



# **Human Rights Advocates**

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**Protecting Cultural Heritage as Part of the Right to Culture**

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## I. Introduction

Human Rights Advocates welcomes the continuation of this mandate and the increasing consideration of the importance of culture and its role in sustainable development.<sup>1</sup> Human Rights Advocates supports the Special Rapporteur's focus on addressing the issue of intentional destruction of cultural heritage as an urgent priority within cultural rights and as an overarching human rights issue. HRA proposes to build upon this issue and add the prevention of cultural heritage destruction in the context of tourism to the mandate. Cultural heritage is an essential aspect of cultural rights, as it gives value to an individual's cultural identity and is necessary to fully access cultural life. In the words of Farida Shaheed, first independent expert in the field of cultural rights,

[t]here is a better understanding today that, in order to respect and protect cultural identity, tangible cultural heritage should be preserved with a view to maintaining its authenticity and integrity, intangible cultural heritage should be safeguarded to ensure viability and continuity, and rights of access and enjoyment of cultural heritage should be guaranteed.<sup>2</sup>

In order to protect cultural heritage, it is important to urge States to take positive steps to prevent destruction of cultural heritage in all contexts, including tourism.

Following the 2015 United Nations Conference on Tourism and Culture, which focused on “the question of how to harness the power of tourism and culture to alleviate poverty, create

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<sup>1</sup> Sustainable development is development that is compatible with the physical limits of the environment and makes appropriate use of planet's resources without compromising the ability of future generations to meet their own needs. Culture in the Post-2015 Sustainable Development Agenda Why Culture is Key to Sustainable Development. available at <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/Post2015SustainableDevelopmentAgendaENG.pdf>.

<sup>2</sup> Human Rights Council, *Report of the independent expert in the field of cultural rights, Farida Shaheed*, UN Doc. A/HRC/17/38 (March 21, 2011).

jobs, protect natural and cultural heritage and promote international understanding”,<sup>3</sup> many states have recognized the importance and the overlap between culture and tourism, and their ability to assist states in socio-economic development. The right to culture is a tool to both protect cultural heritage and drive sustainable development through cultural tourism. Cultural tourism and the right to culture are complementary, as the two basic goals of cultural tourism are to help economic development and to preserve cultural heritage.

This report will expand on the goals of the 2015 UN Conference and focus on the need to develop international minimal cultural heritage laws and mechanisms to pave the path for sustainable socio-economic development via cultural tourism.

## **II. Right to Culture**

Cultural rights were once regarded as an “underdeveloped” or “neglected” category of human rights.<sup>4</sup> Although much more focus has been shifted to the right to culture, especially through UNESCO’s support, it is necessary to further define the right to culture and set out attainable minimum cultural heritage laws to preserve both tangible and intangible culture for the opportunity of local economic development through sustainable cultural tourism. The mandate of the Special Rapporteur in the field of Cultural Rights has recognized that respect for cultural rights is essential for development and the eradication of poverty, and has reaffirmed the importance of promoting and protecting these rights.<sup>5</sup> It is important for states to promote this

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<sup>3</sup> UN News Centre, *First UN conference on tourism and culture opens in Cambodia, seeks to build partnerships*, available at <http://www.un.org/apps/news/story.asp?NewsId=49987#.VrzG8JMrJE4>

<sup>4</sup> Symonides, Janusz, *Cultural Rights: A Neglected Category of Human Rights*, *International Social Science Journal*, Issue, 158 (Dec 1998).

<sup>5</sup> Human Rights Council, *Mandate of the Special Rapporteur in the field of cultural rights*, UN Doc. A/HRC/RES/28/9 (Apr. 10, 2015).

mandate and take adequate steps to protect cultural rights and to use the protected heritage as a means to achieve goals of economic development and education through tourism.

The right to culture can be seen as an empowering right. The right to culture provides freedom to participate in cultural activities and celebrate identities. “Cultural rights are an integral part of human rights and, like other rights, are universal, indivisible and interdependent. The full promotion of and respect for cultural rights is essential for the maintenance of human dignity and positive social interaction between individuals and communities in a diverse and multicultural world.”<sup>6</sup>

Article 15(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the right of everyone to take part in cultural life.<sup>7</sup> General Comment 21 provides that States Parties have the obligation to:

[r]espect and protect cultural heritage in all its forms, in times of war and peace, and natural disasters; Cultural heritage must be preserved, developed, enriched and transmitted to future generations as a record of human experience and aspirations, in order to encourage creativity in all its diversity and to inspire a genuine dialogue between cultures. Such obligations include the care, preservation and restoration of historical sites, monuments, works of art and literary works, among others.<sup>8</sup>

The Special Rapporteur for cultural rights has acknowledged the “need to centre the issue of State responsibility to respect, protect and fulfill cultural rights, but also to find innovative ways to speak directly about the impact on cultural rights of a wide range of non-State party actors,

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<sup>6</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 21: Right of everyone to take part in cultural life* (art. 15, para. 1, of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/21 (Dec. 21, 2009).

<sup>7</sup> Article 15(1)(a) states: “The States Parties to the present Covenant recognize the right of everyone [...] [t]o take part in cultural life”.

<sup>8</sup> General Comment No. 21, *supra* note 5, para. 50(a).

and not only through the lens of State due diligence.”<sup>9</sup> This State responsibility includes protecting cultural heritage and addressing the impacts of tourism on cultural rights.

### **III. Cultural Heritage and the 2015 Conference**

Cultural heritage is an essential aspect of cultural rights, as it gives value to cultural identity and is necessary to fully access cultural life. Without cultural heritage, cultural diversity and identity could be at risk. According to the Special Rapporteur of cultural rights, Karima Bennouna, “[v]iewed from a human rights perspective, [cultural heritage] is important not only in itself, but also in relation to its human dimension, in particular its significance for individuals and groups and their identity and development processes.”<sup>10</sup> Further, “protecting cultural heritage can have a positive impact on morale and rights in situations of conflict or repression.”<sup>11</sup>

In 2015, the UN World Tourism Organization (UNWTO) and the UN Educational, Scientific and Cultural Organization (UNESCO) held the first World Conference on Tourism and Culture: Building a New Partnership in Cambodia, focusing on the overlap between culture and tourism and the possibilities of using the two to enhance socio-economic development by creating jobs, alleviating poverty and protecting heritage.<sup>12</sup> The conference also brought attention to the need to safeguard cultural heritage while promoting tourism, and the need to look at culture as a “driver and enabler of sustainable development.”<sup>13</sup>

Cultural tourism can play a leading role in international and national agendas as a tool for cultural promotion and preservation, appreciation, mutual understanding and socio-economic development. The responsible use of cultural assets for tourism purposes can create

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<sup>9</sup> Human Rights Council, *Report of the Special Rapporteur in the field of cultural rights*, para.31, UN Doc. A/HRC/31/59. (Feb. 3, 2016).

<sup>10</sup> *Id.* at para. 47.

<sup>11</sup> *Id.* at para. 72.

<sup>12</sup> UN News Centre, *First UN conference on tourism and culture opens in Cambodia, seeks to build partnerships*, available at <http://www.un.org/apps/news/story.asp?NewsId=49987#.VrEkUzYrJE4>.

<sup>13</sup> *Id.*

new employment opportunities, alleviate poverty, curb rural migration, prompt product diversification, generate income for investment in preservation, and nurture a sense of pride and self-esteem within communities and destinations around the world. Yet, to realize this immense potential, it is necessary to approach the relationship between tourism and culture in a sustainable and responsible manner, fostering effective partnerships between stakeholders, involving host communities, and striving to safeguard all forms of heritage – whether tangible or intangible.<sup>14</sup>

Preservation of heritage is required to develop a tourism industry that both benefits and can benefit from the culture of a destination.

“[T]he adoption of the concept of cultural heritage allowed people to embrace the idea that monuments, antiquities, remains of ancient civilizations, as well as traditions and customs have been inherited from the past as precious and irreplaceable resources and should thus be protected and nurtured for the sake of future generations.”<sup>15</sup> Cultural heritage embraces the full culture, including tangible and intangible heritage. It includes celebrations, traditions and customs, which keep a culture alive in a community. By following and furthering the ambitions of the 2015 conference, tourism can be used a mechanism for protection.

#### **IV. Cultural Tourism**

Cultural tourism is a rapidly growing sector. “Today, cultural tourism – the world’s mosaic of art forms, heritage sites, festivals, traditions, and pilgrimages – is growing at an unprecedented rate . . . Humanity’s curiosity about cultural heritage is the element that truly differentiates one destination from another.”<sup>16</sup> This curiosity results in over one billion people

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<sup>14</sup> World Tourism Organization, *UNWTO/UNESCO World Conference on Tourism and Culture: Building a New Partnership Siem Reap, Cambodia, 4–6 February 2015, Introduction*, UNWTO, Madrid 15-16 (2015).

<sup>15</sup> Checi, Alessandro, *The Settlement of International Cultural Heritage Disputes* 16 (2014).

<sup>16</sup> UN News Centre, *First UN conference on tourism and culture opens in Cambodia, seeks to build partnership*, available at <http://www.un.org/apps/news/story.asp?NewsID=49987#.VpwwU5MrJE5>.

travelling internationally each year,<sup>17</sup> thus creating vast opportunities for socio-economic development in destinations across the globe. “Cultural tourism has proven to increase competitiveness, create employment opportunities, curb rural migration, generate income for investment in preservation, and nurture a sense of pride and self-esteem among host communities.”<sup>18</sup> Tourism is one of the top two export earnings in twenty of the world’s least developed countries.<sup>19</sup> By protecting cultural heritage, we are preserving economic opportunity for communities to educate others while profiting from their own cultural knowledge. Culture is also crucial to sustainability in development, as preserving culture will help a community retain its own cultural ideas and traditions with the financial ability to preserve tangible heritage, thus promoting economic inclusion.<sup>20</sup>

Cultural heritage tells mankind’s story; it tells our story. Carefully managed, tourism can protect and enliven this heritage, generate new opportunities for local communities, and foster tolerance and respect between peoples and nations . . . It is up to us to work together to harness the sheer force of one billion tourists, turning it into one billion opportunities to contribute to inclusive economic growth, social development and advancement of the post-2015 sustainability agenda around the world.<sup>21</sup>

When cultural heritage is destroyed, the opportunity for sustainable development through preservation of cultural heritage is also destroyed. In respecting the right to culture and

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<sup>17</sup> UNESCO, *UNWTO/UNESCO World Conference on Tourism and Culture gathers Ministers of Tourism and Culture for the first time*, available at [http://whc.unesco.org/en/news/1235?=&utm\\_source=CLT-WHC&utm\\_medium=email&utm\\_term=whc&utm\\_content=whc-information&utm\\_campaign=whc-information-february-en-20150212](http://whc.unesco.org/en/news/1235?=&utm_source=CLT-WHC&utm_medium=email&utm_term=whc&utm_content=whc-information&utm_campaign=whc-information-february-en-20150212).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Inclusive economic development promotes that community’s unique identity, traditions, and cultural products, generating jobs, revenue and market opportunities and contributing to the reduction of poverty. Culture in the Post-2015 Sustainable Development Agenda Why Culture is Key to Sustainable Development, available at <http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/Post2015SustainableDevelopmentAgendaENG.pdf>

<sup>21</sup> UNESCO, *UNWTO/UNESCO World Conference on Tourism and Culture gathers Ministers of Tourism and Culture for the first time*, available at [http://whc.unesco.org/en/news/1235?=&utm\\_source=CLT-WHC&utm\\_medium=email&utm\\_term=whc&utm\\_content=whc-information&utm\\_campaign=whc-information-february-en-20150212](http://whc.unesco.org/en/news/1235?=&utm_source=CLT-WHC&utm_medium=email&utm_term=whc&utm_content=whc-information&utm_campaign=whc-information-february-en-20150212).

promoting tourism, it is important to keep the local people both informed of and involved in the decision-making. It is beneficial for tourists to have an authentic learning and cultural experience, and it is often helpful in limiting environmental impact since local peoples have a better understanding of their land and surroundings.

The World Tourism Organization (UNWTO) is the leading international tourism organization. It is the UN agency responsible for encouraging “responsible, sustainable and universally accessible tourism”<sup>22</sup> and promoting “tourism as a driver of economic growth, inclusive development and environmental sustainability.”<sup>23</sup> It also “offers leadership and support to the sector in advancing knowledge and tourism policies worldwide.”<sup>24</sup> UNWTO has 157 member-countries and over 480 affiliate members including institutions and associations.<sup>25</sup> “As the UN agency dedicated to tourism, UNWTO points out that particularly developing countries stand to benefit from sustainable tourism and acts to help make this a reality.”<sup>26</sup> In 2002, UNWTO revealed the Sustainable Tourism – Eliminating Poverty (ST-EP) Initiative that promotes sustainable development to combat poverty.<sup>27</sup> Further, UNWTO and UNESCO are both members of the UN Steering Committee on Tourism and Development (SCTD), a Committee that “brings together the tourism specific experiences and expertise of each of its Members with a view to creating synergies for a more coordinated, effective and efficient delivery of technical assistance to developing countries, thus complementing their efforts to establish a competitive national tourism sector.”<sup>28</sup> Both ST-EP and SCTD may provide

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<sup>22</sup> World Tourism Organization UNWTO, *Who we are*, available at <http://www2.unwto.org/content/who-we-are-0>.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> World Tourism Organization UNWTO, *Why tourism?*, available at <http://www2.unwto.org/content/why-tourism>.

<sup>27</sup> World Tourism Organization UNWTO, *Tourism and Poverty Elimination*, available at <http://step.unwto.org/content/background-and-objectives>.

<sup>28</sup> World Tourism Organization UNWTO, *Institutional Relations and Resource Mobilization*, available at <http://icr.unwto.org/sctd>.



opportune arenas to facilitate adding cultural heritage protection to the discussion of tourism and development.

If countries are able to work with international organizations such as UNESCO and UNWTO, implementation of programs protecting cultural heritage and promoting sustainable tourism will be more feasible. However, these programs alone can not adequately promote the cultural heritage and tourism programs in every country. Both international and national organizations and standards are required in order to implement and maintain sustainable tourism and cultural heritage protection. In the next section, three examples of cultural tourism in specific countries will be discussed.

## **V. Examples of Cultural Tourism Protecting Cultural Heritage and Enhancing Economic Development**

UNESCO is a great example of an international organization protecting heritage and supporting tourism. However, national standards are necessary to both promote cultural tourism and to safeguard against the possible negative impacts of tourism, as UNESCO has limited funding and cannot safeguard the world's heritage on its own.

### France

France is the most popular tourist destination in the world with 76.5 million annual visitors.<sup>29</sup> In 2014 travel and tourism directly contributed 3.6% (EUR 77.1 billion) to national GDP<sup>30</sup>, with total contribution reaching 8.9% (EUR 191.4 billion).<sup>31</sup> Travel and tourism's direct

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<sup>29</sup> Statistic Brain Research Institute, *Tourism Statistics* (2016), available at <http://www.statisticbrain.com/tourism-statistics/>.

<sup>30</sup> World Travel and Tourism Council, *Travel & Tourism: Economic Impact 2015 France*, available at <https://www.wttc.org/-/media/files/reports/economic%20impact%20research/countries%202015/france2015.pdf>.

contribution to employment was 7.4%,<sup>32</sup> with the total contribution, including indirect employment, at 15.7%.<sup>33</sup> Tourism is a well-established industry in France and only continues to grow.<sup>34</sup> While wine tourism in France accounts for nearly 24 million tourists each year,<sup>35</sup> France also has 41 UNESCO World Heritage Sites drawing tourists annually.<sup>36</sup>

France's Ministry of Culture and Communication supports and encourages cultural education, local cultural initiatives and cultural diplomacy among other activities.<sup>37</sup> Along with protecting its own cultural heritage, France has also taken steps to protect at-risk cultural heritage in other countries. France has built a "grand alliance" to protect cultural heritage and specifically safeguard "endangered cultural property".<sup>38</sup> French president Francois Hollande has also met with UNESCO Director-General Irina Bokova to send a public message to stand together in order to protect cultural heritage in the Middle East.<sup>39</sup>

The European Commission helps address common challenges among EU Members States' culture policies. The Commission also promotes cultural diversity, protects cultural heritage and supports the culture sector as a source of job creation. The Commission has a strategic framework, "European Agenda for Culture", that sets forth the principles and goals of

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> France Diplomatie, *France, the world's leading tourist destination*, available at <http://www.diplomatie.gouv.fr/en/french-foreign-policy/economic-diplomacy-foreign-trade/facts-about-france/one-figure-one-fact/article/france-the-world-s-leading-tourist>.

<sup>36</sup> UNESCO, *World Heritage List*, available at <http://whc.unesco.org/en/list/>.

<sup>37</sup> Asia-Europe Foundation, *Ministry of Culture and Communication (France)*, available at <http://culture360.asef.org/organisation/ministry-of-culture-and-communication-france/>.

<sup>38</sup> International Federation of Arts Councils and Culture Agencies, *France builds grand alliance to protect cultural heritage*, available at [http://www.ifacca.org/international\\_news/2016/01/04/france-builds-grand-alliance-protect-cultural-heri/](http://www.ifacca.org/international_news/2016/01/04/france-builds-grand-alliance-protect-cultural-heri/).

<sup>39</sup> UNESCO, "We stand together" to protect Iraq's cultural heritage, says French President with UNESCO Director-General, available at [whc.unesco.org/en/news/1250](http://whc.unesco.org/en/news/1250).

the program.<sup>40</sup> In February of 2016, UNESCO and the European Commission began preparatory stages of the European Heritage Routes' project, which will develop "cultural routes" to attract tourists to many World Heritage sites and promote local cultural heritage including museums, festivals and traditions.<sup>41</sup> "The project will involve local authorities, heritage site managers, cultural institutions such as museums and galleries, intangible cultural heritage players, and members of the travel industry."<sup>42</sup> This project can be a model for other countries and regions to interact with international organizations to promote their local cultural heritage and support development.

### Mexico

Mexico is a positive example of how conserving cultural heritage can promote a state's socio-economic development. Mexico is the 8<sup>th</sup> most-travelled destination among tourists and its rich culture attracts 19.8 million annual visitors.<sup>43</sup> Travel and tourism directly contributed 6.8 percent to Mexico's GDP in 2014,<sup>44</sup> with a total contribution reaching 14.8 percent.<sup>45</sup> Travel and tourism directly contributed to 7.4 percent of total employment in Mexico,<sup>46</sup> with a total contribution of 15.7 percent.<sup>47</sup> While these 2014 numbers show the sizable impact of the tourism industry, all numbers were predicted to grow in 2015 and beyond.<sup>48</sup>

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<sup>40</sup> European Commission, *Strategic Framework –European Agenda for Culture*, available at [http://ec.europa.eu/culture/policy/strategic-framework/index\\_en.htm](http://ec.europa.eu/culture/policy/strategic-framework/index_en.htm).

<sup>41</sup> UNESCO, Media Services, *UNESCO and the European Commission join hands in promoting cultural routes for sustainable development* (Feb. 22, 2016), available at [http://www.unesco.org/new/en/media-services/single-view/news/unesco\\_and\\_the\\_european\\_commission\\_join\\_hands\\_in\\_promoting\\_cultural\\_routes\\_for\\_sustainable\\_development/#.Vs9VXJMrJE4](http://www.unesco.org/new/en/media-services/single-view/news/unesco_and_the_european_commission_join_hands_in_promoting_cultural_routes_for_sustainable_development/#.Vs9VXJMrJE4).

<sup>42</sup> *Id.*

<sup>43</sup> Statistic Brain Research Institute, *Tourism Statistics*, available at <http://www.statisticbrain.com/tourism-statistics/>.

<sup>44</sup> World Travel and Tourism Council, *Travel & Tourism: Economic Impact 2015 Mexico*, available at <https://www.wttc.org/-/media/files/reports/economic%20impact%20research/countries%202015/mexico2015.pdf>.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

Ancient ruins, archaeological sites and experiences such as Día de los Muertos attract tourists to the country. With the help of UNESCO, Mexico has put ample preservation efforts into protecting its cultural heritage, and the development has followed.

The state of Michoacán in Mexico has built its tourist industry on culture. Its model “fosters economic, social and cultural development for the citizens of these towns, while generating the commitment of all actors to preserve the environment and all cultural processes.”<sup>49</sup> Michoacán represents some of the advantageous outcomes from protecting cultural heritage.

Michoacán’s cultural resources are tangible and intangible, key elements in its villages and communities. The present value and significance of this heritage, from the tourist’s point of view, is related to the role that Michoacán has played in the history of Mexico. The quality and artistic value of these resources lies on the state of conservation of the built heritage and on the validity of centennial cultural expressions; that is, a living and dynamic culture. This cultural wealth is a source of pride for the communities and gives them a sense of belonging and identity while providing viability for the future.<sup>50</sup>

These cultural resources include the pyramids of Ihuatzio, Tingambato, San Felipe de los Alzati, Tres Cerritos de Cuitzeo and Huandacareo, as well as the Yácatas, or round pyramids, in Tzintzuntzan.<sup>51</sup> There are also many museums, cathedrals, customs, traditions and celebrations that attract people to visit Michoacán.<sup>52</sup> Michoacán can be used as a model to help other States create a mechanism to promote economic development and to ensure a balance between promoting tourism and protecting heritage.

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<sup>49</sup> OECD, "Chapter 9: State of Michoacán, Mexico ", *The Impact of Culture on Tourism*, OECD, Paris, pp. 129-140 (2009), available at <http://www.oecd.org/mexico/42040168.pdf>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

## Guatemala

“Guatemala is a vibrant nation; visually, culturally, environmentally and politically . . . It is . . . inhabited by a resilient people proud of their heritage and strong in their convictions to raise standards of living. It is a country with a unique and rich living heritage, a place where indigenous presence is strong and where ceremony and ritual interlaces or co-exists with modernity.”<sup>53</sup> Mayan cities including Tikal and El Mirador are just two of many cultural sites attracting tourists to Guatemala each year, along with experiences such as Semana Santa in La Antigua and Mayan Rituals in local communities.

Travel and tourism directly contributed to 3.4 percent of Guatemala’s GDP in 2014,<sup>54</sup> with indirect contributions at 8.8 percent.<sup>55</sup> Travel and tourism’s direct contribution to Guatemala employment was at 2.9 percent in 2014.<sup>56</sup> Including indirect contribution to employment, the percentage reaches 7.9 percent, or approximately 489,000 jobs.<sup>57</sup>

Comparing Guatemala to Mexico through 2014 statistics, Guatemala has an opportunity to grow its tourism industry. Guatemala already has strong cultural heritage protection through laws at national and municipal levels. These laws include The Constitution of Guatemala, which protects citizens’ ability to express culture and national cultural property,<sup>58</sup> Protected Areas Law establishing a framework to manage protected areas,<sup>59</sup> and The National Cultural Heritage

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<sup>53</sup> Lush, Minouschka. “Guatemala: A Colourful Tapestry”. *Realising Cultural Heritage Law Festschrift for Patrick O’Keefe*. Prott, Lyndell V., Redmond-Cooper, Ruth, and Urice, Stephen (eds.). Institute of Art and Law, Ltd. pp.49, (2013).

<sup>54</sup> World Travel and Tourism Council, *Travel & Tourism: Economic Impact 2015 Guatemala*, available at <https://www.wttc.org/-/media/files/reports/economic%20impact%20research/countries%202015/guatemala2015.pdf>.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> Constitución Política de la República de Guatemala Nov. 16, 1993, §2, art. 57-65.

<sup>59</sup> Decreto No. 26-97 as modified by Decreto No. 81-98, Ley para la Protección del Patrimonio Cultural de la Nación [Law for the Protection of the Cultural Patrimony of the Nation] (Guat.), available at <http://www.mcd.gob.gt/wp-content/uploads/2009/05/leyparala0proteccion20del20patrimonio20cultural20y20natural.pdf>.

Protection Law.<sup>60</sup> Guatemala is also State Party to *Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict*,<sup>61</sup> *UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage*<sup>62</sup> and the *UNESCO Convention for the Safeguarding of Intangible Cultural Heritage*.<sup>63</sup>

Enforcing these laws and Convention obligations will bolster sustainability in tourism. However, there are limited funds and resources available to contribute to the preservation of cultural heritage. Other States, including the United States, and the World Heritage Fund have contributed to Guatemala to assist in conservation efforts of the Maya Forest and other archaeological ruins,<sup>64</sup> but Guatemala could benefit from more resources for conservation efforts and promotion of cultural tourism. According to Minouschka Lush, an administrator of cultural projects who spent time practicing in the country, “Guatemala has a vast unrealized potential for development. Its trade and tourism rest on its natural resources and unique cultural heritage. Cultural tourism is a growing industry which has the potential to stimulate other local enterprises . . . .”<sup>65</sup> Cultural tourism in Guatemala could enhance the economy and boost conservation efforts. Its rich cultural heritage needs to be both protected and shared with the world.

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<sup>60</sup> Decreto No. 4-89, Ley de Áreas Protegidas [Law of Protected Areas] (Guat.), available at [http://www.conap.gob.gt/phocadownload/Centro\\_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf](http://www.conap.gob.gt/phocadownload/Centro_Documentacion/legislacion/ley%20de%20areas%20protegidas%20decreto%204-89-2.pdf).

<sup>61</sup> Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, May 14, 1954, available at [http://portal.unesco.org/en/ev.php-URL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>62</sup> Convention Concerning the Protection of the World Cultural and Natural Heritage, Oct. 17–Nov. 21, 1972, available at <http://whc.unesco.org/en/conventiontext/>.

<sup>63</sup> Convention for the Safeguarding of the Intangible Cultural Heritage, Sept. 29–Oct. 17, 2003, U.N. DOC. MISC/2003/CLT/CH/14 (Oct. 17, 2003), 2368 U.N.T.S. 3, available at <http://unesdoc.unesco.org/images/0013/001325/132540e.pdf>.

<sup>64</sup> World Travel and Tourism Council, *supra* note 47.

<sup>65</sup> Minouschka, *supra* note 46, at 49.

## VI. Conclusion

In today's global community, there is more access to discover new cultures than ever, and while it is beneficial to learn about new cultures via cultural tourism, it is also crucial to protect cultural heritage in order to promote cultural identities and cultural diversity. Although economic growth is an important goal, it is necessary to maintain balance and ensure the protection of cultural heritage as the primary goal.

One billion tourists can be one billion opportunities or one billion disasters. As much as we welcome tourism's growth and its benefits, we should never forget that such growth comes with increased responsibility. Responsibility to protect our heritage, responsibility to promote our common values and responsibility to work together.<sup>66</sup>

The UN has declared 2017 as the International Year of Sustainable Tourism.<sup>67</sup> Now is the perfect opportunity to bring tourism within the discussion of protecting cultural heritage so that culture can be an essential aspect of both sustainable tourism and development. By including tourism within the context of protecting cultural heritage, States can take proactive steps to prevent destruction of cultural artifacts and increase economic development through economic inclusiveness.

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<sup>66</sup> UNWTO, *Remarks by Mr. Taleb Rifai at opening ceremony of UNWTO/UNESCO World Conference on Tourism and Culture: Building a New Partnership*, available at <http://www.e-unwto.org/doi/book/10.18111/9789284417360>.

<sup>67</sup> World Tourism Organization UNWTO, *United Nations declares 2017 as the International Year of Sustainable Tourism for Development*, Dec. 7, 2015, available at <http://media.unwto.org/press-release/2015-12-07/united-nations-declares-2017-international-year-sustainable-tourism-develop>.

## **VII. Recommendations**

Human Rights Advocates urges the Council to:

1. Further define necessary terms and minimal cultural heritage laws to achieve adequate protection of cultural rights around the globe.
2. Include tourism within the context of cultural heritage protection in the Special Rapporteur's mandate.
3. Urge the governments to address the protection of cultural heritage in the following ways:
  - A. Create mechanisms to ensure protection of cultural heritage, including domestic bodies that work within and between tourism and cultural preservation
  - B. Find and maintain mutually beneficial balance between cultural heritage protection and cultural tourism so that the two support and drive one another in a sustainable way.