**Deadline:** 1 May 2020
**Issued by:** Special Rapporteur in the field of cultural rights
**Purpose:** To inform the Special Rapporteur’s report to be presented at the General Assembly, October 2020.

**Background**

The Special Rapporteur believes it is critical to think more broadly about the relationship between culture and cultural rights on the one hand, and addressing climate change on the other.

[See the Special Rapporteur’s letter inviting all stakeholders to take part in this call for contribution.](https://www.ohchr.org/Documents/Issues/CulturalRights/Call_ClimateChange/SR_letter-cultureclimate_change.pdf)

**Objectives of the report**

The report will address both the threats posed by climate change to culture, heritage and the cultural rights guaranteed by international law, including the right to take part in cultural life without discrimination, the rights to artistic and scientific freedom, the right to enjoy and access cultural heritage, as well as the positive potential of culture, heritage, and traditional knowledge, and the enjoyment of cultural rights, to help avoid catastrophic climate change and to adapt to the changes already in motion.

As climate change is, and will continue, changing our habits, ways of life, modes of production and of interaction, addressing climate change requires marshaling cultural resources and necessitates cultural change, including improving the culture of our relationship with nature. A vital aspect of the human rights approach is the emphasis on participation and consultation of affected people especially those most affected with regard to policies and responses.

**Key questions and types of input sought**

Those submitting information should feel free to answer only specific questions that they find most relevant.

***Negative impacts of climate change on culture and cultural rights***

1. **What negative impacts of climate change on culture, heritage and the enjoyment of cultural rights by all have been documented in your context? Are particular groups, such as women, persons with disabilities, indigenous peoples, rural persons or peasants, and youth or future generations, as well as cultural practitioners being impacted in specific and disproportionate ways? What efforts are being undertaken to inventory and monitor such impacts?**

**2.    Are cultural sites or resources which are critical to participation in cultural life identified as being threatened due to climate change and if so, how? What processes are used to analyse the risk of harm or inaccessibility to these areas and resources? Are records being kept about these risks and impacts?**

**3.    Please provide examples of specific natural resources, local sites used for cultural practices or seasonal patterns that influence the ability to participate in diverse aspects of cultural life that may be subject to volatility due to climate change. Consider also diffuse geographical features or resources that may be at risk and are definitive or influential in the practice and development of culture on either a collective or individual basis.**

***Positive potential of culture and cultural rights to enhance responses to climate change***

**4.    What are ways in which culture and cultural resources, such as traditional knowledge, are being used to mitigate and/or adapt in the face of climate change? Where available, please share examples of best practices for applying traditional knowledge and cultural practices, such as those of indigenous peoples, peasants and fisher people, including traditional fire management and agricultural techniques that should be considered in developing mitigation and adaptation responses. What is being done to inventory and preserve such cultural resources that could be useful to addressing climate change?**

**5.    What are the diverse legal frameworks, trends and practices at the national and international levels that promote intervention from across the cultural ecosystem, including by cultural rights defenders and cultural practitioners, as well as women, persons with disabilities, indigenous peoples, rural people and peasants, and youth, in addressing disparate impacts and influencing decisions around climate change mitigation and adaptation? What are the challenges to such inclusivity and how are they being addressed?**

**6.    What opportunities are available for people to publicly engage in cultural life in ways that demonstrate contemporary cultural shifts in response to climate change? Are there currently visible signs of cultural change underway? What factors might impede such practice of cultural life?**

**7.    In what capacities do experts from across the field of culture and climate interact and exchange knowledge at the national or international levels? For example, are experts from various cultural fields involved in relevant climate change policy? Are climate change experts engaging with the cultural sectors, and if so how?**

Expertise is very often seized by environmentalists with little knowledge on social science, participation. Major issues with consultations done by WWF agents in DRC. Need to work with human rights based organizations, sociologists, anthropologists.

**8.    Are affected persons and groups being consulted and enabled to participate in discussions related to climate policy and climate action?**

Participation is mostly done through support to national civil platforms. Interesting lessons learned: <https://www.unredd.net/documents/redd-papers-and-publications-90/un-redd-publications-1191/un-redd-publications-by-technical-topic/stakeholder-engagement/15249-accompanying-civil-society-through-the-redd-process-in-the-democratic-republic-of-congo>

**9.    Are cultural rights defenders**[**[1]**](https://www.ohchr.org/EN/Issues/CulturalRights/Pages/CallForInputClimateChange.aspx#_ftn1) **who are working on climate-related harms to culture and cultural rights facing specific challenges in their work, and are they at particular risk of threats, harassment and human rights violations? If so, how should these human rights defenders be better protected and supported?**

**10. Has your country adopted specific regulations or measure to address the negative impacts of climate change on culture and cultural rights? If so, please specify the content of such regulation and measures. Is a human rights approach taken to these questions?**

DRC: Free, Prior, and Informed Consent (FPIC) is a collective right based on human rights and is part of the right to self-determination, land, natural resources, culture, freedom, and non-discrimination. Indigenous Peoples' rights are protected by FPIC, which gives all indigenous and local communities the right to participate in decisions that may affect their lands and resources, and to give or withhold their consent. This consent must be "free," without coercion, intimidation, or manipulation, “informed”, meaning that communities have all the necessary information such as the nature, nature, scale, scope, evolution, duration, purpose, location, impacts, implementation conditions, procedures, participants, and reversibility of proposed activities or projects; and "prior," as it must be done before the authorization or start of any activity, in the time frame needed by the community to find a consensus. The concept of "process" is also important, since FPIC is not a single given agreement. Rather, it must be a participatory approach lasting through the duration of the project, and in which communities are free to withdraw their consent even after activities have started. This principle is integrated into the legal arsenal of the DRC through its ratification of the Africa, Charter on Human and Peoples’ Rights and its jurisprudence pertaining to the right to development. On the basis of the Constitution, as well as of international standards ratified by the DRC, a number of national and international NGOs (WWF, CI, FPP…) have developed their own FPIC implementation guides, which apply both to Indigenous Peoples and to local communities likely to be affected by conservation initiatives. In December 2015, the national REDD+ coordinating body established national FPIC standards, as well as a methodological guide for FPIC which is awaiting validation.

The Ordinance-Law no 71-016 of 15 March 1971 on the protection of cultural property provides that discoveries of real estate remains or objects of interest to art, history or culture, archaeology, whether excavated or incidental, should be immediately declared by the inventor or owner to the territorial administrator or the first burgomaster, who notifies the Minister of Culture. The Minister may, by order, prescribe all measures useful for the conservation of the remains or objects discovered. The law is however badly or unapplied.

The 2006 Constitution recognizes communities’ land rights and guarantees the rights to individual or collective property acquired in accordance with the law or custom. It also recognizes customary authority. In the absence of a legal mechanism to secure customary rights held by local communities, these communities and their members generally use several types of documents to justify their rights to land in peri-urban areas (parcel registration sheet, land cession deed, use permit, etc.). However, these documents are not legally-recognized land titles. According to customary law, land is managed locally by the community, most often through a rotating clan system. In rural areas where the administration is relatively absent, land is often acquired by mere declaration to the customary authority, with neighbours acting as witnesses, and without any document attesting to the transfer of rights. Moreover, while the customary tenure principle requires that all sales and disposals of land be made or approved by the land chief, in customary practice land is sometimes sold without the chief being informed of it. In this case, the customary vendors are the direct rights holders, which vary according to whether the system is patrilineal or matrilineal. In the latter, it is mostly the uncles or the maternal nephews who become the rights holders. This customary land system, unrecognized and complex, should be studied in order to be better understood. No such thorough study has been done to date. The administration thus fails to contend with the realities of certain practices considered legitimate within communities.

Article 51 of the Constitution affirms that, "The State has the duty to ensure and promote the

peaceful and harmonious coexistence of all ethnic groups in the country and also ensures the

protection and promotion of vulnerable groups of all minorities". The Bambuti, or batwa, identify themselves and are recognized as an indigenous people. They, by virtue of their way of life and socio-cultural background, are originally related to forest resources. Hunting and gathering and, more recently, basic subsistence agriculture are their main activities. While the Constitution of the DRC affirms that no distinction should be made between Congolese citizens, it also gives international treaties and agreements supremacy over national laws. The rights of Indigenous Peoples, understood in DRC as the Batwas, are thus recognized through the conventions ratified by the DRC, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the UN Declaration on the Rights of Indigenous Peoples which encourages states to ensure that indigenous women enjoy "full protection and guarantees against all forms of violence and discrimination," and to take specific measures to protect indigenous peoples. IPs rights also benefit from legal provisions and policies in various sectors (forest, land tenure, land use planning, agriculture etc), court cases decisions and specific regulations in large scale development programs (REDD+ Safeguards and UNDP standards for instance). However, those legal texts have no mandatory legal force. While Pygmies represent 600,000-700,000 people, spread throughout the country, they however do not hold a formal status that would guarantee the fulfillment and protection of their rights in all legislations, policies and programs in the DRC (a draft law on Indigenous Peoples is at the Parliament since 2014).

**11. Are the impacts of climate policy and climate action on culture, cultural rights and human rights more broadly being assessed? What should be undertaken in future in this regard?**

The intersection of human rights and environmental protection is able to deliver more interesting results than either discipline working in isolation. However the human component has largely been weak or missing in climate change policy and the debate on how states can apply human rights norms in mitigation and adaptation to climate change remains largely unanswered. Two potential ways :

* Practicioners: Assessments are being done by International agencies when funding projects (GEF, UNDP, World Bank), for instance during Social and Environmental Screening Procedures and Environmental and Social Impact Assessments, but there is a need for more mainstreaming specific human rights assessment of climate projects.
* Research : encourage case study research that compares processes of change, empowerment, and mobilization in environmental governance with variations in the legal recognition of environmental and cultural rights”. Need for better understanding of how processes of change, empowerment and mobilization of the local level can impact climate policy making and implementation.

**12. What opportunities or mechanisms, if any, for remedies and redress are being made available to respond effectively to the harm to culture and cultural rights caused by the climate crisis?**

Interesting high-standards of UNDP in their Social and Environmental Safeguards, applied to all climate mitigation projects, including specific measures on indigenous peoples rights, land rights.

Example: Tanganyika region, DRCongo – conservation project to fight against Climate change (major impact on erosion and halieutic resources). Instead of conserving “against” natural resources dependent communities (see : <https://www.academia.edu/41503220/Reserved_An_Atlas_on_Indigenous_Peoples_facing_Nature_Conservation>), co-management is envisioned.

Rights-based nature conservation is a key to preserving both the environment and cultural rights in regards to growing pressure on resources. Enables to preserve local knowledge and to build resilient communities. See: <https://www.theguardian.com/global-development/2016/aug/30/clashing-conservation-saving-democratic-republic-congo-forest-pygmies-drc> and <https://www.theguardian.com/global-development/2016/aug/28/reindeer-conservation-threatens-ruination-mongolia-dukha>

**13. What national, regional and international initiatives are being undertaken to address the intersections of climate change, culture and cultural rights? How effective have such initiatives been, what primary challenges have they faced, and what additional efforts should be suggested in this regard?**

REDD+ places indigenous peoples rights and FPIC as a key component. Major challenges (see: <https://www.academia.edu/41503208/Mai-Ndombe_Will_the_REDD_Laboratory_Benefit_Indigenous_Peoples_and_Local_Communities>) but also an opportunity. See also: <https://graduateinstitute.ch/communications/news/forests-are-homes-not-just-carbon-sinks>

**14. What recommendations should be made to States and other stakeholders concerning these topics?**

Participatory mapping of local communities and indigenous peoples rights is necessary prior to the implementation of any climate mitigation or adaptation programme. See: <https://www.academia.edu/41799615/La_cartographie_3D_un_outil_de_planification_et_de_gestion_pour_la_R%C3%A9serve_dItombwe_-_livre_vert_de_mod%C3%A9lisation_participative_en_trois_dimensions>

Conservation and environmental organizations working on climate change adaptation and mitigation need to develop closer links with human rights-based organizations, indigenous and women organizations in order to avoid harmful top-down approaches. See specific information and recommendation on participatory approaches: <https://www.academia.edu/42325998/Livre_vert_des_approches_participatives_dans_la_gouvernance_foresti%C3%A8re_en_R%C3%A9publique_D%C3%A9mocratique_du_Congo>

Recognition of Indigenous Peoples rights through national laws and ratification of ILO 169 is major safeguarding move to ensure appropriate respect of cultural rights in the context of climate change, and preservation of lay-knowledge.

**How and where to submit inputs**

Submissions should be sent electronically no later than **1 May 2020**. Please feel free to answer only the questions relevant to your work. Kindly limit your responses to **2,500 words** and attach annexes where necessary. To facilitate their consideration, it would be preferable if responses could be sent in the working languages of the OHCHR, English, French or Spanish.

**E-mail address:** srculturalrights@ohchr.org
**E-mail subject line:** Submission: Cultural rights and climate change
**Word limit:** 2 500 words
**File formats:** Word, pdf
**Accepted languages:** English, French, Spanish