

UN Permanent Forum on Indigenous Issues, Twelfth Session
New York, 20-31 May 2013

Agenda Item 7(a):

Human rights: Implementation of the United Nations Declaration on the Rights of Indigenous Peoples
(Wednesday, 22 May 2013)

Joint Statement:

**Implementation of the UN Declaration on the Rights of Indigenous Peoples
in the context of the 1972 World Heritage Convention**

International Work Group for Indigenous Affairs (IWGIA); Cordillera Peoples Alliance; The Saami Parliament in Norway; Asia Indigenous Peoples Pact (AIPP); Forest Peoples Programme; Na Koa Ikaika KaLahui Hawai'i; Greenland National Museum; Centre pour l'Éducation, la Formation et l'Appui aux Initiatives de Développement au Cameroun (CEFAID Cameroon); Budakattu Krishikara Sangha, Karnataka, Western Ghats, India; Adivasi Gothra Mahasabha, Kerala; Adivasi Gothra Jana Sabha, Kerala; Kerala Girivarga Kanikkar Sangham, Kerala; Pothigaimalai Adivasi Kanikkar Munnetra Sangam, Tamilnadu; First Peoples Human Rights Coalition; Tebtebba Foundation; Asia Indigenous Women's Network; Parakuiyo Pastoralists Indigenous Community Development Organization (PAICODEO Tanzania); Mainyoito Pastoralist Integrated Development (MPIDO), Kenya; Pastoralists Indigenous Non-Governmental Organisations Forum (PINGOs Forum), Tanzania.

Introduction

1. In previous sessions of the Permanent Forum, Indigenous organizations and support organizations have on numerous occasions raised concerns about the lack of implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the context of UNESCO's World Heritage Convention.¹ Serious concerns have been expressed not only about the violation of Indigenous rights in existing World Heritage sites, but also about the violation of Indigenous rights in the designation of new sites by the World Heritage Committee. A main point of criticism has been the designation of Indigenous peoples' lands and territories as World Heritage sites without the free, prior and informed consent of the Indigenous peoples concerned.
2. Last year the former Chair of the Permanent Forum, Myrna Cunningham, stated in an interview published in UNESCO's World Heritage Review that "We are well aware that the World Heritage Convention and its *Operational Guidelines* do not offer the necessary provisions on the rights of indigenous peoples... [N]ew provisions and guidelines need to be adopted to ensure full and effective participation of indigenous peoples in the management and decision-making concerning [World Heritage] sites".²
3. Already in 2011 the Permanent Forum encouraged a review of existing procedures with a view to ensuring free, prior and informed consent in the context of World Heritage nominations. It expressed its availability to UNESCO "to assist in the review and revision of UNESCO operational guidelines with regard to nominations and site assessments" and recommended "that UNESCO invite indigenous peoples' representatives and experts to contribute to deliberations on and recommended changes to procedures and operational guidelines".³

International Expert Workshop on the World Heritage Convention and Indigenous Peoples (Copenhagen, 20-21 September 2012)

4. In 2012, UNESCO and the State Parties to the World Heritage Convention celebrated the 40th anniversary of the World Heritage Convention under the theme "World Heritage and

Sustainable Development: the Role of Local Communities”. UNESCO underlined in a statement at the tenth session of the Permanent Forum that the 40th anniversary would provide “an excellent opportunity for indigenous peoples to engage with UNESCO and the Committee and its Secretariat, in order to address concerns that have been raised within the framework of the Permanent Forum and to work towards a constructive solution to the challenges that the United Nations Declaration on the Rights of Indigenous Peoples brings to the international community as a whole.”⁴ Additionally, the World Heritage Committee explicitly noted in one of its decisions that considerations related to Indigenous peoples, and in particular questions raised by the United Nations Permanent Forum on Indigenous Issues, should be discussed in the context of the 40th anniversary.⁵

5. In response to this, an International Expert Workshop on the World Heritage Convention and Indigenous Peoples was held in September 2012 in Copenhagen, hosted by the Danish Agency for Culture, the Government of Greenland and IWGIA as part of the 40th anniversary of the Convention. The expert workshop was organized under the theme “How to ensure that the implementation of the World Heritage Convention is consistent with the UN Declaration on the Rights of Indigenous Peoples” and involved Indigenous experts and representatives from around the world (including from several World Heritage areas), human rights experts, and actors in the World Heritage system, including representatives of UNESCO and the World Heritage Centre. Participants also included two members of the Permanent Forum on Indigenous Issues, Kanyinke Sena and Dalee Sambo Dorough, and the Chair of the UN Expert Mechanism on the Rights of Indigenous Peoples, Chief Wilton Littlechild.
6. Having examined case studies from around the world,⁶ the expert workshop produced a Call to Action⁷ which expresses concern about the legacy of injustices and human rights violations experienced by Indigenous peoples in many World Heritage areas, recognizing that human rights violations have also occurred as a direct result of the implementation of the World Heritage Convention.
7. The Call to Action contains recommendations to the World Heritage Committee, UNESCO and States on how to align the implementation of the World Heritage Convention with the UN Declaration on the Rights of Indigenous Peoples. Main recommendations include:
 - a) That the World Heritage Committee urgently establish a process to elaborate, with the direct, full and effective participation of Indigenous peoples, changes to the current procedures and operational guidelines to ensure that the implementation of the World Heritage Convention is consistent with the UN Declaration on the Rights of Indigenous Peoples and a human rights-based approach;
 - b) That the World Heritage Committee establish an advisory mechanism consisting of Indigenous experts, to assist in the implementation of the Convention and ensure that the rights of Indigenous peoples are upheld;
 - c) Additionally, the expert workshop produced a set of proposed amendments to the World Heritage Convention’s Operational Guidelines aimed at ensuring that sites incorporating or affecting Indigenous peoples’ lands, territories or resources are not inscribed on the World Heritage List without the free, prior and informed consent of the Indigenous peoples concerned.⁸

37th session of the World Heritage Committee (Phnom Penh, 16-27 June 2013)

8. The results and recommendations of the expert workshop in Copenhagen have been referenced in several of the session documents prepared by UNESCO's World Heritage Centre for the upcoming 37th session of the World Heritage Committee in Phnom Penh.⁹
9. Most significantly, the Call to Action and the proposed amendments to the World Heritage Convention's Operational Guidelines that were developed by the expert workshop are mentioned in the document prepared for Item 12 of the Provisional Agenda: Revision of the Operational Guidelines.¹⁰ In that document, the World Heritage Centre proposes that the World Heritage Committee establish a Consultative Body on the Operational Guidelines during its upcoming session in Phnom Penh (i.e. a sessional Working Group), which would *inter alia* consider the amendments proposed by the Copenhagen expert workshop.¹¹
10. The World Heritage Centre has expressed support for the principle of free, prior and informed consent to be introduced within the World Heritage Convention's Operational Guidelines¹² and has recommended that "proposed changes to the Operational Guidelines to reflect issues related to human rights and indigenous peoples should be set into the context of the forthcoming UNESCO Policy on Engaging with Indigenous Peoples".¹³

Recommendations

11. In light of these developments, we strongly encourage the Permanent Forum to:
 - a) Strengthen its engagement with UNESCO and the World Heritage Committee with a view to making the implementation of the World Heritage Convention consistent with the UN Declaration on the Rights of Indigenous Peoples and a human rights-based approach;
 - b) In doing so, give due consideration to the Call to Action and recommendations of the International Expert Workshop on the World Heritage Convention and Indigenous Peoples, Copenhagen, Denmark;
 - c) Participate in the upcoming 37th session of the World Heritage Committee in Phnom Penh (16-27 June 2013), including the meetings of the Consultative Body on the Operational Guidelines.¹⁴ Considering the special opportunity that this session provides, and the role to be played by the Permanent Forum in promoting UNDRIP within the United Nations system, we recommend that the Permanent Forum participate in the entire session.

Endnotes

¹ See, e.g., *Joint Statement on Continuous violations of the principle of free, prior and informed consent in the context of UNESCO's World Heritage Convention* (UNPFII, 10th Session, 2011), available at www.iwgia.org/iwgia_files_news_files/0314_UNPFII_2011_Joint_Statement_on_FPIC_and_orld_Heritage.pdf; or *Joint Submission on the Lack of implementation of the UN Declaration on the Rights of Indigenous Peoples in the context of UNESCO's World Heritage Convention* (UNPFII, 11th Session, 2012), available at www.forestpeoples.org/sites/fpp/files/publication/2012/05/joint-submission-unpfii.pdf.

² **World Heritage Review No. 62** ("World Heritage and Indigenous Peoples", February 2012), p. 52.

³ **Permanent Forum on Indigenous Issues, Report on the 10th session (16-27 May 2011)**, Doc. E/2011/43-E/C.19/2011/14, paras. 40-42. Likewise, **Intervention by UNPFII Member Mr. Kanyinke Sena at the 35th Session of the World Heritage Committee, Paris, 2011**, www.iwgia.org/news/search-news?news_id=314.

⁴ **Statement by UNESCO, 10th Session of the UNPFII, 17 May 2011**, available at www.docip.org/gsd/collect/cendocdo/index/assoc/HASHbfc/9a7a182d.dir/PF11douglass071.pdf.

⁵ **World Heritage Committee Decision 35 COM 12D (2011): Celebration of the 40th Anniversary**, para. 10:

“[The World Heritage Committee] Acknowledges the statements made by the Representative of the United Nations Permanent Forum on Indigenous Issues (UNPFII) at its 34th and 35th sessions, held in Brasilia (Brazil, 2010) and Paris (UNESCO Headquarters, 2011), respectively, and notes that UNESCO is in the process of preparing a policy with regard to its programs on indigenous peoples; further notes that these considerations should be included in the theme of the 40th anniversary, ‘World Heritage and Sustainable Development: the Role of Local Communities’;”

⁶ Summaries of the case studies are contained in the report of the expert workshop, available at: www.iwgia.org/publications/search-pubs?publication_id=610 or <http://whc.unesco.org/uploads/events/documents/event-906-5.pdf>.

⁷ The Call to Action is available at: <http://whc.unesco.org/uploads/events/documents/event-906-1.pdf> or www.iwgia.org/iwgia_files_news_files/0678_Call_to_Action_plus_Annexes.pdf.

⁸ The proposed amendments are available at: www.iwgia.org/iwgia_files_news_files/0678_Call_to_Action_plus_Annexes.pdf (Annex 3, at p. 16 ff.) or <http://whc.unesco.org/uploads/events/documents/event-906-2.pdf> (at p. 12 ff.).

⁹ See Doc. **WHC-13/37.COM/5A: Report of the World Heritage Centre on its activities** (para. 21 and Draft Decision 37 COM 5A on p. 26); Doc. **WHC-13/37.COM/12: Revision of the Operational Guidelines** (paras. 12b and 13b); and Doc. **WHC-13/37.COM/13: Draft Policy Guidelines** (Annex, pp. 7-8). All session documents are available at <http://whc.unesco.org/en/sessions/37COM/documents/>.

¹⁰ See Doc. **WHC-13/37.COM/12**, para. 12b:

“Some international expert meetings came up with reflections related to the *Operational Guidelines*. This is the case for the following meetings, which have been referred to in the Secretariat’s report in working document WHC-13/37.COM/5A: ... b) **International Expert Workshop on the World Heritage Convention and Indigenous Peoples** (Copenhagen, 2012, <http://whc.unesco.org/en/events/906/>) following Decision **35 COM 12D** point 10, came up with in-depth reflections presented in a “Call for Action” and proposed changes to the *Operational Guidelines* specifically with regard to issues related to Free, prior and informed consent, human rights and indigenous peoples. These are included in the document that is available at <http://whc.unesco.org/uploads/events/documents/event-906-1.pdf>.”

¹¹ See **Draft Decision 37 COM 12**, paras. 3 and 8 (in Doc. WHC-13/37.COM/12, p. 9). Also see **Draft Decision 37 COM 5A**, para. 6 (in Doc. WHC-13/37.COM/5A, p. 26):

“Further takes note of the report of the International Expert Meeting on “World Heritage and Indigenous Peoples” (Copenhagen, 20-21 September 2012), following Decision **35 COM 12D** ... and requests the Consultative Body on *Operational Guidelines* to consider any implications for future revisions of the *Operational Guidelines*;”.

¹² See the **Speech of the World Heritage Centre’s Director, Kishore Rao, at the Closing Event of the 40th Anniversary of the World Heritage Convention**, Kyoto, Japan, 7 November 2012 (available at <http://whc.unesco.org/uploads/events/documents/event-789-3.pdf>):

“...Lately, there have been growing calls for more civil society engagement, particularly of local communities and indigenous peoples, and of NGOs in the various processes of the Convention. Although communities are a particular focus for the Convention, the achievements under this strategic objective have been far from impressive. The UNPFII has also appealed for the principle of ‘free prior and informed consent’ to be introduced within the World Heritage Operational Guidelines, as is the case already under the Operational Directives (I.1.U.4 and I.2.R.4) of the 2003 Intangible Heritage Convention. I feel that this is an issue that the World Heritage Committee will have to seriously consider. It will also have to discuss modalities for giving more opportunity in its meetings for the NGO perspectives to be heard.”

¹³ Doc. **WHC-13/37.COM/12**, para. 13b.

¹⁴ According to information obtained from the World Heritage Centre, the Consultative Body (sessional Working Group) on the Operational Guidelines is supposed to meet during the lunch break beginning on Tuesday, 18 June. The World Heritage Committee’s decision on the relevant agenda item (Item 12) is provisionally scheduled for Monday, 24 June. See the Provisional Timetable contained in Doc. **WHC-13/37.COM/3B**.