]:</p> <p><b>Comparison with other similar properties:</b> (The comparison should outline similarities with other properties on the World Heritage List or not, and the reasons that make the property stand out)</p> <p><b>Free, prior and informed consent of Indigenous Peoples</b> [see Paragraph 64 of the <i>Operational Guidelines</i>]: (Please identify any Indigenous Peoples whose lands, territories or resources may be affected by the property and indicate whether their free, prior and informed consent has been obtained)</p>	<p>See para. 64 of the Operational Guidelines.</p>
<p><i>Tentative List Submission Format for Future Transnational and Transboundary Nominations</i> <span style="float: right;"><i>Annex 2B</i></span></p> <p style="text-align: center;"><b>TENTATIVE LIST SUBMISSION FORMAT FOR FUTURE TRANSNATIONAL AND TRANSBOUNDARY NOMINATIONS</b></p> <p>[...]</p> <p><b>4. Free, prior and informed consent of Indigenous Peoples</b> [see Paragraph 64 of the <i>Operational Guidelines</i>]: (Please identify any Indigenous Peoples whose lands, territories or resources may be affected by the property and indicate whether their free, prior and informed consent has been obtained)</p>	<p>See para. 64 of the Operational Guidelines.</p>
<p><i>Format for the nomination of properties for inscription on the World Heritage List</i> <span style="float: right;"><i>Annex 5</i></span></p>	



**FORMAT FOR THE NOMINATION OF PROPERTIES  
FOR INSCRIPTION ON THE WORLD HERITAGE LIST**

[...]

NOMINATION FORMAT	EXPLANATORY NOTES
[...]	[...]
<b>5.a (ii) Indigenous Peoples</b>	<p>If the nominated property might affect the lands, territories or resources of indigenous peoples, <del>demonstrate whether provide evidence that</del> their free, prior and informed consent to the nomination has been obtained, <u>through their own representative institutions, through, inter alia, making the nomination publicly available in appropriate languages and public consultations and hearings</u> (Paragraphs 64 and 123).</p> <p><u>The Committee will welcome a broad range of demonstrations or attestations of Indigenous Peoples' consent – written, audio-visual or any other way – in preference to standard or uniform declarations. Evidence of free, prior and informed consent shall be provided in the language of the Indigenous Peoples concerned if its members use languages other than English or French, as well as in one of the working languages of the Committee (English or French).</u></p> <p>Demonstrate the extent of consultation and collaboration with indigenous peoples, <del>as applicable,</del> in the management of the nominated property (Paragraphs 111 and 117).</p>

See UNESCO's instructions for completing the nomination forms for the List of Intangible Cultural Heritage in Need of Urgent Safeguarding and the Representative List of the Intangible Cultural Heritage of Humanity (Docs. ICH-01-Instructions and ICH-02-Instructions, available at <https://ich.unesco.org/en/forms>).

**MODIFICATIONS  
TO WORLD HERITAGE PROPERTIES**

[...]

**Documentation requested**

[...]

**9) Free, prior and informed consent of Indigenous Peoples:** In the case of boundary modifications that might affect the lands, territories or resources of Indigenous Peoples, please provide evidence of the free, prior and informed consent of the Indigenous Peoples concerned, through their own representative institutions.

See para. 123 of the Operational Guidelines and para. 5.a (ii) of the Format for the nomination of properties for inscription on the World Heritage List.

**Annex 2: Proposed amendments to the Rules of Procedure of the World Heritage Committee (Doc. WHC-2015/5, July 2015)**

<i>Proposed amendments</i>	<i>Comments</i>
<p><u>Rule 6. Organizations attending in an advisory capacity</u></p> <p>A representative of the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), a representative of the International Council on Monuments and Sites (ICOMOS), <del>and</del> a representative of the World Conservation Union, formerly International Union for Conservation of Nature and Natural Resources (IUCN) <del>and</del> <u>a representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR)</u>, to whom may be added, at the request of States Parties to the Convention meeting in General Assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization, representatives of other intergovernmental or non-governmental organizations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.</p>	<p>Note the Memorandum of Understanding between UNESCO and the OHCHR of 22 November 2019, available at: <a href="https://en.unesco.org/sites/default/files/mou_ohchr-unesco.pdf">https://en.unesco.org/sites/default/files/mou_ohchr-unesco.pdf</a></p>
<p><u>Rule 8. Observers</u></p> <p>8.1 States Parties to the Convention which are not members of the Committee may attend the sessions of the Committee and its Bureau as observers. They shall be consulted by the Committee on all matters in respect of which consultation is prescribed by the Convention.</p> <p>8.2 Non States Parties to the Convention who are Member States of UNESCO or of the United Nations may also be permitted by the Committee, upon written request, to attend the sessions of the Committee and its Bureau as observers.</p> <p>8.3 The United Nations and organizations of the United Nations system, as well as, upon written request, at least 15 days prior to the date of the session of the Committee, other international governmental and non-governmental organizations, <u>Indigenous Peoples' Organizations</u>, permanent observer missions to UNESCO and non profit-making institutions having activities in the fields covered by the Convention, according to criteria defined by</p>	<p>Note that within IUCN there is a separate category of membership for Indigenous Peoples' Organizations (created by Res. 6.004 of the 6th IUCN World Conservation Congress, entitled "Including indigenous peoples' organisations in the structure of the Union").</p>

<p>the World Heritage Committee, may be authorized by the Committee to participate in the sessions of the Committee as observers.</p> <p>8.4 The Director-General may provisionally invite any organization referred to in Rule 8.3 subject to subsequent confirmation by the Committee.</p>	
<p><u>Rule 22. Order and time-limit of speeches</u></p> <p>22.1 The Chairperson shall call upon speakers in the order in which they signify their wish to speak.</p> <p>22.2 The Chairperson may limit the time allowed to each speaker if the circumstances make this desirable.</p> <p>22.3 The Chairperson, at his discretion, shall call on speakers from the Advisory Bodies, <u>the Office of the United Nations High Commissioner for Human Rights, the International Indigenous Peoples' Forum on World Heritage</u> and the Secretariat prior to the Committee taking a final decision.</p> <p>22.4 The representatives of organizations, individuals and observers referred to in Rules 6, 7 and 8 may address the meeting with the prior consent of the Chairperson. <u>The Chairperson shall encourage interventions from observers including local communities' and Indigenous Peoples' representatives in issues concerning such groups before decisions are made by the Committee.</u></p>	<p>Note the Memorandum of Understanding between UNESCO and the OHCHR of 22 November 2019.</p> <p>See the “Declaration of principles to promote international solidarity and cooperation to preserve World Heritage,” adopted by the General Assembly of States Parties to the World Heritage Convention in 2021, Doc. WHC/21/23.GA/INF.10, para. 9:</p> <p>"The Committee commits to: [...] 9. In the interest of recognising global cultural diversity and equitable representation, encourage interventions from observers including local communities' and indigenous peoples' representatives in items concerning such groups with the prior consent of the Chairperson, and in full respect of Article 6 of the 1972 Convention before decisions are made by the Committee (Rules of Procedure, Rules 6, 7, 8, 22.4)."</p>

## Concept note

### **International Expert Workshop on recognizing and respecting Indigenous Peoples' heritage values in World Heritage sites**

Geneva, 17-19 January 2024

#### **1. Background**

According to UNESCO, “The most significant feature of the 1972 World Heritage Convention is that it links together in a single document the concepts of nature conservation and the preservation of cultural properties. The Convention recognizes the way in which people interact with nature, and the fundamental need to preserve the balance between the two.”<sup>1</sup> These ideas are also reflected in the official emblem of the Convention, which symbolizes the interdependence of cultural and natural heritage and is supposed to convey “the principles embodied in the Convention” and “the essential objectives of the Convention.”<sup>2</sup>

However, the experiences of many Indigenous Peoples with World Heritage sites established in their territories stand in sharp contrast to these ideas and objectives and call into question the ways in which the Convention is being implemented. Despite its recognition and celebration of the interdependence of cultural and natural heritage, the World Heritage Committee maintains a differentiation between cultural and natural World Heritage sites that is “highly problematic where Indigenous Peoples’ territories and heritage are concerned,” as the UN Special Rapporteur on the Rights of Indigenous Peoples has observed.<sup>3</sup> An overwhelming majority of World Heritage sites in Indigenous Peoples’ territories are designated as purely “natural sites,” without any recognition of Indigenous Peoples’ heritage values and relationship to the land in the justification for inscription (Statement of Outstanding Universal Value)

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<sup>1</sup> See UNESCO’s official website of the World Heritage Convention, <http://whc.unesco.org/en/convention>.

<sup>2</sup> World Heritage Committee (1978) Report on the second session, Doc. [CC-78/CONF.010/10 Rev](#), paras. 51-53.

<sup>3</sup> UN Special Rapporteur on the rights of indigenous peoples (2022) Protected areas and indigenous peoples’ rights: the obligations of States and international organizations. UN Doc. [A/77/238](#), para. 40.

and in disregard of the fact that “for indigenous peoples, cultural and natural values are inseparably interwoven and should be managed and protected in a holistic manner.”<sup>4</sup>

This not only raises serious questions regarding the validity of the meanings attributed to the respective sites by UNESCO, but can also have significant adverse effects on Indigenous Peoples’ livelihoods and cultural heritage, as the justification for inscription may heavily affect conservation strategies and management priorities. If Indigenous Peoples’ perspectives, cultural values and customary roles are not recognized and reflected when the “Outstanding Universal Value” (OUV) of a site is defined, this can significantly limit their role in site management and decision-making and can also negatively affect their customary rights to their ancestral lands, territories, and resources and other substantive rights. In many natural World Heritage sites, Indigenous Peoples are primarily considered as threats, or potential threats, to conservation objectives and often tight restrictions and prohibitions are imposed on traditional livelihood activities such as hunting, gathering, farming or pastoralism, in violation of Indigenous Peoples’ cultural and subsistence rights. In some sites, Indigenous Peoples also experience high levels of violence, intimidation, and human rights abuses by conservation authorities enforcing the restrictions.

#### *Enhancing respect for Indigenous Peoples’ rights in World Heritage sites*

Following the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, various efforts have been made to enhance respect for Indigenous Peoples’ rights in World Heritage sites.<sup>5</sup> These include, *inter alia*, the organization of an International Expert Workshop on the World Heritage Convention and Indigenous Peoples (Copenhagen, 2012) during the Convention’s 40<sup>th</sup> anniversary; the addition of provisions regarding Indigenous Peoples’ participation and free, prior and informed consent in the Operational Guidelines for the Implementation of the World Heritage Convention (2015, 2019); the adoption of the World Heritage Sustainable Development Policy (2015), containing a section on respecting and involving Indigenous Peoples; the adoption of the UNESCO Policy on Engaging with Indigenous Peoples (2017); and the establishment of the International Indigenous Peoples’ Forum on World Heritage (IIPFWH), which has been recognized by the World Heritage Committee as an “important reflection platform on the involvement of Indigenous Peoples in the identification, conservation and management of World Heritage properties”<sup>6</sup> (2017).

However, despite these efforts, the World Heritage Committee continues to inscribe sites in Indigenous Peoples’ territories on the World Heritage List without an appropriate recognition of Indigenous Peoples’ perspectives, cultural heritage values and relationship to the land, and without ensuring the effective participation and free, prior and informed consent of the Indigenous Peoples concerned. Moreover, there continues to be a lack of procedures and

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<sup>4</sup> Ibid. Likewise, UN Expert Mechanism on the Rights of Indigenous Peoples (2015) Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage. UN Doc. [A/HRC/30/53](#), p. 20. The Expert Mechanism underlines that “Heritage policies, programmes and activities affecting indigenous peoples should be based on full recognition of the inseparability of natural and cultural heritage, and the deep-seated interconnectedness of intangible cultural heritage and tangible cultural and natural heritage” (ibid.).

<sup>5</sup> See UNESCO, “World Heritage and Indigenous Peoples,” <https://whc.unesco.org/en/activities/496/>.

<sup>6</sup> WHC [Decision 41 COM 7](#), para. 41.

mechanisms that would enable Indigenous organizations to bring such concerns effectively to the attention of the World Heritage Committee before decisions are taken by the Committee and to effectively participate in the Committee's decision-making processes.

## ***2. Justification for the International Expert Workshop on recognizing and respecting Indigenous Peoples' heritage values in World Heritage sites***

So far there has not been an in-depth discussion with Indigenous Peoples on measures that would facilitate the recognition of interconnections between culture and nature on the World Heritage List and enable a more consistent and adequate recognition of Indigenous Peoples' values and relationship to the land in the OUV and management of sites. The workshop seeks to fill this gap by enabling a constructive dialogue between Indigenous experts and representatives of UNESCO, the World Heritage Convention's Advisory Bodies, the three UN mechanisms on Indigenous Peoples, UN human rights mandate holders, and some States Parties to the Convention that are aligned to this acknowledgement of Indigenous peoples and recognition of Indigenous values in the 'natural' World Heritage listings. The World Heritage Committee has officially welcomed the planned workshop in a decision passed at its extended 45th session (Riyadh, September 2023) and requested the Secretariat to include a report on it at its 46th session.<sup>7</sup>

The workshop responds to concerns raised by the three UN mechanisms on Indigenous Peoples (Special Rapporteur, Expert Mechanism, Permanent Forum) about the nature-culture divide in the implementation of the World Heritage Convention and the classification of World Heritage sites in Indigenous Peoples' territories as purely "natural sites," without recognizing Indigenous Peoples' relationship to the land and cultural values in the OUV. For instance, the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has observed that "the protection of world heritage can undermine indigenous peoples' relationship with their traditional lands, territories and resources, as well as their livelihoods and cultural heritage, especially in sites where the natural values are deemed to be of outstanding universal value but the cultural values of indigenous peoples are not taken into account."<sup>8</sup> The Expert Mechanism has recommended that "the World Heritage Committee should adopt changes to the criteria and regulations for the assessment of 'outstanding universal value' so as to ensure that the values assigned to World Heritage sites by indigenous peoples are fully and consistently recognized as part of their outstanding universal value."<sup>9</sup>

The workshop will follow-up on World Heritage Committee Decision [37 COM 8B.19](#) (2013), in which the Committee noted that the nomination of Pimachiowin Aki (Canada) had "raised fundamental questions in terms of how the indissoluble bonds that exist in some places between culture and nature can be recognized on the World Heritage List, in particular the fact that the cultural and natural values of one property are currently evaluated separately and that the present wording of the criteria may be one contributor to this difficulty." The Committee requested the World Heritage Centre and the Advisory Bodies to examine options for changes to the criteria and/or the Advisory Body evaluation process to address this issue. The theme of the expert workshop also connects to Decision [30 COM 9](#) (2006), in which the Committee underlined that "outstanding universal value is a concept that shall embrace all cultures, regions and

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<sup>7</sup> Decision [45 COM 5D](#), para. 8. Also see Docs. [WHC/23/45.COM/5D](#), para 48 and [WHC/23/45.COM/5A](#), para 56.

<sup>8</sup> EMRIP (2015) Promotion and protection of the rights of indigenous peoples with respect to their cultural heritage. UN Doc. [A/HRC/30/53](#), para. 55

<sup>9</sup> EMRIP (2015) Expert Mechanism advice No. 8, para. 29. UN Doc. [A/HRC/30/53](#), Annex.

peoples, and does not ignore differing cultural interpretations of outstanding universal value because they originate from minorities, indigenous groups and/or local peoples.”

The workshop seeks to contribute to the realization of the provisions of the UNDRIP, particularly Art. 31 on the right of Indigenous Peoples to maintain, protect and develop their cultural heritage, as well as the goals of the UNESCO Policy on Engaging with Indigenous Peoples, which underlines among other things that “Policies, interventions and practices of conservation and management in and around cultural and natural heritage sites should... [r]ecognize, respect, and take into account the spiritual and cultural values, the interconnections between biological and cultural diversity as well as cultural and environmental knowledge of indigenous peoples”.<sup>10</sup> It is also meant to contribute to the goals of the World Heritage Sustainable Development Policy<sup>11</sup> (WH-SDP), particularly in regard to recognising the close links and interdependence of biological diversity and local cultures within the socio-ecological systems of World Heritage sites (para. 8), recognising, respecting, and including the values and cultural and environmental place-knowledge of Indigenous Peoples (para. 18.iii), respecting, protecting, and promoting human rights (para. 20), and respecting, consulting, and involving Indigenous Peoples (paras. 21-22).

Additionally, the theme of the expert workshop connects to a resolution recently adopted by the General Assembly of ICOMOS that requests the ICOMOS Board to advocate for changes to World Heritage processes in order to facilitate the recognition of interconnections between culture and nature on the World Heritage List, in particular with regard to Indigenous Peoples’ values, and to collaborate with the other Advisory Bodies (IUCN and ICCROM) and the IIPFWH in order to develop options for changes to the criteria of OUV that would address this issue.<sup>12</sup> Also noteworthy is a recommendation contained in the “Promise of Sydney” adopted by the 2014 IUCN World Parks Congress, according to which “The World Heritage Convention should fully and consistently recognise Indigenous Peoples’ cultural values as universal, and develop methods for recognition and support for the interconnectedness of natural, cultural, social, and spiritual significance of World Heritage sites, including natural and cultural sites and cultural landscapes.”<sup>13</sup>

### **3. Organizer and partners**

The expert workshop will be organized by the International Indigenous Peoples’ Forum on World Heritage (IIPFWH). It will be held from January 17 to 19 in Geneva. The dates for the meeting have been coordinated with the UNESCO World Heritage Centre and the Advisory Bodies to the World Heritage Committee (IUCN, ICOMOS, ICCROM).

The IIPFWH is a network of Indigenous organizations and experts created in 2017 by Indigenous delegates at the World Heritage Committee’s 41<sup>st</sup> session in Kraków. It was established as a standing global body to represent the voice of Indigenous Peoples in relation to the World Heritage Convention and to engage

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<sup>10</sup> [UNESCO Policy on Engaging with Indigenous Peoples](#), para. 77(p).

<sup>11</sup> Policy for the Integration of a Sustainable Development Perspective into the Processes of the World Heritage Convention, Doc. [WHC-15/20.GA/INF.13](#).

<sup>12</sup> ICOMOS [Resolution 21GA 2023/18](#), Recognizing Indigenous Peoples’ Values and Interconnections between Culture and Nature in the Outstanding Universal Value of World Heritage Sites.

<sup>13</sup> See UNESCO (2015) World Heritage at the IUCN World Parks Congress 2014: The Promise of Sydney. Doc. [CLT-2015/WS/22](#), p. 6.



with the World Heritage Committee and its advisory bodies with a view to enhancing respect for Indigenous Peoples' rights, cultures, and heritage values in all World Heritage processes. The World Heritage Committee has recognized the IIPFWH as an "important reflection platform on the involvement of Indigenous Peoples in the identification, conservation and management of World Heritage properties, with a particular focus on the nomination process."<sup>14</sup>

Technical support for the organization of the expert workshop is provided by the International Work Group for Indigenous Affairs (IWGIA), upon request of the IIPFWH. The IIPFWH has had several working meetings with the World Heritage Centre and the Advisory Bodies to discuss plans for the workshop, beginning in December 2022. Both the World Heritage Centre and the Advisory Bodies have warmly welcomed the IIPFWH's plans to organize the expert workshop and have agreed to provide the necessary support to the IIPFWH in the organization of the workshop.<sup>15</sup>

#### **4. Objectives of the expert workshop**

The overall objective of the expert workshop is to contribute to the realization of the provisions of the UNDRIP, particularly Art. 31 on the right of Indigenous Peoples to maintain, protect and develop their cultural heritage, as well as the goals of the UNESCO Policy on Engaging with Indigenous Peoples and the World Heritage Sustainable Development Policy.

More specifically, the aim of the expert workshop is to raise awareness about and discuss the concerns of Indigenous Peoples regarding the nature-culture divide in the implementation of the World Heritage Convention and the lack of recognition, respect and protection for Indigenous Peoples' heritage and values in many World Heritage sites. It seeks to enable a constructive dialogue about these issues among the workshop participants with a view to identifying options for changes to the existing processes, operational guidelines, and criteria for the assessment of OUV to address these concerns. The workshop is meant to foster mutual understanding, collaboration, and knowledge exchange among the workshop participants and to result in recommendations from Indigenous Peoples experts on measures that would facilitate the recognition of interconnections between culture and nature on the World Heritage List and enable and support a more consistent and adequate recognition of Indigenous Peoples' values and relationship to the land in the OUV and management of sites.

#### **5. Expected results**

The results of the discussions will be compiled in an outcome document including recommendations for the consideration of the World Heritage Committee, States Parties to the World Heritage Convention, UNESCO, the Advisory Bodies, and others.

The results will be submitted to the World Heritage Committee and presented in relevant United Nations and other international forums, to promote the implementation of the identified actions.

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<sup>14</sup> [Decision 41 COM 7](#), para. 41.

<sup>15</sup> See UNESCO Docs. [WHC/23/45.COM/5A](#), para. 56 and [WHC/23/45.COM/5D](#), paras. 47-48.

The World Heritage Committee has requested the World Heritage Centre to report on the expert workshop in the documentation to be prepared for the Committee's 46<sup>th</sup> session in 2024.<sup>16</sup>

## **6. Methodology**

The expert workshop will follow a similar format as the International Expert Workshop on the World Heritage Convention and Indigenous Peoples (Copenhagen, 2012).<sup>17</sup> The workshop will be conducted as a three-day expert seminar with a limited number of invited participants (ca. 40-50 participants). It will be broken down into six sessions (three morning and three afternoon sessions) and include presentations from invited experts and moderated discussions. The working language of the expert workshop will be English.

The discussions will take place in plenary sessions using a thematic panel format. Each panel will be moderated by a different moderator. The first day of the workshop will be devoted to building understanding among the workshop participants about the applicable human rights framework, Indigenous Peoples' perspectives on heritage, the functioning of the World Heritage Convention, and the concerns of Indigenous Peoples regarding the inadequacy of the existing framework for ensuring recognition and respect for Indigenous Peoples' heritage values in World Heritage sites. The panels on the second day of the workshop will look in more detail into some of the relevant processes, concepts, and mechanisms under the Convention with a view to identifying areas where changes are needed and discussing potential recommendations that would help to enhance recognition and respect for Indigenous Peoples' heritage values in existing and future World Heritage sites. The final day will be devoted to elaborating the outcome document and fine-tuning the recommendations to the World Heritage Committee, States Parties, UNESCO, the Advisory Bodies, and other relevant actors.

## **7. Participants**

Invited workshop participants will include, *inter alia*, Indigenous experts/representatives from different regions/World Heritage sites; representatives of the UNESCO World Heritage Centre; representatives of the Advisory Bodies (IUCN, ICOMOS and ICCROM); representatives of the three UN mechanisms on Indigenous Peoples (Expert Mechanism on the Rights of Indigenous Peoples, Special Rapporteur on the Rights of Indigenous Peoples, Permanent Forum on Indigenous Issues); the UN Special Rapporteur in the field of cultural rights; the UN Special Rapporteur on Human rights and the environment; a representative of the Office of the High Commissioner for Human Rights; and some government representatives. The Indigenous experts/representatives will be invited based on their relevant technical knowledge and experience and considering regional and gender balance. In total there will be around 40-50 participants.

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<sup>16</sup> Decision 45 COM 5D, para. 8.

<sup>17</sup> On the Copenhagen workshop, see <https://whc.unesco.org/en/events/906/>.

#### **Annex 4: List of participants**

##### List of participants

#### **International Expert Workshop on recognizing and respecting Indigenous Peoples' heritage values in World Heritage sites**

Geneva, 17-19 January 2024

<b>Áka Simonsen</b>	Inuit Circumpolar Council; Site manager of the Kujataa Greenland World Heritage Site
<b>Alexandra Xanthaki</b>	UN Special Rapporteur on cultural rights
<b>Andrea Carmen</b>	Executive Director, International Indian Treaty Council
<b>Anita Smith</b> (video message)	La Trobe University
<b>Berta de Sancristobal</b>	Head of Europe and North America Unit, UNESCO World Heritage Centre
<b>Braya Quilty</b>	Fort Chipewyan Métis Nation
<b>Chrissy Grant</b>	Chairperson, International Indigenous Peoples' Forum on World Heritage
<b>Dalee Sambo Dorough</b>	UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)
<b>Darío Mejía Montalvo</b>	Chairperson, UN Permanent Forum on Indigenous Issues
<b>Denis Rose</b>	Gunditj Mirring Traditional Owners Aboriginal Corporation
<b>Edward Porokwa</b>	Pastoralists Indigenous Non Governmental Organization's Forum (PINGOs Forum)
<b>Eirik Larsen</b>	Head of the Human Rights Unit, Saami Council
<b>Elisa Marchi</b>	Legal Advisor to the UN Special Rapporteur on the Rights of Indigenous Peoples

<b>Ernie Gladstone</b>	Executive Director, Indigenous Affairs Branch, Parks Canada
<b>Eugene Jo</b>	Programme Manager, World Heritage Leadership, ICCROM
<b>Federico Lenzerini</b>	University of Siena
<b>Francesca Thornberry</b>	Forest Peoples Programme
<b>Francisco Cali Tzay</b>	UN Special Rapporteur on the Rights of Indigenous Peoples
<b>Gakemotho Wallican Satau</b> (video message)	Indigenous Peoples of Africa Co-ordinating Committee (IPACC)
<b>Gam Shimray</b>	Secretary General, Asia Indigenous Peoples Pact (AIPP)
<b>Greer Alblas</b>	Ambassador, Permanent Delegate of Australia to UNESCO
<b>Guadalupe Yesenia Hernández Márquez</b>	International Indigenous Peoples' Forum on World Heritage
<b>Gwenaëlle Bourdin</b>	Director of Evaluation Unit, ICOMOS
<b>Helen Tugendhat</b>	Forest Peoples Programme; Vice-Chair, Governance, Equity and Rights, IUCN World Commission on Protected Areas
<b>Hernan Vales</b>	Chief of the Indigenous Peoples and Minorities Section, Office of the High Commissioner for Human Rights (OHCHR)
<b>Joan Carling</b>	Executive Director, Indigenous Peoples Rights International (IPRI)
<b>John Knox</b>	Wake Forest University, former UN Special Rapporteur on human rights and the environment
<b>Kittisak Rattanakrangsri</b>	Executive Director, Indigenous Peoples Foundation for Education and Environment; Chairperson, Council of Indigenous Peoples in Thailand
<b>Lance Syme</b>	Kayandel Archaeological Services; Wiradjuri Traditional Owner, Greater Blue Mountains World Heritage Site
<b>Lazare Eloundou Assomo</b> (video message)	Director of World Heritage, UNESCO World Heritage Centre

<b>Lola Garcia-Alix</b>	International Work Group for Indigenous Affairs
<b>Luba Janikova Caris</b>	UNESCO World Heritage Centre
<b>Marie-Laure Lavenir</b>	Director General, ICOMOS
<b>Max Ooft</b>	Association of Indigenous Village Leaders in Suriname (VIDS)
<b>Mizuki Murai</b>	Senior Programme Coordinator World Heritage, IUCN
<b>Nigel Crawhall</b>	Chief of Section, Local and Indigenous Knowledge Systems, UNESCO
<b>Ole Soe Eriksen</b>	Directorate for Cultural Heritage, Norway (Riksantikvaren); National Focal Point World Heritage Convention
<b>Pierre Bardoux-Chesneau</b>	Director of the Nature Assets Team and the Global Fund for Coral Reef in the United Nations Capital Development Fund
<b>Rachel Fortune</b>	International Heritage Section, Department of Climate Change, Energy, the Environment and Water, Government of Australia
<b>Rodion Sulyandziga</b>	Centre for Support of Indigenous Peoples of the North (CSIPN)
<b>Shankar Limbu</b>	Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)
<b>Stefan Disko</b>	International Work Group for Indigenous Affairs
<b>Tim Badman</b>	Head of the Heritage and Culture Team, IUCN
<b>Valerie Magar</b>	Unit Manager, Programmes Unit, ICCROM
<b>Vital Bambanze</b>	Expert member, UN Permanent Forum on Indigenous Issues
<b>Xavier Forde</b>	Raukawa Ngāti Toa Rangatira iwi; ICOMOS Māori Committee Aotearoa New Zealand; Ministry for Culture & Heritage, New Zealand; ICOMOS Indigenous Heritage Working Group