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Changing Climate; Changing Life—Climate Change and Indigenous Intangible Cultural Heritage

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Abstract: Climate change has already had a significant impact on both tangible and intangible cultural heritage globally. Climate change-induced impacts on tangible cultural heritage include historic buildings being damaged by increasing sea levels, and harm caused to coral reefs as a result of increased water temperatures to give just two examples. In the sphere of intangible cultural heritage, climate change can lead communities to abandon their environment and related customs and practices, influencing how they live, eat, work, socialize and worship. Given the spiritual connection between Indigenous Peoples and their land and nature they are disproportionately affected by climate change. This loss is inter-generational, as Indigenous practices and customs disappear when communities are forced to leave their traditional homes and lifestyles. This article seeks to assess how the international legal framework can potentially address the impact of climate change on Indigenous intangible heritage. It also review recent efforts by UNESCO to address climate change and its impacts on cultural heritage.

Keywords: climate change; cultural heritage; UNESCO; indigenous knowledge

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1. Introduction

Climate change has become one of the most significant and fastest growing threats to people and their cultural heritage worldwide.[1] Unfortunately, the legal framework which seeks to address climate change has ignored, to a large extent, this threat to heritage. According to Chechi, ' . . . there is no constructive interaction between Cultural Heritage and climate change law',[2] and the respective legal frameworks only barely intersect. The majority of the newly emerging discourse on the relationship between climate change and cultural heritage centres on damage to historical buildings and monuments, i.e., tangible cultural heritage.[3] However, climate change has already also had a significant impact on intangible cultural heritage, including customs, traditions and skills, and has the potential to substantially disrupt the lives of individuals and communities around the globe.[4] Climate change can force communities to leave their environment which influences how they live, socialize and worship and what they eat and drink.[5] Displacement as a result of

1 See Climate Change and Heritage Working Group of ICOMOS, *The Future of Our Pasts: Engaging cultural heritage in climate action*, July 2019, p. 19.

2 Alessandro Chechi, 'The Cultural Dimension of Climate Change: Some Remarks on the Interface between Cultural Heritage and Climate Change Law', in Sabine von Schorlemer and Sylvia Maus (eds.), *Climate Change as a Threat to Peace*, (Peter Lang AG, 2014), pp. 161–97. Chechi further comments that '[t]he international treaties that address the degradation of global climate conditions do not take account of the problem of the impacts of climate change on Cultural Heritage.'

3 Gűl Aktűrk and Martha Lerski, 'Intangible cultural heritage: a benefit to climate-displaced and host communities', 11 *Journal of Environmental Studies and Sciences* (2021), 305–315, p. 305.

4 Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), 699–716.

5 UNESCO World Heritage Centre (2007) 'Climate change and world heritage. Report on predicting and managing the impacts of climate change on world heritage and strategy to assist states parties to implement appropriate management responses', World Heritage Reports No 22, available at: http://whc.unesco.org/documents/publi_wh_papers_22_en.pdf, accessed 18 January 2022.

climate change can lead to 'generations-deep connection[s] to ... rituals, customs, and ancestral ties with the land',[6] not being transmitted to younger generations and becoming endangered or abandoned.[7] Given their marginalization and spiritual connection to land and nature, Indigenous Peoples are disproportionately impacted by climate change.[8] Not only do they lose land to which they are spiritually connected but they may also lose their practices and customs, i.e., their intangible cultural heritage, if they are forced to abandon their traditional homes and lifestyles. This article seeks to assess the international legal framework on cultural heritage and its utility in respect of the protection of the intangible cultural heritage of Indigenous Peoples in the face of climate change. It also seeks to address the role of Indigenous Peoples in this framework and underline the importance of their participation therein. Section 2 discusses the meaning of intangible cultural heritage, and how such heritage is at risk from climate change. It addresses, in particular, the acute vulnerability of Indigenous intangible cultural heritage. The following section discusses the legal frameworks on cultural heritage, both in respect of tangible cultural heritage and intangible cultural heritage, and assesses how this framework could protect intangible cultural heritage from climate change. It also underscores the importance of having an Indigenous voice in decision-making on issues concerning heritage and climate change. The main aim of this article is to focus attention, in Section 4, on UNESCO's *Updated Draft Policy Document on Climate Action for World Heritage*,[9] endorsed by the World Heritage Committee (WHC) in June 2021 and transmitted to the States Parties to the World Heritage Convention in November 2021 and the article serves as background to this new initiative and asks what, if any, impact this could have on the protection of intangible cultural heritage of Indigenous Peoples. This paper takes the position that the international legal framework on cultural heritage can benefit in many ways from Indigenous knowledge and expertise in respect of climate change and that an Indigenous voice is needed within this framework.

2. Cultural Heritage and Threats from Climate Change

The recognition of the importance of heritage to humanity was championed by UNESCO.[10] This recognition led to a need to legally protect and safeguard heritage for current and future generations.[11] The legal regime created to protect cultural heritage first focused exclusively on tangible cultural heritage, with UNESCO adopting the World Heritage Convention in 1972.[12] This instrument focuses exclusively on tangible cultural heritage and neglects intangible cultural heritage.[13] This approach was later remedied by UNESCO, when it adopted a Resolution to create a new protective instrument for the safeguard-

[6] Gűl Aktűrk and Martha Lerski, 'Intangible cultural heritage: a benefit to climate-displaced and host communities', 11 *Journal of Environmental Studies and Sciences* (2021), 305–315, p. 305.

[7] Jacqueline P Hand, 'Global climate change: a serious threat to Native American lands and culture', 38 *Environmental Law Reporter News & Analysis* (2008), p. 10329

[8] Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

[9] *Draft Policy Document on the impacts of climate change on World Heritage properties*, Document WHC-07/16.GA/10, now updated and retitled *Draft Policy Document on Climate Action for World* Heritage (2021), WHC/21/44.COM/7C, Annex 1.

[10] It should be noted that numerous criticisms have been leveled at the current world heritage framework for promoting a Western-centric idea of 'heritage', and overlooking or unacknowledging Indigenous conceptions. See Lynn Meskell, 'UNESCO and the Fate of the World Heritage Indigenous Peoples Council of Experts (WHIPCOE)', 20(2) *International Journal of Cultural Property*, 2013, pp. 155–74, p. 160 and C Brumann, 'Anthropological Utopia, Closet Eurocentrism, and Culture Chaos in the UNESCO World Heritage Arena', 91(4) *Anthropological Quarterly* (2018), pp. 1203–33. All 3 of the UN mechanisms specific to Indigenous peoples (UN Permanent Forum on Indigenous Issues, UN Expert Mechanism on the Rights of Indigenous Peoples and UN Special Rapporteur on the Rights of Indigenous Peoples) have called on the World Heritage Committee, UNESCO and its advisory bodies to take remedial measures and to expand the role of Indigenous peoples in the framework.

[11] See Janet Blake, *International Cultural Heritage Law*, (Oxford: Oxford University Press, 2015) and Lynn Meskell, *A Future in Ruins* (Oxford: Oxford University Press, 2018).

[12] Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, (1037 UNTS 151, UNESCO.)

[13] For an analysis of this instrument, see Francesco Francioni (ed.), *The 1972 World Heritage Convention: A Commentary* (Oxford; New York: Oxford University Press, 2008).

ing of intangible cultural heritage.[14] The resultant instrument is the Convention for the Safeguarding of the Intangible Cultural Heritage in 2003 (ICH Convention).[15]

2.1. Intangible Cultural Heritage

Cultural heritage is understood as encompassing both tangible natural and cultural heritage as well as intangible heritage.[16] The two aspects of the tangible/intangible dichotomy are not completely separate, but rather can intersect and complement each other. While tangible heritage is material in characterization and includes aspects of both the built and natural environment,[17] intangible cultural heritage constitutes the 'living heritage'[18] aspect of cultural heritage, which consists of all incorporeal elements of culture. Intangible cultural heritage is 'made up of all immaterial manifestations of culture' which 'represents the variety of living heritage of humanity as well as the most important vehicle of cultural diversity.'[19] Intangible cultural heritage is defined in the ICH Convention as the cultural 'practices, representations, expressions, knowledge and skills—as well as the instruments, objects, artefacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognize as part of their cultural heritage.'[20] The Convention states that intangible cultural heritage is manifested in various ways, i.e., '(a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; (b) performing arts; (c) social practices, rituals and festive events; (d) knowledge and practices concerning nature and the universe; (e) traditional craftsmanship.'[21] The preamble of the ICH Convention recognises the 'deep-seated interdependence between the intangible cultural heritage and the tangible cultural and natural heritage',[22] which is important in the context of the current discussion as climate change impacts on both types of heritage and climate change efforts in respect of tangible cultural heritage may impact on intangible cultural heritage, where the latter is linked to the former, e.g., hunting traditions on land damaged by climate change.

2.2. Climate Change and Heritage Loss

In 2007, the Intergovernmental Panel on Climate Change (IPCC), the UN body charged with assessing the science related to climate change, linked climate change with the anthropogenic emission of greenhouse gases.[23] This has led UN mechanisms dealing with climate change, such as the United Nations Framework Convention on Climate Change (UNFCCC) to focus on with the reduction of greenhouse gas emissions to address the harm done to our society by climate change.[24] Climate change has had a significant negative impact on tangible cultural heritage, e.g., the destruction of monuments by extreme weather conditions, the melting of glaciers and subsequent flooding of natural environment sites.

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14 31 C/Resolution 30 (2001).

15 Convention for the Safeguarding of the Intangible Cultural Heritage 2003, (2368 UNTS 1, UNESCO). For an analysis of this instrument, see Janet Blake and Lucas Lixinski (eds.), *The 2003 UNESCO Intangible Heritage Convention: A Commentary* (Oxford: Oxford University Press, 2020).

16 See Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

17 See *Convention concerning the Protection of the World Cultural and Natural Heritage*, UNESCO, Paris, 2003. See also the Operational Guidelines which broadened out the meaning of tangible heritage to include 'cultural landscapes'–II(A), *Operational Guidelines for the Implementation of the World Heritage Convention*, UNESCO, Paris, WHC.21/01, 31 July 2021.

18 Federico Lenzerini, 'Intangible Cultural Heritage: The Living Culture of Peoples', 22(1) *European Journal of International Law* (2011), pp. 101–20.

19 Federico Lenzerini, 'Intangible Cultural Heritage: The Living Culture of Peoples', 22(1) *European Journal of International Law* (2011), pp. 101–120.

20 Article 2(1), *Convention for the safeguarding of the intangible cultural heritage*, UNESCO, Paris, 2003. (ICH Convention).

21 Article 2(2), ICH Convention.

22 Preamble, ICH Convention.

23 IPCC, *Climate Change 2007*, (Cambridge: Cambridge University Press, 2007), p. 30.

24 See Hee-Eun Kim, 'Changing Climate, Changing Culture: Adding the Climate Change Dimension to the Protection of Intangible Cultural Heritage', 18 *International Journal of Cultural Property* (2011), pp. 259–90.

The link between climate change and intangible cultural heritage destruction is, however, not always clear and obvious and the 'distinction between normal climatic variability and anthropogenic causes'[25] in respect of such destruction makes a determination as to the cause of such destruction complex. However, a definite link can be identified between the destruction of intangible cultural heritage and forced migration due to climate change.[26] When climate change negatively impacts on a place, e.g., erosion of land, destruction of crops and therefore livelihood etc., communities disperse, identities are lost, and traditional knowledge linked to the destroyed or forsaken former 'home' is no longer passed down through the generations. The IPCC has identified migration as one of the expected main consequences of climate change, and indeed, Kim comments that '[r]ecent observations that climate change increasingly makes people move appear to provide an existential foundation for linking climate causes and cultural heritage effects.'[27] Unfortunately, it is some of the world's already most vulnerable people who are impacted most by climate change, including through forced migration. This includes Indigenous Peoples.

2.3. Indigenous Peoples and Loss of Intangible Cultural Heritage

As is documented elsewhere, there is an unfortunate general lack of an Indigenous voice in the world heritage framework, which has meant that issues concerning Indigenous cultural heritage have not been to the fore.[28] The lack of an Indigenous voice is particularly worrisome in the context of climate change because, writing in 2008 the International Union for Conservation of Nature (IUCN) identified the disproportionate impact of climate change on vulnerable groups, including Indigenous Peoples. It pointed to the IPCC's Fourth Assessment Report which was published in early 2007 and confirmed that global climate change is already happening and concluded that communities living on marginal lands, e.g., low-lying or coastal lands, and whose livelihoods depended on natural resources were among the most vulnerable to climate change. It stated that many Indigenous Peoples 'who have been pushed to the least fertile and most fragile lands as a consequence of historical, social, political and economic exclusion are among those who are at greatest risk.'[29] The International Council on Monuments and Sites (ICOMOS) also highlighted a similar trend, concluding that Indigenous Peoples are disproportionately impacted by climate change, stating that they 'are among the most vulnerable to the adverse effects of climate change because, among other reasons, their existence is often inextricably tied to the land. As a result, indigenous advocates have been among the first to make the point that climate change threatens not only landscapes but also cultural identity.'[30] The linkage of land, identity and climate change is reiterated by several authors, including Akturk and Lerski, who comment that '[c]limate displacement has been closely associated with land, sense of place, and identity.'[31]

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[25] Ibid.

[26] It should be noted that climate-induced migration is just one of many instances of the intersection between climate change, human rights and cultural loss, but given space and time constraints, this is the main focus of the present discussion. Other impacts of climate change on intangible cultural heritage include, for example, a forced change in horticultural practices and subsequent diet change due to a climate-damaged soil; a change in traditional work and cultural practices due to desertification or deforestation; the reduction in reliance on, and use of, Indigenous knowledge in respect of cosmology and navigation due to pollution etc.

[27] See Hee-Eun Kim, 'Changing Climate, Changing Culture: Adding the Climate Change Dimension to the Protection of Intangible Cultural Heritage', 18 *International Journal of Cultural Property* (2011), pp. 259–90.

[28] See Noelle Higgins, 'Indigenous Expertise as cultural expertise in the World Heritage Protective Framework', 11 *Nordic Journal of Law and Social Research* (2021), pp. 75–102.

[29] IUCN, *Indigenous and Traditional Peoples and Climate Change*, 2008, p. 4.

[30] Climate Change and Heritage working Group of ICOMOS, *The Future of Our Pasts: Engaging cultural heritage in climate action*, July 2019, p. 19.

[31] Gűl Aktűrk and Martha Lerski, 'Intangible cultural heritage: a benefit to climate-displaced and host communities', 11 *Journal of Environmental Studies and Sciences* (2021), 305–315, p. 307. See also WN Adger, J Barnett, K Brown, N Marshall, K O'Brien, 'Cultural dimensions of climate change impacts and adaptation', 3 *Nat Clim Chang* (2013), pp. 112–17 and WN Adger J Barnett, FS Chapin Iii, H Ellemor, 'This must be the place: under representation of identity and meaning in climate change decision-making', 11 *Global Environmental Politics* (2011), pp.1–25, available at: https://doi.org/10.1162/GLEP_a_00051, accessed 12 February 2022.

Climate adaptation strategies in response to potential and actual climate change can be categorised into 'resist', 'retreat' or 'rebuild' strategies.[32] Many Indigenous groups have no option but to retreat, leaving their lands and part of their heritage behind, and this is the main focus of the discussion in this article. Forced retreat from one's own land impacts significantly on Indigenous peoples, their understanding of themselves and the world around them. Pearson et al. highlight that 'Indigenous ontological worldviews and cultural heritage are outcomes of the complex interaction between people and their environments. The unique expressions of connection to land, whether through material culture, livelihoods, knowledge, identity, songs, ritual and religion derive foremostly from socioecological relationships.'[33] The psychological impact of a forced retreat is, therefore, immense, creating a feeling of solastalgia among groups,[34] and having a hugely negative impact on vitality and wellbeing.[35]

The impact of climate change clearly impacts not only the current generation of Indigenous communities but also future generations. The rich and diverse intangible cultural heritage held by current Indigenous peoples, including expressions, skills (e.g., in hunting and fishing), land management practices, may no longer be transmitted to future generations, or elements may be lost in transmission, particularly if these are linked with land from which the Indigenous community has had to flee due to climate change.[36] It is obvious that a protective framework in respect of Indigenous heritage and climate change is needed, both to safeguard Indigenous practices, knowledge and customs for the benefit of cultural diversity and also to help ensure the survival of Indigenous ways of life and their 'ontological security'.[37] UNESCO summarises the issues facing Indigenous intangible cultural heritage at risk due to climate change, stating that '[s]afeguarding living heritage is very crucial for indigenous peoples because their heritage is the basis of their identity, the basis of their cultures and, of course, it is the continual transmission of this heritage that is going to strengthen indigenous peoples' identities and cultures.'[38]

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[32] M Scott and M Lennon, 'Climate disruption and planning: resistance or retreat?' 21 *Plan Theory Pract* (2020), pp. 125–54. https://doi.org/10.1080/14649357.2020.1704130, accessed on 11 May 2022.

[33] Jasmine Pearson, Guy Jackson and Karen E McNamara, 'Climate-driven losses to Indigenous and local knowledge and cultural heritage', 1 *The Anthropocene Review* (2021), pp. 1–24.

[34] Pearson et al. comment that ''[s]olastalgia' emerged as a key theme for people who remain in situ but are losing their sense of place due to unrecognisable changes to their homeland, causing distress and sorrow. This change and subsequent loss of a familiar environment deeply affects peoples' ontological security.' Jasmine Pearson, Guy Jackson and Karen E McNamara, 'Climate-driven losses to Indigenous and local knowledge and cultural heritage', 1 *The Anthropocene Review* (2021), pp. 1–24.

[35] E Ferris and J McAdam, (2015), 'Planned relocations in the context of climate change: unpacking the Legal and conceptual issues', 4 *Cambridge Journal of International and Comparative Law* (2015), pp. 137–66. JM Torres and JA Casey, 'The centrality of social ties to climate migration and mental health', 17(10) *BMC Public Health* (2017), available at: https://doi.org/10.1186/s12889-017-4508-0, accessed 12 February 2022. See also C Farbotko, E Stratford and H Lazrus, 'Climate migrants and new identities? The geopolitics of embracing or rejecting mobility', 17 *Soc Cult Geogr* (2016), pp. 533–52. https://doi.org/10.1080/14649365.2015.1089589. See also UNESCO, *Living Heritage and Indigenous Peoples*, France, 2019, np. In respect of eviction of Indigenous Peoples from world heritage sites, and lack of consultation with Indigenous Peoples in decision-making in the world heritage framework, see the case of the Endorois people and Lake Bogoria See African Commission on Human and Peoples' Rights, Communication 276 / 2003–*Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2010) and African Commission on Human and Peoples' Rights, Resolution 197: Resolution on the Protection of Indigenous Peoples' Rights in the Context of the World Heritage Convention and the Designation of Lake Bogoria as a World Heritage—ACHPR/Res.197(L)(2011). The Commission held that the evictions and the failure of the Kenyan government to adequately involve the Endorois in the management and decision-making of the reserve had violated several of their rights protected by the African Charter on Human and Peoples' Rights. The Commission commented that it was of the view that in 'any development or investment projects that would have a major impact within the Endorois territory, the state has a duty not only to consult with the community, but also to obtain their free, prior, and informed consent, according to their customs and traditions' (African Commission on Human and People's Rights 2010, para. 291).

[36] See Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 24(7) *Cambridge Review of International Affairs* (2014), pp. 699–716.

[37] Jasmine Pearson, Guy Jackson and Karen E McNamara, 'Climate-driven losses to Indigenous and local knowledge and cultural heritage', 1 *The Anthropocene Review* (2021), pp. 1–24.

[38] UNESCO, *Living Heritage and Indigenous Peoples*, (France, 2019), np.

Indigenous Peoples have been active in international discussions on climate change. Representatives of Indigenous Peoples have participated since 1998 in the UNFCCC Conferences of the Parties (COP) and have issued various statements which express their concerns on the impact of climate change on their livelihoods and cultures. Since 2001, Indigenous Peoples' Organisations have also been recognised as a constituency in climate change negotiations within the UNFCCC. [39] Contribution by Indigenous groups to bodies dealing with climate change is very important, as it highlights the specific challenges faced by Indigenous Peoples due to climate change. However, the main focus of this article is on cultural heritage frameworks and bodies and how they have engaged with climate change threats. The next section, therefore, investigates the response of UNESCO to climate change threat and identifies if heritage legal frameworks have a role to place in climate change.

3. Climate Change and UNESCO

The issue of climate change and its impact on world heritage first surfaced in the UNESCO system in respect of tangible cultural heritage. It was brought to the attention of the WHC in 2005[40] when a number of non-governmental organizations and individuals filed petitions[41] demanding that three world heritage sites be added to the List of World Heritage in Danger as a result of climate change threat. The WHC convened a debate at its 29th session in Durban and acknowledged that 'the impacts of climate change are affecting many and are likely to affect many more World Heritage properties, both natural and cultural in the years to come'.[42] Following on from this, a working group was set up to review the nature of the threat of climate change to cultural heritage and to develop strategies to help States faced with climate change threats to their cultural heritage in addition to preparing a joint report for the WHC.[43] A 'Report on predicting and managing the effects of climate change on World Heritage'[44] and a 'Strategy to assist States Parties to the World Heritage Convention to implement appropriate management responses' were prepared and examined by the Committee in 2006.[45] The report requests all States Parties to the World Heritage Convention to implement the Strategy and also calls on the WHC to prepare a policy report on climate change for the attention of the General Assembly of States Parties.[46] The 'Policy document on the impacts of climate change on world heritage properties', endorsed by the Committee in July 2007[47] and adopted by the General Assembly of States Parties the same year,[48] is the guiding document on the topic of the impact of climate change on world heritage. This Policy Document was finally updated

[39] IUCN, *Indigenous and Traditional Peoples and Climate Change*, (2008), p. 9.

[40] Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

[41] The petitions concerned the Belize Barrier Reef, Huascaran National Park and Sagarmatha National Park and were filed together with a report on Australia's Great Barrier Reef; see petitions and press release at: http://www.climatelaw.org, accessed on 1 March 2022.

[42] UNESCO World Heritage Committee (2005) Decisions of the 29th Session of the World Heritage Committee: Decision 29 COM 7B.a, WHC-05/29.COM/22 of 9 September, para 5.

[43] UNESCO World Heritage Committee (2005) Decisions of the 29th Session of the World Heritage Committee: Decision 29 COM 7B.a, WHC-05/29.COM/22 of 9 September, para 7 and para 9.

[44] *Predicting and Managing the Effects of Climate Change on World Heritage*. A joint report from the World Heritage Centre, its Advisory Bodies, and a broad group of experts to the 30th session of the World Heritage Committee (Vilnius, 2006).

[45] 'Strategy to Assist States Parties to Implement Appropriate Management Responses'. Both the Joint Report and the Strategy were included in UNESCO, World Heritage Centre, 'Climate change and world heritage. Report on predicting and managing the impacts of climate change on world heritage and strategy to assist states parties to implement appropriate management responses', (2007), World Heritage Reports No 22, http://whc.unesco.org/documents/publi_wh_papers_22_en.pdf, accessed on 18 January 2022.

[46] UNESCO World Heritage Committee (2006) Decisions of the 30th Session of the World Heritage Committee: Decision 30 COM 7.1, WHC-06/30.COM/19 of 23 August, par 8 and para 13.

[47] UNESCO World Heritage Committee (2007) Decisions of the 31st Session of the World Heritage Committee: Decision 31 COM 7.1, WHC-07/31.COM/24 of 31 July, para 4.

[48] UNESCO, WHC-07/16.GA/10, published as UNESCO World Heritage Centre (2008) 'Policy document on the impacts of climate change on world heritage properties', http://whc.unesco.org/uploads/activities/documents/activity-393-2.pdf, accessed on 12 February 2022.

in 2021. In the meantime, the WHC has taken a number of other steps to address the impact of climate change on tangible cultural heritage, including amending the Operational Guidelines for the implementation of the 1972 World Heritage Convention.[49] However, the impact of climate change on intangible cultural heritage was not addressed by UNESCO until lately. The Updated Policy Document finally focuses attention on this issue, but in a very minimal way.[50]

According to Maus '[t]he World Heritage Convention is among the most powerful tools for protecting cultural heritage sites from the threats caused by climate change.'[51] A number of its provisions could be interpreted to place obligations on States in respect of climate change, although that actual nature of the obligation is unclear. For example, Article 4 provides that States Parties have the 'duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage . . . situated on its territory'.[52] To achieve this, each State Party 'will do all it can to the utmost of its own resources and, where appropriate, with any international assistance and co-operation.'[53] Given the significant threat of climate change to cultural heritage this provisions indicates that States Parties have obligations to address this threat. According to Article 4, this obligation is in the context of the resources of the State and so such obligations may vary from State to State. This provision could, however, place an obligation on States to undertake adaptation measures in reaction to the climate change impact on cultural heritage, e.g., the installation of anti-flood protection mechanisms in low lying areas,[54] or indeed to undertake mitigation strategies,[55] e.g., the increase of energy efficiency in heritage buildings.[56]

Article 5 of the World Heritage Convention places further obligations on States which may play a role in the context of the threat of climate change. This provision requires that each State Party 'shall endeavor, in so far as possible . . . to ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory.'[57] These measures are elaborated on further in the provision and include: adopting a general policy 'which aims to give cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes';[58] establishing services for protection, conservation and presentation;[59] undertaking research to identify 'such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage';[60] taking 'appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage';[61] and setting up training centres.[62] The list of measures in Article 5 is non-exhaustive and other measures, which could significantly address climate

[49] UNESCO World Heritage Committee (2009) Decisions adopted at the 32nd Session of the World Heritage Committee: Decision 32 COM 7A.32, WHC-08/32.COM/24Rev of 31 March.

[51] Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

[52] Article 4, World Heritage Convention 1972.

[53] Ibid.

[54] UNESCO World Heritage Centre (2007a) 'Case studies on climate change and world heritage', http://whc.unesco.org/uploads/activities/documents/activity-43-9.pdf, accessed on 12 February 2022, paras 27, 69, 73.

[55] See Erica J Thorson, 'On thin ice: the failure of the United States and the World Heritage Committee to take climate change mitigation pursuant to the World Heritage Convention seriously', 38 *Environmental Law* (2008), pp. 139–76.

[56] Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

[57] Article 5, World Heritage Convention 1972.

[58] Article 5(1), World Heritage Convention 1972.

[59] Article 5(2), World Heritage Convention 1972.

[60] Article 5(3), World Heritage Convention 1972.

[61] Article 5(4), World Heritage Convention 1972.

[62] Article 5(5), World Heritage Convention 1972.

change threat to tangible heritage could be seen by States as appropriate, including in the sphere of urban planning and energy efficiency.[63]

Article 6 of the World Heritage Convention states that the protection of world heritage is a 'duty for the international community as a whole'[64] and States Parties undertake 'not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage'.[65] Therefore States Parties must refrain from actions which may damage tangible heritage. Some commentators have taken a very broad interpretation of this obligation to mean that there is a requirement on States Parties to undertake significant mitigation strategies, including reducing greenhouse gas emissions.[66] Maus comments that '[o]nly these so-called "deep cuts" can help protect world heritage from further impacts of climate change'.[67] However, others view this interpretation as being too wide. It is suggested that the emission is not a deliberate measure which damages cultural heritage, but rather a very unfortunate side effect of anthropogenic societies which happens without the intention of States.[68] In addition, greenhouse gas emissions are often caused by companies rather than States themselves.[69]

States have been reluctant to adopt a wide interpretation of the World Heritage Convention provisions in respect of their obligations in the face of climate change. For example, in the 'Background document' prepared for the Working Group Meeting to Develop the Policy Paper on Impacts of Climate Change on World Heritage Properties, Australia commented that . . . ' the reach of obligations under the Convention is restricted to actions at the level of the site. It would be inappropriate to utilise mechanisms under the Convention to address dangers, such as climate change, at a broader level, including by obliging reductions in greenhouse gas emissions. This is the area for other international conventions, particularly the UNFCCC.'[70] The WHC has also been reluctant to place significant obligations on States Parties to the World Heritage Convention in respect of climate change and has commented that any measures to be recommended to States should emphasize adaptation rather than mitigation activities.[71] It views mitigation activities as coming within the remit of the UNFCCC, naming it as the '[p]referred international tool to address mitigation'.[72]

The WHC has, however, underlined its role in respect of climate change. For example, it has placed sites on the List of World Heritage Sites in Danger as a result of the impact of climate change.[73] In addition, it had amended its Operational Guidelines to reflect the impact of climate change on tangible cultural heritage, e.g., it amended paragraph 179(b)(vi)

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63 See Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

64 Article 6, World Heritage Convention 1972.

65 Article 6(3), World Heritage Convention 1972.

66 See Susan Shearing, (2007) 'Here today, gone tomorrow? Climate change and world heritage', *Macquarie Law Working Paper Series* 2007–11 and Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

67 Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

68 See Francesco Francioni, 'The human dimension of international cultural heritage law: an introduction', 22(1) *European Journal of International Law* (2011), pp. 9–16.

69 See Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

70 UNESCO (2007) Background document prepared for the Working Group Meeting to Develop the Policy Paper on Impacts of Climate Change on World Heritage Properties, UNESCO Headquarters, Paris, France, 5–6 February 2007, 40, Contribution from Australia, http://whc.unesco.org/uploads/activities/documents/activity-471-1.doc.

71 UNESCO World Heritage Committee (2009) Decisions adopted at the 32nd Session of the World Heritage Committee: Decision 32 COM 7A.32, WHC-08/32.COM/24Rev of 31 March.

72 UNESCO World Heritage Centre (2007) 'Climate change and world heritage. Report on predicting and managing the impacts of climate change on world heritage and strategy to assist states parties to implement appropriate management responses', World Heritage Reports No 22, 37. http://whc.unesco.org/documents/publi_wh_papers_22_en.pdf.

73 See, for example, Everglades National Park, in the United States. See: https://whc.unesco.org/en/soc/3839, accessed 13 February 2022.

and included the precautionary approach.[74] Both of these actions underscore the fact the WHC views itself as having a role in the context of climate change. This role, however, is secondary to the role of other climate change-specific mechanisms.[75]

3.1. Safeguarding of Intangible Cultural Heritage

The ICH Convention was adopted much later than the World Heritage Convention but is based on a similarly styled framework as contained in the earlier Convention. There are, however, some differences, with 'protection' being replaced with 'safeguarding'[76] under the intangible culture framework, meaning 'measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.'[77] Climate change can be a cause of the loss of intangible heritage and therefore can fall under the reasons for taking preservation measures.[78]

Rather than Operational Guidelines, the ICH Convention has Operational Directives. However, climate change is not referenced therein. Similar to the List of World Heritage in danger in respect of the World Heritage Convention, a List of Intangible Cultural Heritage in Need of Urgent Safeguarding has been created under the ICH Convention. However, none of the items inscribed in the List of Intangible Cultural Heritage in Need of Urgent Safeguarding (Article 17 CSICH) has reached this endangered status because of climate change. With regard to inscription, evaluation shall include 'assessment of the risk of its disappearing, due, inter alia, to the lack of means for safeguarding and protecting it, or to processes of globalization and social or environmental transformation.'[79] This can be understood as including risks caused by climate change, allowing for inscription of an item on the List, and place an obligation on States to take measures to safeguard cultural heritage from the impact of climate change. According to Maus, 'for many examples of intangible heritage, adaptation measures both by the state and by the respective community may be an adequate and sufficient reaction to the threat of climate change. General mitigation activities can only be requested as a measure of last resort, if safeguarding cannot be ensured otherwise, for instance if adaptation would require the relocation of communities.'[80] It is suggested, given the views of the WHC and the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, that States Parties would be very resistant to the view that mitigation obligations flow from the ICH Convention.[81]

However, in 2019, UNESCO adopted the *Operational Principles for Safeguarding Intangible Cultural Heritage in Emergencies* following an expert meeting held at UNESCO Headquarters in Paris May 2019.[82] They provide guidance to States Parties and other relevant national or international stakeholders on how best to ensure that intangible cultural heritage is most effectively safeguarded in an emergency in line with the principles of the 2003 Convention. This could, in theory, include emergencies caused by climate change.

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74 *Operational Guidelines for the Implementation of the World Heritage Convention*, UNESCO, Paris, WHC.21/01, 31 July 2021.

75 See Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', Cambridge Review of International Affairs, 2014, Vol. 27, No. 4, 699–716, p. 705.

76 'Safeguarding' also implies the act of preservation for future generations.

77 Article 2(3), ICH Convention 2003.

78 Article 11, ICH Convention 2003.

79 Operational Directives, para.27.

80 Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27(4) *Cambridge Review of International Affairs* (2014), pp. 699–716, p. 706.

81 Ibid.

82 *Operational Principles and Modalities for Safeguarding Intangible Cultural Heritage in Emergencies*, endorsed by the Intergovernmental Committee at its fourteenth session in Bogota, Colombia, December 2019 (Decision 14.COM 13) and adopted by the General Assembly at its eighth session in September 2020 (Resolution 8.GA 9).

3.2. Indigenous Expertise

It is very important that Indigenous Peoples can contribute to the UNESCO framework on intangible cultural heritage, including with respect to climate change.[83] The 2003 Convention does offer a role for Indigenous Peoples to shape the international heritage discourse by recognizing that 'communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and recreation of the intangible cultural heritage.'[84] A Register of Good Safeguarding Practices also emanates from the Convention, which can provide a place for recording Indigenous practices.[85] Building on the role Indigenous Peoples can play in discussions on safeguarding intangible cultural heritage, including threats faced by climate change, the *Ethical Principles for Safeguarding Intangible Cultural Heritage* were adopted in line with the 2003 Convention and other international instruments which seek to protect the rights of Indigenous Peoples in 2015.[86] These Principles highlight the primary role of communities, groups and, when applicable, individuals in the safeguarding process and underline the need for informed consent in respect of decision-making, as well as respect for customary practices, thus ensuring that Indigenous voices are heard in the safeguarding framework. In addition, UNESCO's *Policy on Engaging with Indigenous Peoples*,[87] adopted in 2018, guides the organisation's work in all areas of its mandate involving, or relevant to, Indigenous Peoples and it ensures that UNESCO's policies, planning, programming and implementation uphold the *United Nations Declaration on the Rights of Indigenous Peoples*.[88] The *Paris Agreement* (2015) and earlier agreements under the 1992 UNFCCC, recognise the traditional knowledge of Indigenous Peoples as an asset which should be considered alongside 'scientific knowledge' in respect of climate change adaptation and mitigation.[89] The UNFCCC's Local Communities and Indigenous Peoples Platform also seeks to allow for Indigenous input into the climate discourse.[90]

The inescapable link between particular types of intangible cultural heritage and the continuation of Indigenous customs and practices, and their influence on Indigenous identity must be fully appreciated in order to adequately address the impact of climate change on intangible cultural heritage.[91] It is hoped that these mechanisms will provide a platform for Indigenous expertise to be included in all decision-making on intangible cultural heritage, including in respect of climate change. This is especially important, given

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[83] 'Indigenous Expertise' is defined as: 'Indigenous expertise is the special knowledge and experience of Indigenous peoples which locates and describes relevant facts in light of their particular history, background, and context, and facilitates the explanation of Indigenous concepts to a non-Indigenous audience. Cultural Indigenous expertise illuminates the 'value' of Indigenous cultural objects sites and traditions, for the purposes of the world heritage legal framework, and elucidates how they should be treated and managed. See Noelle Higgins, 'Indigenous Expertise as cultural expertise in the World Heritage Protective Framework' 11 *Nordic Journal of Law and Social Research* (2021), pp. 77, 79–106.

[84] Preamble, *Convention for the Safeguarding of the Intangible Cultural Heritage*, UNESCO, Paris, 2003.

[85] Based on proposals made by the States Parties, the Intergovernmental Committee for the Safeguarding of Intangible Cultural Heritage selects and promotes programmes, projects and activities each year that reflect the Convention's principles and objectives based on the criteria set out in the Operational Directives (I.3).

[86] *Ethical Principles for Safeguarding Intangible Cultural Heritage*, UNESCO, Paris, 2015.

[87] *Policy on Engaging with Indigenous Peoples*, IPTF/UNESCO-POLICY/FULL_VERSION/2018, UNESCO, Paris, 2018.

[88] *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295.

[89] Preamble, Article 5 and Article 7, Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104. See Lisa Rogers, 'Intangible cultural heritage and international environmental law: 'the cultural dimension of environmental protection'', 29(3) *Historic Environment* (2017), pp. 30–42.

[90] See Climate Change and Heritage Working Group of ICOMOS, *The Future of Our Pasts: Engaging cultural heritage in climate action*, July 2019, p. 19.

[91] See Gűl Aktűrk and Martha Lerski, 'Intangible cultural heritage: a benefit to climate-displaced and host communities', 11 *Journal of Environmental Studies and Sciences* (2021), pp. 305–15. See also M Henderson and E Seekamp, 'Battling the tides of climate change: the power of intangible cultural resource values to bind place meanings in vulnerable historic districts', 1 *Heritage* (2018), pp. 220–238.

the vast knowledge of some Indigenous groups in respect of land and climate, gathered and handed down through generations.[92]

3.3. The Value of Indigenous Knowledge in Combating Climate Change

Indigenous knowledge is a repository for invaluable insights into climate threats in certain contexts. As IUCN highlights 'people living in marginal lands have long been exposed to many kinds of environmental changes and have developed strategies for coping with these phenomena. They have valuable knowledge about adapting to climate change . . . .'[93] Indigenous practices based on this traditional knowledge, passed down through generations is a form of intangible cultural heritage. For example, traditional non-carbon land- and water-management practices used by Indigenous Peoples for centuries can feed into the current and future development of plans to combat climate change. UNESCO's Local and Indigenous Knowledge Systems programme (LINKS) 'promotes local and indigenous knowledge and its inclusion in global climate science and policy processes.'[94] The programme strives to strengthen build transdisciplinary engagement between Indigenous peoples and scientists and policy-makers and a sharing of knowledge to further understandings of climate change impacts, adaptation and mitigation. In a similar vein, ICOMOS points out that '[c]urrent IPCC reports underrepresent the role of culture in climate action, yet these reservoirs of past experience and knowledge, which have accumulated over time, are an untapped asset in developing both adaptation pathways and mitigation pathways.'[95] Because ' . . . cultural heritage tracks the social, political, economic, technological, and philosophical trends that have combined over time to create modern climate change',[96] Indigenous knowledge may be able to provide answers to scientific questions on climate change. It is therefore necessary to both safeguard, as far as possible, Indigenous intangible heritage, and to allow for Indigenous voices in research and decision-making on climate change. It must be noted that some Indigenous practices, such as peat-burning may also need to be modified.[97]

As well as the benefits which can accrue from Indigenous knowledge of best practices in respect of climate change, Indigenous intangible cultural heritage can play an important role in the aftermath of climate change impacts. Because 'cultural practices and heritage places serve as psychological and physical refuges for communities during and after emergencies',[98] intangible cultural heritage can be a valuable tool, to increase the resilience and wellbeing of Indigenous groups who have been impacted by climate change. This can help to ensure the maintenance of group identity and its continued existence. This role of intangible cultural heritage is recognised in recent UNESCO's initiatives, discussed below.

4. Recent Developments at UNESCO

4.1. Updated Draft Policy Document

As mentioned above, when the issue of climate change first came to the attention of UNESCO in 2005, one of the measures it took was to adopt, in 2007, a *Draft Policy Document on the impacts of climate change on World Heritage properties*.[99] While this document is not

[92] With regard to the dearth of inclusion of Indigenous expertise in the world heritage framework to date, see Noelle Higgins, 'Indigenous Expertise as cultural expertise in the World Heritage Protective Framework', 11 *Nordic Journal of Law and Social Research* (2021), pp. 75–102.

[93] IUCN, *Indigenous and Traditional Peoples and Climate Change*, 2008, p. 4.

[94] UNESCO, 'Local and Indigenous Knowledge Systems (LINKS)', available at: https://en.unesco.org/links, accessed 12 February 2022.

[96] Climate Change and Heritage working Group of ICOMOS, *The Future of Our Pasts: Engaging cultural heritage in climate action*, July 2019, p. 14.

[97] Climate Change and Heritage working Group of ICOMOS, The Future of Our Pasts: Engaging cultural heritage in climate action, July 2019, p. 18.

[98] Eurekalert, 'First ever UNESCO-IPCC-ICOMOS meeting to strengthen synergies between culture and climate change science', Press Release, 6 December 2021, available at: https://www.eurekalert.org/news-releases/936860, accessed on 12 February 2022.

[99] Document WHC-07/16.GA/10, now updated and retitled *Draft Policy Document on Climate Action for World* Heritage (2021), WHC/21/44.COM/7C, Annex 1.

binding in nature, it does provide a guidance framework in respect of climate and heritage. Work recently began to update this document, starting with wide online consultation of all stakeholders of the World Heritage Convention in December 2019 and January 2020, and with the distribution of a questionnaire among stakeholders, including States Parties, Advisory Boards, academics, NGOs, etc.[100] The aim of this consultation was to gather views and best practices in respect of how the World Heritage Convention system could best deal with the issue of climate change. 366 contributions were collected, representing the highest response rate to any online survey conducted by the World Heritage Centre to date, demonstrating 'the interest of the international community as a whole for action on climate.'[101] Utilising the information gathered via the survey, and taking into account extant policies and strategies within the UN2030 Agenda for Sustainable Development, (including reports of the IPCCC, the *Paris Agreement* (2015), the Policy Document for the integration of a sustainable development perspective into the processes of the World Heritage Convention (2015), the UNESCO Strategy for Action on Climate Change (2017), and the UNESCO Declaration of Ethical Principles in relation to Climate Change (2017)), a 'Draft Zero' was prepared by experts and shared on 13 April 2020[102] with all States Parties to the Convention. A Technical Advisory Group of experts in the fields of heritage, climate change, with a sound understanding of the processes of the Convention, was established to review the draft updated Policy Document and provide inputs to this World Heritage Centre and the Advisory Bodies.[103] The Chairpersons of the 6 UNESCO Electoral Groups were asked to nominate two regional representatives and up to two observers to be part of this Technical Advisory Group, and membership also included representatives of the three Advisory Bodies and the Secretariat. The Technical Advisory Group met online on several occasions during 2020. Following these meetings, the draft updated Policy Document was revised and reviewed by the three Advisory Bodies and the World Heritage Centre. During this review process, the text was shared with professionals from the UNESCO Natural Science Sector to ensure consistency of language with other UNESCO and UN documents and instruments. It should be noted that the original Draft Policy was entitled the 'Draft Policy Document on the Impacts of Climate Change on World Heritage Properties'. This name was changed to underline a shift in focus of the WHC, with the Updated Draft Policy, now entitled the 'Draft Policy Document on Climate Action for World Heritage'. This is a welcome, more expansive view of heritage, broadening it out from world heritage properties failing under the World Heritage Convention, to include other forms of heritage, including intangible cultural heritage.

Paragraph 23 of the Updated Draft Policy Document refers specifically to Indigenous Peoples, and underlines the importance of their knowledge, and includes the following guiding principle: 'Use best available knowledge, generated through disciplinary, interdisciplinary and transdisciplinary processes, including from scientists, researchers, site managers, Indigenous Peoples and local communities.'[104] This inclusion is very important because, as mentioned above, Indigenous knowledge may contain useful information which could help to deal with key climate change challenges. This is developed in Paragraph 54, which states that '[t]he importance of Indigenous Peoples' and local communities' knowledge for understanding impacts and designing and implementing appropriate adaptation actions should be valued and appropriately utilised via a participatory process characterised by respect for the diversity of cultural expressions. The use of traditional practices in climate adaptation should be supported by practical training for local experts and communities in order to support dynamism, internal creativity and experimentation

[100] https://whc.unesco.org/en/news/2074/, accessed on 12 February 2022.
[101] WHC/21/44.COM/7C, para. 10.
[102] Circular Letter CL/WHC-20/08.
[103] The establishment of this Technical Group was foreseen had been indicated to the World Heritage Committee at its 43rd session (Baku, 2019) (Document WHC/19/43.COM/7).

in such knowledge systems.'[105] It is hoped that States will take on board these principles and facilitate research co-operation on the impacts of climate change on cultural heritage, both tangible and intangible, between scientific and Indigenous communities to provide the best possible chance for solution finding.

Paragraph 53 of the Updated Draft Policy Document reflects the linkage between Indigenous Peoples, place and identity and states that World Heritage properties and the values embodied therein 'have the potential to contribute to social resilience and the recovery from climate change losses by providing a common framework for identifying potential loss and by supporting a sense of place, continuity and identity. World Heritage properties can also serve an educational and communication function by highlighting the links between nature and culture, and the sustainability of many historic, traditional and indigenous practices. Heritage values can support social cohesion, which is an important element of adaptive capacity, which in turn can be fostered through participatory approaches to heritage management.'[106] States must recognise the role of cultural heritage in post-climate change recovery and utilise it as a tool to ensure societal wellbeing.

The Updated Draft Policy Document mentions intangible cultural heritage explicitly only once, in an Annex on Areas for Further Focus regarding Adaptation. It here highlights the necessity of gathering baseline information on climate change, as it states that '[m]ore appropriate adaptation actions can be selected and applied if there is baseline information, that includes . . . .understanding the type of heritage at risk (movable, immovable and intangible).'[107] However, the document to which it is attached, providing a context for the Updated Draft Policy, does refer to the white paper[108] on intangible heritage which is to be drafted,[109] and indeed, the above-mentioned paragraphs can be read as including both tangible and intangible cultural heritage.

The Draft Policy Document on Climate Action for World Heritage is to be welcomed on a number of accounts. In particular, it has negated the division between tangible cultural heritage and intangible cultural in respect of climate action. This is a practical and sensible development, given that intangible aspects of cultural may be wholly or substantially dependent on tangible heritage in some situations, including some threatened by climate changes, e.g., hunting skills and traditions linked to a particular area of land susceptible to climate change. In addition, the document develops on previous initiatives in both climate and heritage spheres in respect of the inclusion of an Indigenous voice in decision-making. The inclusion of Indigenous expertise in respect of land- and water-management practices in scientific research on climate change is of the utmost importance given the substantial knowledge of Indigenous communities of pre-carbon traditions.

4.2. Subsequent Developments

The first ever meeting organised jointly by UNESCO, the IPCC and ICOMOS took place from 6 to 10 December 2021. The virtual International Co-sponsored Meeting on Culture, Heritage and Climate Change brought together experts to explore linkages between culture and heritage, climate science and climate action, with the objective of advancing heritage and culture-based actions for climate change adaptation and carbon mitigation. This aim of the meeting was to establish a scientific basis to integrate cultural dimensions in climate action in key areas. This meeting was foreseen in, and built on, suggestions from the *Draft*

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[105] *Draft Policy Document on the impacts of climate change on World Heritage properties*, Document WHC-07/16.GA/10, now updated and retitled *Draft Policy Document on Climate Action for World* Heritage (2021), WHC/21/44.COM/7C, Annex 1, para. 54.

[106] *Draft Policy Document on the impacts of climate change on World Heritage properties*, Document WHC-07/16.GA/10, now updated and retitled *Draft Policy Document on Climate Action for World* Heritage (2021), WHC/21/44.COM/7C, Annex 1, para. 53.

[107] *Draft Policy Document on the impacts of climate change on World Heritage properties*, Document WHC-07/16.GA/10, now updated and retitled *Draft Policy Document on Climate Action for World* Heritage (2021), WHC/21/44.COM/7C, Annex 1, para. 16.

[108] A White Paper is usually a information document, presenting the main features of a particular issue. As such, the White Paper would not be binding but would be an information first step in gathering relevant information on the issue of intangible cultural heritage in the context of climate change.

[109] WHC/21/44.COM/7C, para 43.

Policy Document on Climate Action for World Heritage, adopted earlier that year. This envisioned the preparation of 3 white papers dealing with the intersection of culture/heritage and climate change, dealing, in turn, with: (1) the role of cultural and natural heritage in climate action, focusing on the various ways in which culture and heritage are interconnected in climate change resilience and in advancing climate action, (2) impacts, vulnerability and understanding of risks, focusing on the effects and consequences of climate change for cultural and natural heritage and the creative economy, and (3) intangible cultural heritage, diverse knowledge systems and climate change, which will focus on diverse knowledge systems and intangible cultural heritage, and their relationship with climate change.[110] The meeting is to be heralded, as heritage and climate bodies are now seeking to work together and take a co-ordinated approach to these intersecting issues. We await concrete actions in the aftermath of the meeting, but its organisation is to be acknowledged as a positive step in addressing the impacts of climate change on cultural heritage.

5. Conclusions

The discussion above has illustrated that, despite the significant threats that climate change poses to cultural heritage, the legal framework on these two issues have remained quite separate. While certain provisions of the World Heritage Convention and the ICH Convention can be interpreted as imposing some obligations on States in respect of climate change, this interpretation is not accepted by States or heritage bodies.[111] However, several UNESCO initiatives have acknowledged the array of negative impacts of climate change on cultural heritage since 2005.[112] It is hoped that States take note of the principles enshrined in this document to facilitate collaboration and co-research between scientists and Indigenous Peoples. This is the best option for solution-finding in respect of climate change. UNESCO highlights that '[n]otions of non-economic loss and damage, which may include the loss of ways of life and cultural heritage, are difficult to quantify and often go unnoticed by the outside world.'[113] This means that additional emphasis on the role of intangible heritage in social cohesion, wellbeing, and indeed, climate change needs to be undertaken, because, as Megarry notes that '[c]limate change is the single greatest threat to our global cultural and natural heritage' and '[c]ultural heritage is a key asset for climate action . . . '[114]

In order to facilitate and encourage State engagement with Indigenous communities, UNESCO itself must also create a bigger and more concrete role for Indigenous Peoples within its processes. While a proposal for the creation of a body to provide Indigenous expertise to UNESCO, i.e., World Heritage Indigenous Peoples Council of Experts (WHIPCOE), was made in 2000, it was subsequently rejected.[115] It is hoped that the International Indigenous People's Forum on World Heritage, created by Indigenous delegates at the 41st session of the UNESCO World Heritage Committee in Krakow in July 2017 may be able to imbue UNESCO's work with an Indigenous voice, going forward, including in the sphere of climate change.[116]

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110 Ibid.

111 UNESCO World Heritage Committee (2009) Decisions adopted at the 32nd Session of the World Heritage Committee: Decision 32 COM 7A.32, WHC-08/32.COM/24Rev of 31 March. See also UNESCO World Heritage Centre (2007) 'Climate change and world heritage. Report on predicting and managing the impacts of climate change on world heritage and strategy to assist states parties to implement appropriate management responses', World Heritage Reports No 22, 37, http://whc.unesco.org/documents/publi_wh_papers_22_en.pdf, accessed on 18 January 2022.

112 Sylvia Maus, 'Hand in hand against climate change: cultural human rights and the protection of cultural heritage', 27 (4) *Cambridge Review of International Affairs* (2014), pp. 699–716.

113 UNESCO, *Living Heritage in the face of Covid-19*, France 2021, p. 13.

114 William Megarry, International Council for Monuments and Sites (ICOMOS) Focal Point for Climate Change and Cultural Heritage, quoted in Eurekalert, 'First ever UNESCO-IPCC-ICOMOS meeting to strengthen synergies between culture and climate change science', Press Release, 6 December 2021, available at: https://www.eurekalert.org/news-releases/936860.

115 See Lynn Meskell, 'UNESCO and the Fate of the World Heritage Indigenous Peoples Council of Experts (WHIPCOE)', 20 *International Journal of Cultural Policy* (2013), pp. 155–74.

116 See Noelle Higgins, 'Indigenous Expertise as cultural expertise in the World Heritage Protective Framework', 11 Nordic Journal of Law and Social Research (2021), pp. 75–102.

As this article has illustrated, heritage has received very little attention in global science responses to climate change thus far, an approach which must be replaced in favour of a more holistic appreciation of culture-nature relationships. It is hoped that recent initiatives from UNESCO such as the *Updated Draft Policy Document on Climate Action for World Heritage* will be translated into concrete actions on the part of States and that Indigenous expertise will be utilised, along with global science research, to facilitate effective solution-identification.

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