

RESOLUTION 01/2022

COMMITTEE ON PARTICIPATION IN GLOBAL CULTURAL HERITAGE GOVERNANCE

The 80th Conference of the International Law Association, held in Lisbon, Portugal, 19-24 June 2022:

HAVING CONSIDERED the Final Report of the Committee on Participation in Global Cultural Heritage Governance;

TAKES NOTE of the Final Report and **COMMENDS** it to all concerned with the issues of participation in global governance, and cultural heritage safeguarding;

ENDORSES the recommendations of the Final Report for the activities of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and the organs within it overseeing the implementation of international heritage treaties; the International Institute for the Unification of Private Law (UNIDROIT) in relation to its 1995 Convention on Stolen or Illegally Exported Cultural Objects; United Nations human rights treaty bodies; as well as any other international and regional intergovernmental and non-governmental organisations and authorities with obligations in the area of cultural heritage governance;

PROPOSES the following reforms for the consideration of UNESCO and the organs within it overseeing the implementation of international heritage treaties:

- (a) amendments to operational guidelines and directives to recognize the right to participate in decision-making about heritage governance;
- (b) amendments to operational guidelines and directives to acknowledge the integral role of non-state actors in the creation and safeguarding of heritage and its value;
- (c) amendments to operational guidelines and directives to include greater participation of non-state actors in the definition, listing, and monitoring of heritage safeguarded by international instruments;
- (d) discontinuance of the practice of relying exclusively on experts to translate the voices and aspirations of non-state actors in relation to heritage governance;
- (e) adoption of measures that acknowledge the special importance of heritage to minority and Indigenous groups, and attribute considerable weight to minority and Indigenous views over those of states when minority and Indigenous heritage is under consideration;
- (f) adoption of clear procedural pathways for the participation of non-state actors, particularly heritage communities, in all decisions on heritage governance;
- (g) piloting of procedures and mechanisms that explore the intersections among different international heritage regimes so as to facilitate the identification of good practices on participation for heritage safeguarding and overall heritage governance.

PROPOSES the following normative suggestions and changes in institutional practice for the consideration of UNIDROIT in relation to its 1995 Convention on Stolen or Illegally Exported Cultural Objects:

- (a) elaboration of additional guidance to states parties in the practice of the 1995 Convention on Stolen or Illegally Exported Cultural Objects so as to further remove possible obstacles for the standing of collective claimants to cultural heritage;
- (b) additional work on the creation of uniform rules on the legal standing of non-state actors for the safeguarding of cultural heritage by non-state actors;
- (c) further guidance on the status and role of minorities or Indigenous peoples in controlling their heritage, particularly in relation to substantive and procedural rules about cultural objects;
- (d) further enhancement of cooperation with UNESCO and other international organizations whose activities affect heritage governance so as to explore the intersections among

different international heritage regimes, with a view to facilitate the identification of good practices on participation for heritage safeguarding and overall heritage governance.

PROPOSES the following normative options for the consideration of United Nations human rights treaty bodies:

- (a) recognition of the right to participate in decision-making as extending to multiple dimensions of the lives of individuals, and particularly to groups on matters including, but not limited to, cultural heritage;
- (b) greater receptivity to group rights, or at least the collective dimensions of rights, in the work of these bodies on matters including, but not limited to, cultural heritage;
- (c) recognition of cultural heritage governance as a right that affects the cultural identity of individuals, minorities and Indigenous peoples, and which has a significant impact on multiple human rights, as discussed in the Final Report;
- (d) adoption of clear procedural pathways for the participation of non-state actors in all decisions concerning the governance of these bodies, including in setting normative standards that intersect directly or indirectly with cultural rights on matters including, but not limited to, cultural heritage.

PROPOSES the following reforms for the consideration of any other international and regional intergovernmental and non-governmental organisations and authorities with obligations in the area of cultural heritage governance:

- (a) amendments to normative instruments, whether hard law or soft law, to recognize the right to participate in decision-making about resource governance, including but not limited to cultural heritage;
- (b) amendments to normative instruments, whether hard law or soft law, to acknowledge the integral role of non-state actors in the creation and safeguarding of heritage and its value;
- (c) amendments to normative instruments, whether hard law or soft law, to include greater participation of non-state actors in the definition, listing, and monitoring of heritage safeguarded by international instruments;
- (d) adoption of measures that acknowledge the special importance of heritage to minority and Indigenous groups and attribute considerable weight to minority and Indigenous views over states' views when minority and Indigenous heritage is under consideration;
- (e) adoption of clear procedural pathways for the participation of non-state actors, particularly heritage communities, in all decisions on heritage governance.

PROPOSES the following options for the consideration of national and local authorities invested in the optimal safeguarding of cultural heritage:

- (a) enshrinement, in domestic law and heritage management practices, of the understanding that heritage safeguarding is not possible or sustainable in a way that maintains its human dimension without equal input from other interested parties;
- (b) creation of legal and policy pathways that elevate the role of heritage communities and allow for state and expert actors to relinquish some of their privilege in heritage governance;
- (c) expansion of options that allow for communities to have a greater say in how budgets are allocated to, and spent on, cultural heritage governance and safeguarding;
- (d) enhancement of the presence of stakeholders in addition to political appointees, civil servants and experts in fora that make cultural policy and take financial and procedural decisions affecting cultural heritage;
- (e) recognition of the importance of minorities and Indigenous peoples and minority and Indigenous heritage for the creation of truly plural democratic nations;
- (f) removal of procedural obstacles that impinge upon the ability of non-state actors to try and influence, politically or judicially, the governance of cultural heritage;

- (g) facilitation of procedural ways and means, including via access to justice, to enable non-state actors to exercise control over their heritage and its governance.

RECOMMENDS that UNESCO, UNIDROIT, United Nations human rights treaty bodies, all any other international and regional intergovernmental and non-governmental organizations and authorities with obligations in the area of cultural heritage governance, as well as states, consider the recommendations set out in the Final Report;

REQUESTS the Secretary-General of the Association to transmit this Resolution together with the Final Report to the UNESCO Director-General, the UNIDROIT Secretary-General, the members of the various United Nations human rights treaty bodies, and the presidents of ILA national branches for further distribution;

RECOMMENDS to the Executive Council that the Committee, having completed its mandate, be dissolved.