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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

### **Development and cultural rights: the principles\*\*\***

#### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki, submitted in accordance with Human Rights Council resolution [49/16](#).

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\*\* [A/77/150](#).

\*\*\* The present report was submitted after the deadline so as to include the most recent information.



## **Report of the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki**

### *Summary*

In her first report to the General Assembly, the Special Rapporteur in the field of cultural rights, Alexandra Xanthaki, addresses the role of culture in sustainable development, including the cultures of development, with a view to assessing how cultural diversity and cultural rights have been mainstreamed in the 2030 Agenda for Sustainable Development so far; taking stock of the experiences in leveraging cultural resources and cultural rights in the pursuit of a more sustainable development, as well as the weaknesses encountered in doing so; and highlighting areas where increased cultural awareness may contribute to reaching the Sustainable Development Goals during the second half of the implementation timeline of the 2030 Agenda.

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## I. Introduction

1. Cultural rights are indispensable to sustainable development. Development will only be sustainable if it is shaped by the values of the people that it involves and the meaning that they ascribe to it, protects their resources and uses their heritage in all its dimensions – tangible, living and natural. A human rights approach with a strong consideration for cultural rights is both a framework for and a guarantee of success for any development agenda.

2. However, cultural rights have been sidelined in sustainable development strategies. Cultural development is not recognized as a pillar of sustainable development, alongside the social, economic and environmental pillars. The impact of development on cultural rights is rarely measured. Development projects are rarely community led. Plans on poverty eradication and social development rarely incorporate cultural rights elements and often neglect cultural diversity. The cultural sector is often considered restrictively as a source for further income. Research has shown that United Nations monitoring bodies rarely comment on the effects of development on cultural rights except in specific cases, mainly concerning indigenous peoples. This is a very restrictive understanding of the link between development and cultural rights.

3. The basis for the discussion on sustainable development at the international level is the 2030 Agenda for Sustainable Development. Adopted in September 2015, this ambitious agenda pushes all countries to reduce poverty and hunger, protect the planet, ensure that economic, social and technological progress contributes to prosperity for all, and foster peace, justice and inclusiveness. As the 2030 Agenda is firmly anchored in human rights, achieving the 17 Sustainable Development Goals included therein can only be done in a manner that contributes to the exercise of human rights and refrains from having a negative impact on them.

4. Culture has not been included as a fourth pillar in the 2030 Agenda on the grounds that it transcends all goals. This is true, but the recognition of the crucial role of culture throughout all Sustainable Development Goals is unfortunately not evident thus far in either discussions or implementation. The only Goal that explicitly refers to culture is Goal 11 on sustainable cities and communities.<sup>1</sup> Out of the other 168 targets of the 17 Goals, culture is explicitly noted in just three: under Goal 4 on quality education,<sup>2</sup> Goal 8 on decent work and economic growth<sup>3</sup> and Goal 12 on responsible consumption and production,<sup>4</sup> and even in these contexts, culture is scarcely discussed.

5. The Special Rapporteur believes that it is critical to emphasize the importance of cultural rights in sustainable development processes, to set out the principles that cultural rights and cultural diversity require from development that is sustainable, identify positive examples, give a voice to marginalized people affected by development processes and find ways to promote cultural rights through sustainable development. These elements are the focus of the present report.

6. In preparation for writing the present report, the Special Rapporteur held two expert consultations in Geneva on 27 April 2022 and online on 30 May 2022, with

<sup>1</sup> Target 11.4 on strengthening efforts to protect and safeguard the world's cultural and natural heritage.

<sup>2</sup> Target 4.7 on ensuring that all learners acquire the knowledge and skills needed to promote sustainable development, including through education for sustainable development and appreciation of cultural diversity and of culture's contribution to sustainable development, among other things.

<sup>3</sup> Target 8.9 on devising and implementing policies to promote sustainable tourism that creates jobs and promotes local culture and products.

<sup>4</sup> Target 12.b on developing and implementing tools to monitor sustainable development impacts for sustainable tourism that creates jobs and promotes local culture and products.

the support of the Institute for Communities and Society at Brunel University London.<sup>5</sup> She also held individual meetings with several additional experts and development practitioners. In order to collect views and experiences, a questionnaire was distributed widely in March 2022. Fifty-two responses were received, including from States, national human rights institutions, academics, civil society organizations and other international organizations.<sup>6</sup>

7. The present report is the first of two consecutive studies on development and cultural rights by the Special Rapporteur. It focuses on mainstreaming cultural rights through the 2030 Agenda. A second report, to be presented to the General Assembly in 2023, will examine the issue in the context of the policies and methodologies adopted by large trade and development agencies, with a view to identifying and bridging the gaps.

## II. Legal and policy framework

8. The 2030 Agenda is firmly anchored in human rights. States have made commitments to respecting, protecting and fulfilling cultural rights in a plethora of human rights instruments. The strongest references are to be found in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights, which recognize the right of everyone to participate freely in cultural life, to enjoy the arts and to share in scientific advancement and its benefits. The need for substantive equality in sustainable development is based on article 27 of the International Covenant on Civil and Political Rights and on the International Convention on the Elimination of All Forms of Racial Discrimination.

9. As reiterated many times by this mandate, cultural rights protect the right of each person individually, in community with others and collectively, to develop and express their humanity, their world views and the meanings they give to their existence and their development, including through, *inter alia*, values, beliefs, convictions, languages, knowledge and the arts, institutions and ways of life. Cultural rights also protect the cultural heritage of the individual and groups and the resources that enable such identification and development processes.

10. Cultural rights are therefore essential for the development of each person and community, their empowerment, and the construction of their respective identities in a sustainable cultural ecosystem. They are at the core of the definition of development itself. It is an illusion to believe that the goal to leave no one behind could be sought without full respect for cultural rights for all, on an equal basis.

11. Several provisions of international human rights law underline the close ties between development and cultural rights. The right of self-determination, recognized in common article 1 of both International Covenants, is the right of all peoples to “freely determine their political status and freely pursue their economic, social and cultural development”. Article 1 of the Declaration on the Right to Development, for its part, specifies that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute

<sup>5</sup> The Special Rapporteur thanks all participants for their valuable contributions, and in particular Dorcas Taylor, Colin Luoma, Rebecca Gleig and Raquel Carneiro Fernandes from the University of Sussex law clinics, for their research collaboration and assistance on specific themes. A detailed list of participants in the expert consultations is available on the web page of the mandate at [www.ohchr.org/en/special-procedures/sr-cultural-rights](http://www.ohchr.org/en/special-procedures/sr-cultural-rights).

<sup>6</sup> The contributions received are available on the web page of the mandate and are referred to throughout the report by the name of the submitting stakeholder.

to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

12. There is a strong link between sustainable development and the right to development. The 2030 Agenda reaffirms all the principles of the Rio Declaration on Environment and Development, including principle 3, which states, “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations. The Expert Mechanism on the Right to Development affirmed in a thematic study that “operationalizing the right to development should constitute the basis for realizing the Sustainable Development Goals” (A/HRC/48/63, para. 9). In General Assembly resolution 75/182 and Human Rights Council resolution 45/6, respectively, the Assembly and the Council emphasized that the right to development was vital for the full realization of the 2030 Agenda and should be central to its implementation.

13. The United Nations Declaration on the Rights of Indigenous Peoples also contains important references to development, based on their right to self-determination, recognized in article 3. The Declaration recognizes that indigenous peoples must have the right to determine and develop priorities and strategies for exercising their right to development (art. 23) and that States must obtain their free and informed consent prior to any project that affects them or their lands or territories and other resources (art. 32.2). The Declaration recognizes that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.

14. The issue, however, goes far beyond indigenous peoples’ matters. In several resolutions, the General Assembly has repeatedly made the link, in general terms, between development and cultural rights<sup>7</sup> and has acknowledged the role of culture as an enabler and a driver of sustainable development. Most recently, in its resolution 76/214, the Assembly recognized that culture is an essential component of human development, that it represents a source of identity, innovation and creativity for the individual and the community and that it is an important factor in social inclusion and poverty eradication, providing for sustainable economic growth and ownership of development processes.

15. The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (art. 2.5) and its operational guidelines refer to the complementarity between the economic and cultural aspects of development and to cultural diversity as an essential requirement for sustainable development. Article 13 calls for the integration of culture in development policies at all levels in order to create conditions conducive to sustainable development, making it one of the most binding commitments on the matter.<sup>8</sup>

### III. Sustainable development: the concept

#### A. Evolution of the concept

16. The term “sustainable development” is rooted in environmental considerations. It was first articulated in the report of the World Commission on Environment and Development (Brundtland Commission), entitled “Our Common Future”, as meeting “the needs of the present without compromising the ability of future generations to meet their own needs” (A/42/427, annex).

<sup>7</sup> General Assembly resolutions 65/166, 66/208, 68/223, 69/230, 70/214, 72/229 and 74/230.

<sup>8</sup> Contribution of Véronique Guèvremont, p. 3.

17. Aware that the economic aspect has monopolized the interpretation of the concept, the 1992 United Nations Conference on Environment and Development (Rio Conference) recognized that integrating and balancing economic, social and environmental dimensions required new perceptions of the way we produce and consume, the way we live and work, and the way we make decisions.<sup>9</sup> The Rio Conference resulted in several political engagements and the creation of the Agenda 21 plan of action.

18. A few years later, in 2000, the United Nations adopted the Millennium Declaration, including 8 Millennium Development Goals to be achieved by 2015. The main weaknesses of these goals lay in the lack of strong accountability mechanisms and in the fact that neither the goals nor the plans for implementing them had been framed in human rights terms.<sup>10</sup> Some actions were taken to remedy this in the post-2015 agenda, which became the 2030 Agenda.

## **B. Development can only be sustainable if infused with cultural rights**

19. Sustainable development is not reachable without the integration of full respect for cultural rights. This entails the following aspects.

### **1. Include cultural development**

20. Sustainable development must include cultural development. It results from and should ensure the balance between the social, economic and environmental but also cultural pillars of sustainability.<sup>11</sup> Sustainable development cannot be separated from the recognition of individual and collective cultural rights, including spiritual and heritage rights.<sup>12</sup>

21. Many stakeholders regret the omission of cultural rights<sup>13</sup> and the lack of consideration for values, world views, identities and diversity in the sustainable development framework and strategies.<sup>14</sup>

22. Advocacy for the establishment of a fourth cultural pillar of sustainable development in the 2030 Agenda was one significant attempt to address that omission. Unfortunately, development is still approached in dominant circles mainly or solely through an economic lens, with no mention of cultural aspects.<sup>15</sup> The Special Rapporteur values the benefits of economic development, but it is essential that the economic aspect run alongside environmental, social and cultural aspects.

### **2. Reverse inequalities and stereotypes**

23. Sustainable development must reverse inequalities and stereotypes. It advances the realization of human rights,<sup>16</sup> including cultural rights, and should leave no person without access to information, education, research and cultural resources, which they

<sup>9</sup> [www.un.org/en/conferences/environment/rio1992](http://www.un.org/en/conferences/environment/rio1992).

<sup>10</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda* (New York and Geneva, 2013).

<sup>11</sup> Contribution of Environmental Protection Agency of Ghana, p. 1.

<sup>12</sup> Contributions of Natural Justice and Earthlife Africa, p. 2; One Ocean Hub, p. 2; and Commission Nationale Indépendante des Droits de l'Homme du Burundi, p. 3.

<sup>13</sup> See, for example, contributions: Beatriz Barreiro Carril and Kevin Grecksch, p. 1; Cris González Gabarda and Vicente Bellver Capella, p. 1; and International Federation of Library Associations and Institutions, p. 6.

<sup>14</sup> Contributions of the Grupo de Trabajo sobre Derechos Culturales, pp. 2–4; Estefania Rodero Sanz, p. 1; Danish Cultural Institute, pp. 12 and 13.

<sup>15</sup> Contributions of Azerbaijan, Qatar and Slovakia.

<sup>16</sup> Contribution of Cambodia, p. 1.

need to thrive.<sup>17</sup> As the Committee on Economic, Social and Cultural Rights has stated in its general comment No. 13 (1999) on the right to education, p. 55, paras. 6 (c) and (d), and general comment No. 14 (2000) on the right to the highest attainable standard of health, paras. 12 (c) and (d), steps must be taken to ensure that programmes implementing economic, social and cultural rights take into account the needs of culturally diverse communities and are appropriate and adaptable to those specific cultural needs. International human rights standards require positive steps to be taken to ensure that inequalities are reversed. Such an approach has the transformative potential to create a bigger space for diverse communities to take part in societal change.

24. Some scholars consider, however, that the Sustainable Development Goals cannot constitute a positive drive towards real sustainable development, as they have been created with the prevailing view of development in mind, reflecting the prevailing model of economic growth, including extraction, production and consumption. Such a model, they claim, maintains the status quo and the continuing violation of the rights of vulnerable and marginalized persons.<sup>18</sup> Contributions sent to the Special Rapporteur also contain complaints that the framework of “international development cooperation” is based on this economic model and does not consider the values and ways of life of local populations.<sup>19</sup> To tackle the root causes of poverty and inequality requires the radical transformation of the economies and societies in which everyone lives.<sup>20</sup> One can see the seeds of change in the operation of global investment and trade bodies, with new guidelines and new ways of work under way. This will be the focus of the next report of the Special Rapporteur to be submitted to the General Assembly.

25. Of great importance is the recognition of the link between the dominant conceptions of development and colonialism as imperial processes which have been imposing a certain understanding of “progress” that is not compatible with the affected communities’ and societies’ understandings.<sup>21</sup> There is a need to decolonize development paradigms to protect and enable culturally diverse sustainable development practices that acknowledge different world views and consider alternative frameworks that sit outside mainstream approaches.

26. Viewing alternative visions for development as folkloric and exotic must stop. These alternative visions express the cultural diversity of humanity and must be respected. There is also a need to unearth and acknowledge historical injustices committed in the name of progress and development in violation of the cultural rights of local populations. “Sustainable development” has to be democratized in a way similar to the democratization of the concept of “culture”.

### 3. Self-determined and community led

27. Sustainable development must be self-determined and community led.<sup>22</sup> It is not sufficient for development to be culturally sensitive or culturally appropriate; it should be contextualized to specific cultural environments and seek to fully align

<sup>17</sup> Contribution of International Federation of Library Associations and Institutions, p. 1.

<sup>18</sup> Margot E. Salomon, “Culture as an alternative to ‘Sustainable Development’”, *Third World Approaches to International Law Review (TWAIRL): Reflections*, No. 44/2022, 7 July 2022. Available at <https://twairl.com/culture-as-an-alternative-to-sustainable-development/>. See also the contribution of Fundació Josep Irla, pp. 2 and 3.

<sup>19</sup> Danish Cultural Institute, p. 2.

<sup>20</sup> John Linarelli, Margot E. Salomon and Muthucumaraswamy Sornarajah, *The Misery of International Law: Confrontations with Injustice in the Global Economy* (Oxford University Press, 2018), pp. 254 and 255.

<sup>21</sup> Contribution of the Grupo de Trabajo sobre Derechos Culturales, p. 1. See also Joshua Castellino in expert consultation.

<sup>22</sup> Contribution of Benin on local leadership, p. 3.



itself with the aspirations, customs, traditions, systems and world views of the individuals and groups most likely to be affected, even if that results in an uncomfortable degree of divergence from the economic development model championed by States, intergovernmental organizations and international financial institutions. People must be the primary beneficiaries of this process.<sup>23</sup>

28. However, normative models traditionally driven by external, top-down interventions have harmed, and continue to harm, the sustainable self-development of communities. The restriction of the rights of local communities in the name of such development processes, including under the banner of “the common good”, must be remedied. This conception of the common good often equates to the good of the few, or the good of the same entities ever to the detriment of others, namely those not able to equally participate in discussions on development processes.

#### **4. Resist the one-size-fits-all model**

29. Sustainable development must resist the one-size-fits-all model. Discussions that portray the wealth-accumulation and productivity-encouraging model as the only viable model of sustainable development dominate the debate and obscure the plethora of visions regarding sustainable development. Alternative forms of economic organization must be considered through the prism of cultural diversity and cultural rights.<sup>24</sup> The result of viewing sustainable development as separate from local values and cosmogonies is that only one cultural viewpoint is ultimately reflected. Surely, different cultural systems have different conceptions and perceptions of the relationships between human beings, other living beings and nature, as well as the very notion of “humanity”. For this reason, there can be no single definition or perception of sustainability; rather, its internal diversity must be accepted.<sup>25</sup> It is essential that people have the space and freedom to express and draw upon their cultural resources to define their vision for the future.

#### **5. Forward-looking**

30. Sustainable development must be forward-looking. Vision for development from different cultural frameworks are not static but ever evolving. Development should be an ongoing process that aims to change structures in societies and cause profound transformations in the current system, based on the ecology of knowledge,<sup>26</sup> breaking the presumed antagonism between conservation and innovation.

### **C. Alternative visions**

31. Counterbalancing the prevailing economic model with examples of alternative models promotes cultural diversity and must be encouraged. The incorporation of different knowledge systems into sustainable development is an epistemic challenge that, if addressed, will lead to positive results.<sup>27</sup>

32. The transnational indigenous movement has been active and helpful in highlighting viable alternative models of sustainable development. Indigenous knowledge systems look to create a balanced relationship between the planet and communities, with cultural and spiritual practices supporting the well-being of both

<sup>23</sup> Contribution of Portugal, p. 1.

<sup>24</sup> Margot E. Salomon, “Culture as an alternative to ‘Sustainable Development’”.

<sup>25</sup> Contribution of the Comunidad de Conocimiento en Cultura y Desarrollo of the Red Española de Soluciones para el Desarrollo Sostenible (the national Spanish branch of the Sustainable Development Solutions Network, REDS-SDSN), pp. 1 and 2.

<sup>26</sup> Contribution of Fundació Josep Irla, p. 2.

<sup>27</sup> Joost Dessein in expert consultation.

humans and nature. It is important that indigenous approaches be respected and that indigenous communities be allowed to continue as joint custodians of the natural world to ensure their survival. It is equally important that their knowledge be shared through intercultural dialogue and that it can contribute to global sustainable development solutions. The Special Rapporteur has been surprised that this knowledge-sharing was not done with regard to the coronavirus disease (COVID-19) pandemic. The world could have learned a lot from indigenous knowledge about the best ways to quarantine and lock down to prevent the further spread of the virus, as several indigenous communities have mastered the practice of shielding, an indigenous technique, for centuries. Unfortunately, indigenous peoples were not consulted; rather, they were only seen as possible victims of the spread of the virus.

33. In communities throughout the world, peasants also bear cultural identities and practices that are conducive to sustainable development – development that is self-determined, self-defined, shared and at one with the natural world.<sup>28</sup> The dynamic nature of culture has meant that indigenous models have at times been superbly intertwined with peasant and/or local cultural identities. A notable example of the successful transposition of community cultural norms onto national policies of sustainable development is the South American model of *buen vivir* (good living) that has been incorporated into the constitutions of Ecuador and the Plurinational State of Bolivia.

34. Sometimes inspired by indigenous and local outlooks, several alternative visions focus on putting the planet at the centre of development. Some decouple growth and well-being from resource use. A notable example is ecological *swaraj* (radical ecological democracy), emerging from the Indian subcontinent, which translates as self-rule or self-reliance in balance with nature.<sup>29</sup> Regenerative models in general emphasize development as a continuous process based on a co-evolutionary partnership between ecological and sociocultural systems.<sup>30</sup> Regenerative models are less about minimizing negative impacts on nature and more about creating holistic approaches that maximize positive impact for better planetary health.<sup>31</sup> Central to such models is the concept of reliability, which expresses the ability of products and processes in the built environment to be adaptive, resilient and regenerative.

35. Commoning is an alternative model focusing on a collective stewardship approach to the management of natural resources. It enables local people to share the benefits of resources that are not privately owned but that they collectively manage and protect by drawing upon local cultural practices through self-organized participatory structures. The “common” is both shared and non-commodified and sits outside market forces to protect local cultural practices that offer equitable ways of managing the fair distribution of resources.

36. One cannot escape the importance of the informal economy in alternative visions, as it includes over 60 per cent of the world’s workers.<sup>32</sup> Many of these work in the informal creative industries or the artisan economy.<sup>33</sup> It is a sustainable

<sup>28</sup> Margot E. Salomon, “Culture as an alternative to ‘Sustainable Development’”.

<sup>29</sup> Ashish Kothari, Federico Demaria and Alberto Acosta, “Buen vivir, degrowth and ecological swaraj: alternatives to sustainable development and the green economy”, *Development*, vol. 57, No. 3 (2014).

<sup>30</sup> Chrisna du Plessis, “Towards a regenerative paradigm for the built environment”, *Building Research and Information*, vol. 40, No. 1 (2012).

<sup>31</sup> Leah V. Gibbons and others, cited in Leah V. Gibbons, “Regenerative – the new sustainable?”, *Sustainability*, vol. 12, No. 13 (2020).

<sup>32</sup> International Labour Office, *Women and Men in the Informal Economy: A Statistical Picture*, 3rd ed. (n.p., 2018).

<sup>33</sup> Priya Krishnamoorthy, Anandana Kapur and Aparna Subramanyam, *Business of Handmade Report: The Role of Craft-based Enterprises in (Formalising) India’s Artisan Economy* (2021).

industry, made up of small-scale, largely rural, family-run businesses, that use traditional artisan practices and locally sourced or recycled materials to produce hand-made goods. In spite of its scale, it has one of the lowest carbon footprints of any major industry. However, it is characterized by precarious livelihoods, with enterprises operating outside labour laws, reducing access to legitimate credit. Those working in the sector, the majority of whom are women and marginalized individuals and communities, remain low-paid and largely invisible, with few or no social protections. Cultural barriers often prevent artisans' access to business information. The lack of culturally sensitive practices, underpinned by systemic discrimination, leads to reduced trust in official economic channels. For women from minority groups, cultural barriers are further exacerbated by gender-based discrimination.

## IV. Sustainable Development Goals in practice

37. The Sustainable Development Goals can make a clear contribution to real sustainable development if the principles laid out in the previous section are put into practice. The political and economic model of each State is, of course, not in question; it is the degree of respect for the very human rights that States have undertaken to respect in operationalizing sustainable development that is under scrutiny. Policy-oriented and problem-driven policies are often implemented in reaction to panic about economic sustainability but do not help the realization of the Goals in the long run. Peoples' own identities must be reflected in the Goals, and homogenized solutions must be pushed aside by States and by international organizations.

### A. Domestic practice

38. The Special Rapporteur appreciates that several Governments acknowledge the cultural element of the Sustainable Development Goals. Benin, grounding its approach in the Fribourg Declaration of Cultural Rights, stresses that integrating the cultural dimension into the implementation of the Goals adds dynamism and synergies among actors.<sup>34</sup> Argentina also recognizes the importance of culture.<sup>35</sup> In Denmark, a transnational innovation project related to citizen-driven sustainable cultural development has been put in place.<sup>36</sup> In Greece, culture is officially recognized as the fourth pillar of sustainable development,<sup>37</sup> while for Portugal, culture is part of a comprehensive approach to the sustainable development agenda.<sup>38</sup>

39. Different States emphasize different aspects of cultural rights. Some place emphasis on the equal provision of cultural services at all territorial levels,<sup>39</sup> and others on greater support to the cultural sector.<sup>40</sup> Jordan adopted measures to promote the role of libraries in encouraging reading and preserving heritage.<sup>41</sup> Cyprus and Mauritius underscored the importance of education systems in developing a culture of sustainability.<sup>42</sup> In Nepal, cultural resources are leveraged in eradicating poverty, providing quality education and mainstreaming gender equality, as well as with regard to creative capacities, to increase inclusion and eradicate caste discrimination.<sup>43</sup> Italy

<sup>34</sup> Contribution of Benin, p. 9.

<sup>35</sup> Contribution of Argentina, p. 7.

<sup>36</sup> Contribution of Danish Cultural Institute, p. 6.

<sup>37</sup> Contribution of Greece, p. 2.

<sup>38</sup> Contribution of Portugal, p. 2.

<sup>39</sup> Contribution of Lithuania, p. 2.

<sup>40</sup> Contribution of Spain, p. 5.

<sup>41</sup> Contribution of Jordan, pp. 2–8.

<sup>42</sup> Contributions of Cyprus, p. 4, and Mauritius, p. 3.

<sup>43</sup> Contribution of Nepal, p. 6.

seeks collaborations with academia to ensure an approach based on scientifically founded information in sustainable development strategies and policies.<sup>44</sup> In Serbia, culture and heritage are part of the sustainable strategy to improve, among other things, the accessibility of urban spaces.<sup>45</sup>

40. The promotion of the social value of culture, its capacity to encourage critical thinking and its power to emancipate, empower and give freedom and autonomy to citizens are seen as key cultural dimensions of sustainable development in a number of States, including Spain.<sup>46</sup> Cuba reported the adoption of a transverse approach to culture in the national plan of development, with emphasis on promoting cultural participation and the development of various capacities for the critical appreciation of the arts and literature, the creation of ethical, aesthetic, political and civic values and the defence of national cultural identity and heritage.<sup>47</sup>

41. The emphasis on cultural rights therefore takes a variety of forms. It is important to ensure that States do not direct cultural development away from difficult aspects of cultural rights, which, for example, artistic freedom or land rights are for some States. A holistic approach, promoting all cultural rights in development processes, is important.

42. Where cultural rights have been recognized in national constitutions or in specific laws, the cultural dimension of development seems to have been taken into consideration more forcefully, as is the case in Nepal.<sup>48</sup> Mexico reported its understanding of the Sustainable Development Goals along four axes: culture for peace; diversity as the richness of humanity; fraternity between nations to protect heritage; and the defence and exercise of cultural rights. Hence, culture has been placed at the centre of development policies.<sup>49</sup> The Serbian law on culture sets out 15 principles of general interest in promoting cultural development and its integration into the long-term socioeconomic and political development of a democratic society and in encouraging the sustainable development of the cultural environment as an integral part of the broader environment.<sup>50</sup>

43. Civil society also reported on positive developments. For example, it is reported that in South Africa, the pursuit of sustainable development led to the increased recognition of the legitimacy and knowledge of indigenous peoples.<sup>51</sup> Through its sustained work with various cities across the globe, United Cities and Local Governments was able to develop a database of 280 examples of positive cultural practices with regard to sustainable development, showing how cultural issues are important factors in achieving each of the Sustainable Development Goals.<sup>52</sup>

44. Standards are not always implemented, however. For example, although South Africa has legal and constitutional requirements that consideration be given to cultural rights when applying environmental protection measures and governance in furtherance of sustainable development, it is reported that environmental impact assessments often fail to assess the cultural significance of specific natural resources to communities as a result of inadequate consultation with them. Failure to obtain the

<sup>44</sup> Contribution of Italy, pp. 3 and 4.

<sup>45</sup> Contribution of Serbia, p. 4.

<sup>46</sup> Contribution of Spain, p. 5.

<sup>47</sup> Contribution of Cuba, pp. 6 and 7.

<sup>48</sup> Contribution of Nepal, p. 4.

<sup>49</sup> Contributions of Mexico, pp. 1 and 2, and Comisión Nacional de los Derechos Humanos de México, pp. 11 and 13–15.

<sup>50</sup> Contribution of Serbia, pp. 2 and 3 and 6–8.

<sup>51</sup> Contribution of One Ocean Hub, pp. 8 and 9.

<sup>52</sup> Contribution of United Cities and Local Governments, pp. 2 and 3. See also United Cities and Local Governments, *Culture in the Sustainable Development Goals: A Guide for Local Action* (2018). The database is available at <https://obs.agenda21culture.net/en>.

free, prior and informed consent of concerned communities, even when required by law, leads to violations of cultural rights and of the right to development in the very name of development.<sup>53</sup> War also impedes the realization of cultural rights in development and affects sustainable development, including its cultural element, through destruction and through impediments to participation in religious, educational, social and cultural life.<sup>54</sup> Meanwhile, research conducted by the British Council confirms the missed opportunities for positive change that the omission of culture from the Sustainable Development Goals has meant.<sup>55</sup>

## B. International practice

45. In 2005, United Cities and Local Governments created its Culture Committee with the explicit mandate to implement cultural rights in local sustainable development, in particular through the Agenda 21 for Culture, referred to in a number of contributions. The Agenda 21 for Culture was approved in May 2004 by cities and local governments committed to human rights, cultural diversity, sustainability, participatory democracy and the creation of the conditions for peace.

46. Between 2010 and 2015, the United Nations Educational, Scientific and Cultural Organization (UNESCO), together with United Cities and Local Governments and other civil society organizations, advocated the inclusion of culture as a fourth pillar of sustainable development,<sup>56</sup> to humanize development and merge the still-separate narratives of “human development” and “sustainable” development.<sup>57</sup> However, the three-pillar approach, restricted to the social, economic and environmental dimensions of development, was maintained. In 2015, United Cities and Local Governments adopted the document entitled “Culture 21: actions – commitments on the role of culture in sustainable cities”, containing 100 actions grouped under nine commitments, which constitutes a complete human-rights-based tool kit for cultural policies and the implementation of cultural rights in local sustainable development.<sup>58</sup> In the document, it is stated that development can only be “sustainable” if culture is given a central role and if we explicitly consider the integral value of culture and cultural factors, such as memory, creativity, diversity and knowledge, to the human development process.

47. There is an ongoing discussion on measuring the contribution of culture to the Sustainable Development Goals and on how the challenging nature of such measurement may have contributed to its marginalization in national and international development strategies. Measuring the contribution of culture to the achievement of every target would lead to clear and informed decisions,<sup>59</sup> yet it is not included in the mechanisms of the Goals. A notable exception is indicator 4.7.1 of the Goals and its associated metadata, in which cultural diversity and human rights constitute two of eight themes used to assess various aspects of education.<sup>60</sup> However, indicators and metadata for other relevant targets either focus primarily on the economic aspects of the target in question or do not make it possible to monitor the contribution of culture

<sup>53</sup> Contribution of Natural Justice and Earthlife Africa, pp. 1–4.

<sup>54</sup> Contribution of the Association of Reintegration of Crimea, pp. 2–4.

<sup>55</sup> British Council, *The Missing Pillar* (United Kingdom of Great Britain and Northern Ireland, 2020).

<sup>56</sup> See United Cities and Local Governments, “Culture: fourth pillar of sustainable development”, policy statement United Cities and Local Governments (2010).

<sup>57</sup> Contribution of the United Cities and Local Governments Culture Committee, p. 1.

<sup>58</sup> *Ibid.*

<sup>59</sup> Contributions of Gabeiras y Asociados, Madrid, p. 1, and Comunidad de Conocimiento en Cultura y Desarrollo de REDS-SDSN, p. 3.

<sup>60</sup> See the contribution of the International Organization for the Right to Education and Freedom of Education for further analysis.

to the target or the cultural rights aspects of the target.<sup>61</sup> Thus, there is a gap in the Sustainable Development Goals monitoring framework and a need to devise complementary ways of assessing how cultural rights can enable and underpin the achievement of sustainable development and vice versa.

48. To address this challenge, in 2009, UNESCO developed the Culture for Development Indicator Suite, aimed at documenting the contribution of culture – both as a sector of activities and as a set of values and norms – in terms of providing both economic and non-economic benefits.<sup>62</sup> In 2019, this was further adapted and tailored to the Sustainable Development Goals, as the Thematic Indicators for Culture in the 2030 Agenda.<sup>63</sup> Some countries have used these indicators, which generate facts and figures demonstrating the multidimensional contribution of culture to development and examples of how the indicators can have an impact on national policy.

49. The Office of the United Nations High Commissioner for Human Rights (OHCHR) methodology for developing human rights indicators<sup>64</sup> can provide support through by using structural, process and outcome indicators to assess States' commitments and obligations, the efforts put in place to realize them, and the results achieved, respectively.<sup>65</sup>

50. Guidance from human rights treaty bodies can also inform these efforts, although references by treaty bodies to cultural rights in development projects are rare and focused on indigenous peoples.<sup>66</sup> In particular, using the availability, accessibility, acceptability, adaptability and appropriateness conditions (the “necessary conditions for the full realization of the right of everyone to take part in cultural life” outlined in the Committee on Economic, Social and Cultural Rights general comment No. 21 (2009) on the right of everyone to take part in cultural life) and the data generated by such forms of measurement can improve the understanding of how cultural rights can support sustainable development and vice versa. approach could inform any post-2030 sustainable development framework, which has the potential and need to rethink the integration of culture and cultural rights in a more holistic manner.

51. Since 2019, the Art Lab for Human Rights and Dialogue, coordinated by UNESCO, has sought to mainstream cultural approaches and processes in humanitarian and development work. This effort will be amplified by a plan on the Arts for dignity, justice and peace, which should aim to integrate arts and culture into all United Nations programmes.<sup>67</sup> Despite the principle of leaving no one behind, the Art Lab network has observed the failure to include the voices of vulnerable people and has recommended projects to include such voices in methodologies, interventions and processes at the cultural policy level.

52. The Special Rapporteur fully endorses the continuous calls of many stakeholders for culture to be given a more important place throughout the implementation of the 2030 Agenda. She fully lends her support to the Culture 2030

<sup>61</sup> Francesca Thornberry and John Crowley in expert consultations.

<sup>62</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), *Culture for Development Indicators: Methodology Manual* (Paris, 2014), pp. 9 and 10.

<sup>63</sup> UNESCO, *Culture 2030 Indicators* (Paris, 2019).

<sup>64</sup> OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (2012).

<sup>65</sup> Francesca Thornberry in expert consultation.

<sup>66</sup> Research by Rebecca Gleig and Raquel Carneiro Fernandes, University of Sussex law clinics.

<sup>67</sup> Contribution of the Art Lab for Human Rights and Dialogue, pp. 3 and 4.

Goal campaign envisioning the recognition of culture as the fourth pillar of sustainable development.<sup>68</sup>

## V. Importance of the cultural sector in sustainable development

53. The positive effects of the cultural sector on sustainable development are often focused on significant returns on investment and the cultural sector as a driver of growth.

54. However, the cultural sector's contribution to sustainable development goes far beyond this economic dimension. For example, museums and cultural heritage sites, which operate internationally, nationally and/or locally, are important assets for localized development, inspire creativity and offer opportunities to share culturally diverse practices that support social cohesion, civic engagement and more widespread well-being.<sup>69</sup> Large national public institutions can influence policy development, while networks of local museums can be directly attentive to community needs and knowledge. Cultural organizations can lead the way to support sustainable futures in their own practices, through information-sharing, awareness-raising and supporting communities to use culture as a driver for sustainable change.

55. Creative projects that address the challenges of development are often framed in the language of environmental and social justice. They often utilize decolonization processes, recognizing the complexities of traditional development paradigms rooted in colonialism. The “theatre for development” approach, for example, includes the “theatre of the oppressed”, a type of popular theatre by and for the people.<sup>70</sup>

56. Many cultural organizations and artists counter powerful development narratives to shift paradigms. They can support marginalized communities to have a voice by documenting environmental rights abuses,<sup>71</sup> abuses related to resource misuse<sup>72</sup> or their communities' own development.<sup>73</sup>

57. The cultural sector is full of creative thinkers who can help to imagine new modes of development and disseminate marginalized knowledge to new audiences. Cultural institutions showcase indigenous methods of sustainable development, forging partnerships with grass-roots organizations.<sup>74</sup> Grass-roots cultural organizations and individual cultural entrepreneurs have a key role to play in empowering local communities by adopting creative methodologies that draw from local cultural contexts to enable disadvantaged groups to gain greater agency in their own lives.<sup>75</sup>

<sup>68</sup> Contributions of the International Federation of Library Associations and Institutions, pp.1 and 6, and the United Cities and Local Governments Culture Committee, p. 3. See also Henry McGhie, *Museums and the Sustainable Development Goals: A How-To Guide for Museums, Galleries, the Cultural Sector and Their Partners* (Curating Tomorrow, United Kingdom of Great Britain and Northern Ireland, 2019).

<sup>69</sup> Organisation for Economic Co-operation and Development and International Council of Museums, *Culture and Local Development: Maximising the Impact* (n.p., 2019), p. 4.

<sup>70</sup> Augusto Boal, quoted in Pearly Wong and John Clammer, “Performance and development: theatre for social change” in John Clammer and Ananta Kumar Giri, eds., *The Aesthetics of Development: Art, Culture and Social Transformation* (Palgrave Macmillan, New York, 2017), p. 293.

<sup>71</sup> See, for example, information on projects by INTERPRT. Available at [www.interprt.org](http://www.interprt.org).

<sup>72</sup> See, for example, the work of Brazilian artist Maria Thereza Alves as discussed in T.J. Demos, “Return of a lake: contemporary art and political ecology in Mexico”, *Rufián Revista*, vol. 17 (2014).

<sup>73</sup> See, for example, Isuma TV, a collective of Inuit-owned film-makers and media organizations in Igloolik, in Nunavut, Canada. Available at [www.isuma.tv/](http://www.isuma.tv/).

<sup>74</sup> See, for example, <https://australian.museum/learn/climate-change/climate-solutions/cultural-burning/>.

<sup>75</sup> For example, a project entitled “Binding lives”, locally led by Nuku Studio and the Bristle Ghana Foundation, works creatively with pregnant teenagers in Ghana in contexts where women are leaders of local cash-based economies.

58. The sector embraces a “hive mindset” in its practices, and is thus well positioned to support alternative sustainable development solutions.<sup>76</sup> For example, there are creative projects helping farmers in such countries as Burkina Faso, Ghana, the United Republic of Tanzania and Uganda to cross-fertilize ideas supporting sustainable solutions through a network of radio stations. A similar programme in South Sudan helps people to rebuild their lives and cultural identities after many years of conflict.<sup>77</sup> Investment in these initiatives must continue to enhance the capabilities of people living precarious lives.

59. Creative solutions are often the most cost-effective solutions, developed by lean-functioning organizations, using operational models that imaginatively utilize the resources around them to maximize impact. Funding for the sector is often secured through non-State international actors, offering projects on the ground independence from political agendas. The Special Rapporteur commends such investment. However, access to international funding may encourage States to neglect their own responsibilities to support a sector that has much to offer to sustainable development. International efforts should be made to preserve budgets for culture, as cultural funding is often the first to be cut when difficult financial decisions are made. States contemplating reductions in official development assistance will be reducing opportunities for low-income countries to invest in cultural programmes that support their own development needs.

60. Some States have acknowledged the importance of the cultural sector. For example, in Malta, Strategy 2025 is aimed at addressing the immediate needs of arts and culture and reaffirming the intrinsic value they bring to society while acknowledging the role of culture in tackling global issues, such as democracy and collective action, climate change and other matters related to social and environmental sustainability.<sup>78</sup> In Spain, the Red Española para el Desarrollo Sostenible (the national branch of the Sustainable Development Solutions Network) helps the cultural sector to integrate the 2030 Agenda into its work and to show how it contributes to the achievement of the Sustainable Development Goals.<sup>79</sup>

61. The cultural sector’s contributions to sustainable development must be highlighted, keeping in mind that efforts to quantify them can have the effect of reducing their scope to only certain types of outputs – those that can be marketed and measured – as opposed to taking a cross-cutting approach to all goals and policies. To counter this, more integrated efforts need to be made. Promising initiatives include the new integrated strategy on culture and nature based on human rights developed by the Steering Committee for Culture, Heritage and Landscape of the Council of Europe; the development of an instrument on human rights and the environment; and the exploration of the contribution of heritage communities to climate change and sustainable tourism, inspired by the Council of Europe Framework Convention on the Value of Cultural Heritage for Society.<sup>80</sup>

62. Very much linked to the concept of economic development is the current discussion in Argentina about the responsibility of multilateral lending agencies – especially the International Monetary Fund – as it relates to conditionalities linked to

<sup>76</sup> See, for example, the public research approach espoused by the Dutch creative organization Waag, which is centred on the role of citizens’ knowledge in advancing sustainable solutions. Further information is available at <https://waag.org/en/>.

<sup>77</sup> Examples discussed during the expert consultations.

<sup>78</sup> Contribution of Malta, p. 3.

<sup>79</sup> REDS-SDSN, “Hacia una cultura sostenible: guía práctica para integrar la Agenda 2030 en el sector cultural”, March 2021; “Contribuyendo a la estrategia de desarrollo sostenible desde la cultura”, March 2021, and “Objetivos de Desarrollo Sostenible y sus metas desde la perspectiva cultural: una lectura transversal”, December 2021.

<sup>80</sup> Contribution of the Council of Europe, pp. 2–4, 7 and 8.



economic policy. These are widely considered to be inimical to social welfare and investment in cultural policies. International financial and development institutions are criticized for not giving any consideration to cultural rights in their sustainable development projects,<sup>81</sup> an issue that the Special Rapporteur will address in her next report to the General Assembly.

## **VI. Challenges and violations of cultural rights in the name of development**

### **A. Land-grabbing, displacement and cultural heritage appropriation and destruction**

63. The Special Rapporteur is unfortunately used to receiving worrying reports on development used for or resulting in the eradication of the cultural identity of local populations, in particular through land-grabbing, forced displacement and resettlement, and the destruction of cultural heritage. She and her predecessor in the mandate have sent many communications in the past to States to address this issue.<sup>82</sup>

64. Submissions received have also included allegations of such practices in Tibet, for example, through the compulsory resettlement of nomad farmers and herders, making them dependent on governmental support; the discrediting of the community's lifestyle, aspirations and beliefs and their knowledge of protecting wildlife and nature; and the creation of parks and reserves that exclude human activities and residence.<sup>83</sup>

65. Many complaints relate to displacement and the grabbing of indigenous and other peoples' land. The Batwa, in Uganda, were reportedly evicted from their ancestral forests owing to the creation of a national park – the Bwindi Impenetrable National Park – in 1991, and they fell into poverty. Following the pursuit of target 8.9 of the Sustainable Development Goals, to promote sustainable tourism that creates jobs and promotes local culture and products, the Batwa saw their culture reduced to a tourist attraction. They now only experience their culture through its performance for a foreign, tourist gaze, all in the name of profit. In addition, the Batwa are not even benefiting from the programme funds.<sup>84</sup>

66. Other examples of negative effects include land-clearing and the failure to obtain the free, prior and informed consent of concerned communities. In South Africa, it is alleged that a key “sustainable development” project focusing on energy, metallurgy, manufacturing, agroprocessing and logistics violates local rights.<sup>85</sup> In the United States of America, fossil fuel exploration and the construction of pipelines have repetitively undermined the rights of local populations.<sup>86</sup> In Kenya, development projects have reportedly led to the massive displacement of people without adequate compensation or consultation. Projects have been insensitive to people's grave sites and have moved people without resettling them in a manner that would enable them

<sup>81</sup> Contributions of the Grupo de Trabajo sobre Derechos Culturales, p. 4, and the British Institute of International and Comparative Law, p. 1.

<sup>82</sup> See communications JAL ATG 1/2021 and JAL BHS 1/2021; JAL BGD 6/2018; JAL BRA 2/2018; JAL CAN 2/2022; JAL CHN 16/2018; JAL CIV 1/2017; JAL GEO 1/2014; JUA ISR 7/2020; JAL LAO 1/2016; JAL TZA 3/2021; JUA PAK 1/2016; JAL TUR 5/2016 and JAL TUR 13/2018; JUA USA 14/2016 and JUA USA 7/2016; and JUA VNM 3/2014.

<sup>83</sup> Contribution of the International Campaign for Tibet, p. 3.

<sup>84</sup> Contribution of Land Body Ecologies, pp. 3 and 4.

<sup>85</sup> Contribution of Natural Justice and Earthlife Africa.

<sup>86</sup> See communications UA USA 14/2016, OL USA 7/2016 and AL USA 16/2020.

to continue to enjoy their cultural rights and religious ceremonies and also to continue to have access to ancestral shrines or even medicinal flora.<sup>87</sup>

67. Development projects also destroy cultural heritage. In the joint communication TUR 13/2018, the Special Rapporteur expressed concern that the hydroelectrical project on the Tigris River in Türkiye will submerge the Neolithic heritage city of Hasankeyf and displace its population. While noting the response from Türkiye that the project is a regional sustainable development project aimed at bringing prosperity and economic development to the region, the Special Rapporteur is of the view that the project does not correspond to sustainable development.

68. One Ocean Hub observed how the South African, Namibian and Ghanaian Governments' project to develop an ocean economy (blue economy) has marginalized indigenous peoples and small-scale fishers. The low regard for knowledge pluralism, including of small-scale fishers, and the historical stereotyping of indigenous peoples hindered their potential contribution to sustainable economic development, in particular their potential contribution through a holistic and integrated environmental ethos. Hub researchers have witnessed how marine space and resources have been appropriated with little or no consultation with local communities and indigenous peoples.<sup>88</sup>

69. In certain regions of China, the uniform development programmes aimed at poverty alleviation are said to have seriously threatened the health and sustainability of local cultures, communities and their environment despite temporary economic gains.<sup>89</sup>

## B. Tensions between cultural rights and nature conservation

70. One area where sustainable development commonly threatens cultural rights is nature conservation, in particular the creation and management of protected areas. Protected areas are seen as essential tools in achieving many of the targets of the Sustainable Development Goals concerning conservation, biodiversity loss and forest management. They are largely viewed as public goods and sustainable solutions to the biodiversity crisis, as well as key climate change mitigators. However, according to a report of the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples, they have often been created in the territories of indigenous peoples or other land-dependent communities without any consultation, compensation or consent ([A/71/229](#)). This has had deleterious effects on the cultural rights of these groups, who are removed from their lands and often violently prevented from returning.

71. This mode of nature conservation – commonly called “fortress conservation” – necessarily entails significant religious and cultural loss for land-dependent communities, whose cultural and spiritual identities are often inextricably intertwined with their lands, territories and resources.<sup>90</sup> Indigenous resistance to the establishment of protected areas is often rooted in the desire to safeguard both their lands and their cultural identity, two aspects that are essential to their survival as peoples.

72. Protected areas are key sources of tourism revenue, one of the target areas associated with Sustainable Development Goal 8 on promoting sustainable economic growth, employment and decent work for all. For many countries, protected areas are a vital part of the economy. As an example, 237 million people visited national parks

<sup>87</sup> Contribution of Kenya National Human Rights Commission, p. 3.

<sup>88</sup> Contribution of One Ocean Hub, pp. 3–5.

<sup>89</sup> Contribution of the International Campaign for Tibet, p. 1.

<sup>90</sup> Jeremie Gilbert and Kanyinke Sena, “Litigating indigenous peoples’ cultural rights: comparative analysis of Kenya and Uganda”, *African Studies*, vol.77, No. 2 (2018), p. 204.

in the United States in 2020, with a resulting contribution of \$28.6 billion to the domestic economy.<sup>91</sup>

73. Examples of violations of cultural rights and the right to development through conservation efforts are numerous. Conservation efforts by the Government of Kenya in the Mau Forest required the eviction of members of the Ogiek community, who successfully challenged the State before the African Court on Human and Peoples' Rights. Among other findings, the Court affirmed that the eviction violated the Ogiek community's right to economic, social and cultural development.<sup>92</sup> In the United Republic of Tanzania, tens of thousands of indigenous Maasai are reportedly at risk of eviction in the Ngorongoro Conservation Area, a UNESCO World Heritage site.<sup>93</sup>

74. In the case of protected areas, donors routinely emphasize the important economic and social development projects instituted in nearby villages and the purported benefits that flow to displaced communities. These benefits may take the form of improved infrastructure, the building of schools, microcredit programmes and small-scale agricultural initiatives, among others. There is a lack of recognition that these same communities are entitled to their right to cultural development, which can only be realized through their access to their lands, territories and resources.

75. Renewable energy initiatives also pose significant risks for cultural rights. Wind, solar and hydropower projects often violate the land, resource and cultural rights of indigenous peoples and other local communities, who experience the negative effects of these projects but often receive few benefits. This experience explains the resistance to energy projects, in particular among indigenous peoples.

76. Domestic courts have shown a willingness to challenge development-related threats to cultural rights stemming from clean or renewable energy projects. In 2021, the Supreme Court of Norway found that a wind farm on the Fosen peninsula encroached on the grazing lands of the Sami people, and thus violated their right to enjoy their own culture under article 27 of the International Covenant on Civil and Political Rights.<sup>94</sup>

77. As governments and businesses are increasingly pressured to transition to renewable energy, it is critical that these projects be community led or, at a minimum, designed in consultation with the communities that stand to be affected. A just transition requires that green energy projects prioritize the well-being of local communities and avoid initiatives that would have a negative impact on their cultural rights.

### C. The requirements of consultation and participation

78. Several States noted the positive effects of consultation and participation in development processes, including Lithuania, Spain, Ghana and Cambodia. In Cyprus, civil society actors are partners in the implementation of the Sustainable Development

<sup>91</sup> [www.nps.gov/orgs/1207/vse2020.htm](http://www.nps.gov/orgs/1207/vse2020.htm).

<sup>92</sup> African Court on Human and Peoples' Rights, *African Commission on Human and Peoples' Rights v. Kenya*, Application No. 006/2012, Judgment, 26 May 2017, paras. 207–211.

<sup>93</sup> See allegation letter AL TZA 3/2021.

<sup>94</sup> Supreme Court of Norway, *Appeal against Frostating Court of Appeals' reappraisal of 8 June 2020*, case Nos. 20-143891SIV-HRET, 20-143892SIV-HRET and 20-143893SIV-HRET, Judgment, 11 October 2021. Available at [www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/hr-2021-1975-s.pdf](http://www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/hr-2021-1975-s.pdf).

Goals,<sup>95</sup> whereas Mexico seeks to change the paradigm from people as recipients of government actions to people as active generators and participants.<sup>96</sup>

79. As stated by the Committee on Economic, Social and Cultural Rights, the right of everyone, individually or in association with others or within a community or group, to take part in cultural life, includes the obligation to take part freely in an active and informed way, and without discrimination, in any important decision-making process that may have an impact on one's way of life and cultural rights.<sup>97</sup> At a minimum, development that is respectful of rights requires meaningful consultation with and full and effective participation of those likely to be affected in their way of life and in their rights, including indigenous peoples, minorities, peasants, and women and young people. Respecting consultation and participation rights helps to guarantee that the cultural rights of all are respected in development processes but also creates space for culturally informed development approaches.

80. Consultation and participation rights for minorities are further protected through international human rights standards, such as the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (arts. 2 and 4) and the Council of Europe Framework Convention for the Protection of National Minorities (art. 15). Core obligations under the right to take part in cultural life include allowing and encouraging the participation of persons belonging to minority groups, indigenous peoples or members of other communities in the design and implementation of laws and policies that affect them.<sup>98</sup>

81. In the context of indigenous peoples, States must work in good faith to obtain their free, prior and informed consent before adopting or implementing any development measure that may affect them.<sup>99</sup> As noted in a study of the Expert Mechanism on the Rights of Indigenous Peoples, free, prior and informed consent is grounded in the right to self-determination guaranteed by article 1 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the right to be free from racial discrimination guaranteed in the International Convention on the Elimination of All Forms of Racial Discrimination ([A/HRC/39/62](#)). Free, prior and informed consent is now viewed as the “gold standard” for indigenous peoples in the context of development, with international financial institutions and national Governments obligating themselves to comply.

82. The rights to consultation, participation and free, prior and informed consent are keys to protecting the collective rights of indigenous peoples and other groups and are integral to the ability of all to safeguard their cultural rights and to engage in self-determined development. Development agendas that are dictated by national Governments and international bodies, which are not the best placed to identify cultural rights risks and to mitigate the impact of development projects on those rights, violate cultural rights.<sup>100</sup>

83. However, ensuring real participation is currently a challenge. Stakeholders criticize the top-down approach in implementing the 2030 Agenda, which often becomes yet another technocratic narrative.<sup>101</sup> Performance is variable from country

<sup>95</sup> Contribution of Cyprus, pp. 2 and 3.

<sup>96</sup> Contribution of Mexico, p. 5.

<sup>97</sup> General comment No. 21 (2009) on the right of everyone to take part in cultural life, para. 49 (e).

<sup>98</sup> General comment No. 21 (2009), para. 55 (e).

<sup>99</sup> United Nations Declaration on the Rights of Indigenous Peoples, art. 19.

<sup>100</sup> See, for example, the opinion approved by the Committee on the Elimination of Racial Discrimination under article 14 of the Convention concerning communication No. 54/2013 ([CERD/C/102/D/54/2013](#)), paras. 6.11–6.15.

<sup>101</sup> Contributions of Estefania Rodero Sanz, p. 1, and the British Council, p. 1.

to country. For example, the International Federation of Library Associations and Institutions observed that sometimes, Governments are open and committed to engagement, while in other cases, the implementation of the Sustainable Development Goals is left to formalistic bodies which have little real impact.<sup>102</sup> In Argentina, it is reported that a law on the environment recognizes the right of each person to be consulted and to give opinions in administrative procedures related to the preservation and protection of the environment, but not in sustainable development processes more broadly. Indigenous peoples are often unaware of the institutional avenues to participate in the policies that impact them in a manner that is active, dynamic and culturally appropriate.<sup>103</sup> In the Canary Islands in Spain, an attempt to consult the local population about a large gas energy development was reportedly interrupted by the Government, leaving locals feeling unappreciated.<sup>104</sup> In Slovakia, it is reported that efforts to ensure participation are being made, but too little time is given to ensure that all voices are heard.<sup>105</sup>

84. Importantly, States and development agencies should be moving towards ensuring that, in addition to respecting the rights to consultation, participation and free, prior and informed consent, development projects are community led. This requires not merely participation but leadership by local communities at all stages of development projects (conception, design, decision-making, implementation and management), ensuring their agency in and ownership of the entire process.<sup>106</sup> It embodies a “bottom-up” approach, in which multiple stakeholders, including the most marginalized in society, are given decision-making authority in the conception and implementation of development and in which States and international development actors should incentivize and provide financial and technical support to those seeking to engage with development processes.

85. The implementation of development strategies and the identification of priorities at the regional and local levels are seen as a better way to give consideration to the cultural dimension of development. Contributors from Spain and Québec have commented on the positive impact of adopting the Agenda 21 for Culture at the regional level.<sup>107</sup> Spain has also given the responsibility to local authorities to increase their appropriation of the 2030 Agenda.<sup>108</sup>

86. The voluntary local reviews led by local and regional governments are a growing phenomenon that help the effective implementation of Sustainable Development Goals and ensure that wider views are expressed in the process. In the Basque Country in Spain, for instance, a general secretariat for social transition and the 2030 Agenda voluntarily reports on the local contribution to the Goals.<sup>109</sup> However, although relevant, the contribution of local governments is not featured very prominently in national and international reports.<sup>110</sup>

#### **D. Gentrification and cultural rights**

87. Economic development policies can spur economic growth, improve standards of living and create safer and more prosperous places to live. In some urban settings, dilapidated neighbourhoods have been revitalized through redevelopment projects,

<sup>102</sup> Contribution of the International Federation of Library Associations and Institutions, p. 3.

<sup>103</sup> Contribution of the Defensor del Pueblo de la Nación – República Argentina, pp. 3–6.

<sup>104</sup> Contribution of Fundació Josep Irla, p. 3.

<sup>105</sup> Contribution of the Slovak National Centre for Human Rights, p. 4.

<sup>106</sup> Contribution of the British Council, p. 2.

<sup>107</sup> Contributions of Estefania Rodero Sanz, p. 1, and Véronique Guèvremont, p. 5.

<sup>108</sup> Contribution of UNESCO Etxea, pp. 1, 2 and 5.

<sup>109</sup> *Ibid.*, p. 3.

<sup>110</sup> Contribution of Yereliz, pp. 3 and 4.

with new or improved jobs, essential services, infrastructure, housing and green space. When implemented carefully, such policies can lead to sustainable urban regeneration, making cities more liveable and creating spaces where communities and cultures can flourish.

88. Too often, however, the benefits of economic growth do not flow to the long-standing working-class residents of those cities. Instead, the benefits result in gentrification, a contested concept that generally describes a process of neighbourhood change, whereby financial investment results in an influx of higher-income residents and the displacement of the lower-income, often marginalized or minority inhabitants. This is the direct result of economic development policies and practices that over-emphasize private investment and the commodification of housing, exacerbating existing inequalities and depriving many people of their ability to continue to afford to live in their neighbourhoods.<sup>111</sup> Gentrification presents a key challenge for authorities, communities and developers trying to revitalize neighbourhoods that have historically suffered from underinvestment, while also avoiding the displacement of lower-income inhabitants.

89. As noted in a report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, discussions in human rights forums have typically focused on the negative impacts that gentrification has on economic and social rights, including the rights to adequate housing, education and health care (A/HRC/13/20). Notwithstanding, gentrification also poses significant threats to cultural rights. Neighbourhoods are not only transformed physically but culturally as well through physical and demographic change that disrupts the cultural connections that people have with place and community.

90. While many lower-income residents are forced to relocate to more affordable neighbourhoods (often outside city centres), those that remain are subjected to forms of cultural displacement, characterized by new spaces, norms and traditions that cater to the incoming wealthier residents and replace their own. Retail spaces, entertainment venues, eateries and public spaces accommodate the tastes of middle- and upper-class residents, transforming the character of the neighbourhood and causing a sense of cultural dislocation for incumbent residents.

91. Gentrification threatens minority cultures through urban development projects throughout the world. For example, a project in North London sought to regenerate an area that housed the Seven Sisters Market, also commonly referred to as the “Latin Market,” the “Latin Village” or “El Pueblito Paisa”. The market is a bustling commercial centre and a unique cultural hub for Latin American traders, their families and members of the wider Latin American community in London. Among other things, the market provides a vital space for these individuals and communities to meet, speak their language, engage in traditional activities and participate in cultural life, including through intercultural interactions with other traders originating from more than 20 nations.

92. For 15 years, local residents, small business owners and traders campaigned against the planned redevelopment project, partially on the grounds that it would violate their cultural rights under international law.<sup>112</sup> This campaign spurred the interventions of several United Nations special procedures, including the previous Special Rapporteur in the field of cultural rights, calling on the Government to respect the cultural rights of minority traders and to adopt measures to protect and fulfil these

<sup>111</sup> OHCHR, contribution to the 2014 Economic and Social Council integration segment. Available at [www.un.org/en/ecosoc/integration/pdf/officeofthehighcommissionerforhumanrights.pdf](http://www.un.org/en/ecosoc/integration/pdf/officeofthehighcommissionerforhumanrights.pdf).

<sup>112</sup> [https://savelatinvillage.org.uk/about\\_us/](https://savelatinvillage.org.uk/about_us/).

rights.<sup>113</sup> This grass-roots campaign ultimately succeeded, with the property developer withdrawing from the site in August 2021 – a rare victory for the protection of minority cultures in the face of large-scale economic development.

93. Development for the purposes of urban regeneration is not sustainable or rights-respecting when it gentrifies lower-income and/ or minority neighbourhoods. This is the case even for seemingly positive environmental improvements or amenities (e.g. parks, trees and trails) that raise property values – a phenomenon one could describe as “green” or “environmental” gentrification.<sup>114</sup> As city planners and developers increasingly seek to improve urban green spaces to mitigate the effects of climate change, precautionary measures must be taken to protect against gentrification and its accompanying cultural impoverishment.

## VII. Conclusions and recommendations

94. **Cultural rights are at the core of sustainable development processes and should be recognized in that capacity. They are about the “how”, the manner in which we live our lives, how we see our world and how we transmit our values. Accordingly, cultural diversity is crucial for the human ecosystem and for the sustainability and resilience of the wider ecosystems, together with biodiversity, to which it is interlinked. Cultural diversity opens avenues towards implementation that recognizes the value of both traditional and modern knowledge and encourages their synergies.**

95. **Recalling that the Sustainable Development Goals are a voluntary process enshrined in human rights that remain obligations under international law, the Special Rapporteur underlines that no violation of human rights, including cultural rights, may be justified in the name of development or sustainable development.**

96. **There is a need to adopt a human-rights-based approach that includes cultural rights throughout the implementation and monitoring of Goals. The indivisibility, universality and interdependence of all human rights ensure coherence and provide clear red lines to guarantee sustainability and prevent harm; the realization of one human right cannot be isolated from its impacts on other rights, either in planning, implementation or impact assessment and evaluation.**

97. **In many cases, “development” policies and strategies reflecting dominant cultural viewpoints or those of the most powerful sectors of society, with historic ties to colonialism and domination, are designed and implemented to the detriment of the most vulnerable in a manner that impedes the future sustainable development and survival of these persons and communities and probably, in the longer term, of humanity. The need to accept and consider frameworks that sit outside mainstream approaches has become urgent. Cultural diversity is as key to our future as biodiversity is; they are interrelated.**

98. **People and peoples must be the primary beneficiaries of sustainable development processes. The Special Rapporteur recommends, in particular, that States, international organizations and other stakeholders ensure that sustainable development processes:**

(a) **Are culturally sensitive and appropriate, contextualised to specific cultural environments and seek to fully align themselves with the aspirations,**

<sup>113</sup> See joint allegation letters JAL GBR 3/2017 and GBR 1/2019. See also <https://savelatinvillage.org.uk/wp-content/uploads/2021/03/Haringey-Council-15-Mar-2019.pdf>.

<sup>114</sup> Colin Luoma in expert consultation.

customs, traditions, systems and world views of the individuals and groups most likely to be affected;

(b) Fully respect and integrate the participation rights and the right of affected people and communities to free, prior and informed consent;

(c) Are self-determined and community led;

(d) Are preceded by human rights impact assessments to avoid any negative impacts on human rights, including impact assessments on cultural rights; any impact assessment failing to address living heritage or the cultural significance of affected natural resources, or conducted without the free, prior and informed consent, consultation and active participation of the persons and communities affected directly or indirectly, should be rejected as insufficient and incomplete;

(e) Recognize that indigenous peoples must give their free, prior and informed consent before any project that affects them is implemented.

99. The Special Rapporteur also recommends that States, international organizations and other stakeholders:

(a) Establish better protections for the vulnerable workers in the informal creative industries or artisan economy, which supports sustainable livelihood models;

(b) Ensure that local communities are consulted and lead programmes on sustainable development that is consistent with their values and priorities;

(c) Support the cultural sector's contributions to sustainable development, not restricting them to only certain types of outputs – those that can be marketed and measured – but rather recognizing their potential impact on all goals and policies.

100. The Special Rapporteur lends her full support to the Culture 2030 Goal campaign envisioning the recognition of culture as the fourth pillar of sustainable development, including a stronger place for culture throughout the implementation of the 2030 Agenda; the adoption of a stand-alone goal on culture in the post-2030 development agenda and the adoption of a global agenda for culture.

101. She further calls for the establishment and use of appropriate indicators and the consideration of an inter-agency platform measuring the contribution of culture to the achievement of every target of the Sustainable Development Goals, based on the UNESCO Culture 2030 Indicators framework and the OHCHR human rights indicators, as well as the availability, accessibility, acceptability, adaptability and appropriateness conditions for the implementation of economic, social and cultural rights.