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Background research to support the work of the ICOMOS Indigenous Heritage Working Group

May 2019

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ICOMOS Canada is the Canadian committee of the International Council on Monuments and on Sites, the only global non-governmental organization dedicated to the conservation of the world's cultural heritage places. It carries out its mandate through over 100 national committees and 28 international scientific committees. One of its important mandates is to advise UNESCO on cultural heritage matters especially in the context of the World Heritage Convention. ICOMOS Canada is the Canadian national committee of ICOMOS. Become a member **online**.

    P.O. Box 737, Station B
    Ottawa, Ontario
    CANADA K1P 5P8

    E-Mail: secretariat@canada.icomos.org

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    C.P. 737, Succursale B
    Ottawa, Ontario
    CANADA K1P 5P8

    Courriel : secretariat@canada.icomos.org

canada.icomos.org

Introduction from the President of ICOMOS Canada

On behalf of ICOMOS Canada, I am pleased to submit this report to the international community of heritage practitioners, members of ICOMOS. This report is the result of the work of Dr. Michael O'Flaherty, Assistant Professor at the University of Manitoba, in collaboration with the ad hoc group of ICOMOS members interested in implementing Resolution 19GA 2017/27 approved at the Assembly General of Delhi.

This resolution, unanimously supported by the General Assembly, recognizes the organizational challenges surrounding the understanding, evaluation and conservation of sites that express Indigenous heritage values. As the World Heritage Convention expands its influence and the World Heritage List welcomes new examples of the richness of the human experience, the ICOMOS community offers a space for exchanging and reflecting on the characteristics of Indigenous heritage and its contribution to the heritage of humanity.

The challenge is important. The theory and practice of heritage conservation remain largely rooted in a Western tradition that has nevertheless opened up to other cultural expressions of heritage at ICOMOS through tools such as the *Nara Document on Authenticity*, international charters on cultural landscapes and cultural routes, as well as national charters and declarations of general meetings. These existing tools remain incomplete in part because they do not fully integrate intangible dimensions and the link between culture and nature, both aspects being essential ingredients of the Indigenous heritage worldview.

The challenge must be met. ICOMOS has already begun substantive work over the past few years in addressing the indigenous dimensions of heritage through many recent initiatives, including the *Culture-Nature Journey,* the *Our Common Dignity Initiative - Rights-Based Approach*, and the *Connecting Practice Project*. The initiative launched at the Delhi General Assembly aims to focus the attention of expert members, national committees, and international scientific committees on the need to develop adequate tools and directly involve representatives of indigenous communities in the work of ICOMOS.

This report is the first step in a long process to better understand the many facets of Indigenous heritage. The initial choice to pay particular attention to the World Heritage context is deliberate. An increasing number of sites with indigenous dimensions are on national Tentative Lists for submission to World Heritage. ICOMOS, as an advisory body to the UNESCO World Heritage Committee, will have to study these proposals taking into account the cultural specificities that define them and must therefore be adequately equipped to implement its mandate in respect of human cultural diversity.

That said, the subject must be studied in all its complexity, beyond the parameters of the Convention, a work that will be the subject of the mandate of a future committee, soon to be established.

ICOMOS Canada is pleased to have taken the initiative to begin the work of the organization on the subject. In the spirit of our own priorities on Indigenous heritage, cultural landscapes, and climate change, our support is the tangible mark of the important international contribution that Canadian experts can make on the subject.

Christophe Rivet, PhD

President
ICOMOS Canada

Background Research for Indigenous Heritage Working Group

FINAL REPORT
– May 20, 2019 –

for:

ICOMOS CANADA

by:

R. Michael O'Flaherty

Eco-Ant Research and Consulting

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Introduction

Purpose

This report provides background on and discussion of indigenous heritage in the World Heritage context. Background consists of history of representation of indigenous heritage in World Heritage sites and decisions and actions taken by the World Heritage Committee with respect to indigenous peoples and their heritage. Discussion focuses on recent and ongoing challenges and opportunities for better understanding and recognizing indigenous heritage as World Heritage.

As per the Terms of Reference, this report is expected to inform discussions within the ICOMOS Indigenous Heritage Working Group and development of a work plan, including for organization of an international workshop. The report does not seek to make definitive statements on indigenous heritage and how it should be addressed in the World Heritage context, nor can the report speak to how ICOMOS interacts directly with indigenous peoples or States Parties.

The Terms of Reference for this report are provided in Appendix Seven.

Scope

The focus of this report is specifically on indigenous cultural heritage as World Heritage. Only cultural or mixed sites on the World Heritage List or Tentative Lists are discussed in any detail. Sites on the List of World Heritage in Danger are here considered along with sites on the World Heritage List, without making any distinction between the two lists. Where knowledge of indigenous heritage and/or indigenous peoples, and in particular where they are participating in site management, is available for sites proposed or inscribed under only natural criteria, a record of these sites is made but no attempt is made to provide detail or analysis.

The focus is also on implementation issues associated with the *Operational Guidelines* and other policy, with emphasis on better understanding how indigenous heritage is identified and represented on the World Heritage List. While implementation of the *World Heritage Convention* must address issues of indigenous peoples rights, as outlined for instance in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and confirmed by the UNESCO *Policy on Engaging with Indigenous Peoples* (2018), this report does not directly address rights.

ICOMOS has committed to implementing rights-based approaches in World Heritage, including through the initiative Our Common Dignity (discussed further in the section, "International Efforts to Better Address Indigenous Heritage"). Because the legal and policy contexts of States Parties differ considerably, it is necessary to respect international standards for rights when implementing protection and management in the World Heritage context. Respecting the rights of indigenous peoples, including by ensuring their participation in identification, nomination and management of their heritage, will substantially improve identification,

representation and protection of indigenous heritage as World Heritage. The Advisory Bodies have acknowledged,

> our shared work on nominations and conservation issues has shown the importance of finding constructive solutions where World Heritage processes intersect with the rights of indigenous peoples, cultural groups, local communities and individuals associated with World Heritage properties. Where rights issues are not addressed, a range of problems and conflicts can arise.[1]

Methods

Basic data on inscribed World Heritage sites, including site description and criteria under which sites are inscribed, was taken from the most recent digital version of the World Heritage List in Excel format (whc-sites-2018.xls), downloaded from the World Heritage Centre website. This Excel file was then expanded to include additional information such as the names of indigenous groups, whether indigenous heritage is living or relict, form of participation in management, and general themes addressed by sites. Further details on this expanded file are provided in a separate document (Description of Excel File whc-sites-2018 Markup.xls.docx); both are included with this report as separate files.

All charts and tables presented in this report are based on the information contained in the expanded Excel file (whc-sites-2018 Markup.xls). This spreadsheet is provided as a starting point for discussion of indigenous peoples and their heritage; hopefully this file becomes a living document that will be updated and refined though discussion within the Working Group.

Decisions on whether or not a site represents indigenous heritage were in most cases based on a review of the Statement of OUV found on the World Heritage Centre website. In many cases, and especially where details on indigenous peoples and their heritage was not clear from the Statement of OUV, the ICOMOS Evaluation and, in some cases, even the nomination document were also consulted.

Since there is no list of indigenous peoples around the world to work from, web-based resources were also important in identifying indigenous peoples. Sources included, the International Work Group on Indigenous Affairs (IWGIA), Denmark, and where possible, local indigenous peoples' representative organizations such as: the Indigenous Peoples of Africa Co-ordinating Committee (IPACC); Aliansi Masyarakat Adat Nusantara (AMAN), Indonesia; Nepal Federation of Indigenous Nationalities (NEFIN); Russian Association of Indigenous Peoples of the North (RAIPON); Union of Indigenous Nomadic Tribes of Iran (UNINOMAD). Where people are participating in or members of local indigenous peoples representative organizations, they are assumed to be indigenous peoples. Minority Rights Group International, a widely cited source for information on indigenous peoples, was

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[1] ICOMOS, IUCN and ICCROM (2014), "World Heritage and Rights-Based Approaches".

cautiously consulted but was largely unhelpful since they group indigenous peoples with all minorities, including religious minorities.

It is unlikely any definition or set of criteria for assigning sites into "indigenous" and "non-indigenous" categories will be appropriate in all cases or satisfy all interests. As a result, deciding which sites contain indigenous heritage is somewhat arbitrary; classifications made in this report are therefore not statements of fact but interpretations that represent an initial attempt to provide an overview of representation of indigenous heritage in World Heritage. Continued refinement can be made through engagement with regional and subject matter expertise.

The review of World Heritage Committee decisions is limited to direct references to indigenous peoples and their heritage, and includes "case law"; that is, "Documents and Decisions adopted by the World Heritage Committee, primarily emerging from individual cases", as defined in the Draft Policy Compendium.[2] Committee decisions were compiled from: (a) a search of decisions posted on the World Heritage Centre web site (whc.unesco.org) that contain the term "indigenous", and (b) individual cases that have been highlighted in recent literature on the heritage and rights of indigenous peoples.

Using "indigenous" as a search term may have limited utility in cases where indigenous peoples were not identified as indigenous or referred to as a "local population". In addition, older World Heritage reports were much less detailed and tended to focus more strictly on the physical fabric of properties so references to indigenous people and their heritage are generally absent.

A draft version of this report was shared with members of the Working Group; comments and suggestions were addressed to an extent possible within the scope of the project and the tight timelines.

Content of Report

1. Challenge of Defining Indigenous Heritage; an introduction to issues in defining indigenous heritage and the importance of including indigenous heritage on the World Heritage List.

2. History of Indigenous Heritage as World Heritage, starting from drafting of the *Convention* (1972) to the present (2018, the most recent WHC meeting).

3. Discussion of Issues in Addressing Indigenous Heritage, an overview of concerns with respect to indigenous heritage in World Heritage, focusing on nomination and inscription under cultural criteria.

4. International Efforts to Better Address Indigenous Heritage, focussing on recent initiatives in which ICOMOS participates.

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[2]   UNESCO (2018b), "The Draft Policy Compendium 2018". WHC/18/42.COM/11.

Challenge of Defining Indigenous Heritage

Complicating efforts to better recognize indigenous heritage as World Heritage is an absence of clear guidance on who indigenous peoples are and what their heritage constitutes. There is no public guidance or policy document from UNESCO that actually indicates how to identify indigenous peoples or their values. There is, for instance, the UNESCO *Policy on Engaging with Indigenous Peoples* (hereafter "the UNESCO *Policy*)[3] but that policy contains no clear guidance on how to interpret, in real-life scenarios, what peoples the policy actually applies to.

The provisions of the UNESCO *Policy* specifically relevant to World Heritage (i.e. Article 77(p), "policies, interventions and practices of conservation and management in and around cultural and natural heritage sites") appear largely if not wholly addressed through the "Policy Document for the Integration of a Sustainable Development Perspective into the Processes of the *World Heritage Convention*".[4] Article 22.ii of the World Heritage Sustainable Development Policy calls on (not requires) States Parties to,

> Ensure adequate consultations, the free, prior and informed consent and equitable and effective participation of indigenous peoples where World Heritage nomination, management and policy measures affect their territories, lands, resources and ways of life.

Given there are States Parties, including those that have endorsed UNDRIP, that do not recognize *as indigenous people* all or some of their constitutent populations who self-identify as indigenous people, it is likely that at some point decisions will need to be made in specific cases as to whether or not the provisions of Sustainable Development Policy article 22.ii are in fact being observed. Note however that the provisions of article 22.ii are not requirements so it is unclear if States Parties, the World Heritage Committee and potentially the Advisory Bodies will actually be required to make an interpretation or statement on indigenous peoples "where World Heritage nomination, management and policy measures affect their territories, lands, resources and ways of life".

The *Operational Guidelines* also contain no requirements to actually identify indigenous peoples and seek their consent in the creation and management of World Heritage sites. As discussed in the next section, under "4. World Heritage Committee Decisions", article 123 of the *Operational Guidelines* only encourages States Parties *to demonstrate* free, prior and informed consent of indigenous peoples has been obtained, not in fact require that such consent be obtained. Article 40 includes Indigenous peoples as potential "partners in the protection and

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[3] UNESCO (2018a).
[4] UNESCO (2015). Footnote 11 to Article 77(p) of the UNESCO *Policy* states, "For World Heritage sites, see Policy Document for the Integration of a Sustainable Development Perspective into the Processes of the World Heritage Convention".

conservation of World Heritage". In both cases, States Parties, and by extension the Committee and ICOMOS, are not required to actually identify indigenous peoples.

State Party identification of indigenous peoples and their heritage has been substantially improved by changes to Periodic Reporting, as per Decision 41 COM 11, Article 11 that adopts proposed revisions to the *Operational Guidelines*, Chapter V and Annex 7. These changes seek to implement the Sustainable Development Policy by producing measurable and therefore globally comparable data, as well as by raising awareness of the topic among State Parties and site managers.[5]

The questionnaire for Periodic Reporting, Cycle 3, request from States Parties detailed information on engagement with indigenous peoples but does not ask States Parties or site managers to identify specific indigenous peoples at specific sites. For example, question 4.1 of Section I asks States Parties to rate the level of involvement of indigenous peoples "in the preparation of the most recent nomination dossiers". Question 5.3.15 of Section II, to be answered by specific site managers, asksDoes the management system include formal mechanisms and procedures that ensure participation and contribution of the following groups [including indigenous peoples], living within or near the World Heritage property and/or buffer zone in management decisions that maintain the Outstanding Universal Value of the property?" The full questionnaire can be found on the World Heritage Centre website (http://whc.unesco.org/en/prcycle3/). An overview of content relevant to indigenous peoples is provided in Appendix Six.

Lastly, the Global Strategy for a Representative, Balanced and Credible World Heritage List — which has as one of its objectives "to broaden the definition of World Heritage to better reflect the full spectrum of our world's cultural and natural treasures" — has improved representation of indigenous heritage, largely indirectly, by promoting nominations from regions and on themes that are underrepresented. Although there are comparative or thematic studies on topics that pertain directly to indigenous heritage (e.g., Cultural landscapes of the Pacific Islands, 2007, and Rock Art of Sahara and North Africa, 2007), there are no such studies that seek to identify and explain gaps for indigenous heritage *as a specific form of heritage*.

In sum, existing Word Heritage policy does not require ICOMOS to actually define "indigenous peoples" or "indigenous heritage" but instead encourages an ad hoc approach that relies on States Parties to identify indigenous peoples associated with existing or proposed sites. If, for example, there was a requirement in the *Operational Guidelines* that all nominations were to formally document the free, prior and informed consent of affected indigenous peoples *in order for a nomination to be considered complete*, that requirement would then necessitate the World Heritage Centre, perhaps with the assistance of the Advisory Bodies, actually confirm which indigenous peoples are affected and on what basis their indigeneity

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[5] Periodic Reporting takes place over a six-year cycle, with States Parties and site managers from each reporting region submitting reports in a specific year, following the order: Arab States, Africa, Asia and the Pacific, Latin America and the Caribbean, then Europe and North America. Cycle 3 is to take place between 2018 and 2024 (https://whc.unesco.org/en/periodicreporting/).

or lack thereof is determined. Such a determination could not simply be left to the States Parties themesleves given differing interpretations of which ethnic groups should be considered indigenous, not to mention that some States Parties do not even recognise the existence of indigenous peoples withing their counties. As the *United Nations Declaration on the Rights of Indigenous Peoples* asserts, "Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions" (Article 33).

Under these circumstances, it may be prudent for ICOMOS to continue to address concerns for participation of indigenous communities in identification and management of cultural and natural heritage on a case-by-case basis, rather than seek to actually define the term "indigenous" in advance or create an official list of who is indigenous.

That said, for the purposes of future discussions within ICOMOS about how to better identify and incorporate indigenous heritage on the World Heritage list, it is useful to provide here a working definition with the understanding that any definition is unlikely to satisfy all sectors and apply equally to all cases around the world.

Working Definition of Indigenous

There are two directly relevant sources of guidance in the World Heritage context for a definition of indigenous peoples. First is the *Indigenous and Tribal Peoples Convention* (International Labour Organization 1989), which refers to

> peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

Second is the definition proposed by Jose R. Martínez Cobo who, as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, produced the landmark *Study of the Problem of Discrimination against Indigenous Populations*:

> Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.[6]

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[6] Cobo (1983), *Study of the Problem of Discrimination,* p. 50, para. 379.

An Approach to Indigenous Heritage

As suggested earlier, the World Heritage policy context speaks specifically to indigenous peoples but ICOMOS does not need to adopt a specific definition of indigenous to address indigenous heritage in the World Heritage context. Rather, it is proposed here that ICOMOS define an *approach* to addressing indigenous people and their heritage. Such an approach to indigenous heritage in World Heritage could be based on the following principles:

1. Recognition of the rights of indigenous peoples, as supported by existing policy and the ICOMOS commitment to rights-based approaches in their work on World Heritage.[7]

2. Self-identification as indigenous peoples should be the first principle in determining to whom World Heritage policy on indigenous peoples applies. Both the ILO *Convention* and the Cobo report stress the importance of self-identification as indigenous peoples, regardless of their identification by the state in which they reside: "indigenous populations must be recognised according to their own perception and conception of themselves in relation to other groups".[8] This conforms to Article 33 of UNDRIP, cited above. Nothing in the approach proposed here or in any future action by ICOMOS should detract from the right of indigenous peoples to determine who is considered a member of a specific indigenous people or how that membership is assigned.[9]

3. Be adaptive rather than definitive, in order to respond to complexities in how specific peoples self-identify as indigenous as well as emerging issues in understanding of indigeneity worldwide.

4. Wherever possible, the identification and meaning of indigenous heritage needs to be defined in specific cases by the bearers of that heritage themselves. While it is possible to identify some common features of indigenous heritage very generally (e.g., holism, attribution of agency and/or "spirit" to the natural world), such features do not form the basis for a definition of indigenous heritage as a type of heritage.

5. In practice and where possible, err on the side of inclusivity. Attention needs to be paid to balancing concern for local peoples, or ethnic minorities, not identified as indigenous. Such people may live side-by-side with indigenous peoples, express similar values and experience similar socio-economic problems. As the Indigenous Peoples of Africa Co-ordinating Committee has suggested, "Some Africans may be offended by the idea that one ethnic group should be called 'indigenous' and others not. IPACC recognises that all

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[7] As per the *Our Commond Dignity* initiative, discussed in the section "International Efforts to Better Address Indigenous Heritage."

[8] Cobo (1983), *Study of the Problem of Discrimination*, p. 49, para. 368.

[9] For the purposes of understanding indigenous (cultural) heritage as World Heritage, it makes little sense, at least at this point in time, to address the indigenous identity of individuals. ICOMOS has no reason to be involved in assessment of how indigenous peoples assign membership in an indigenous identity.

Africans should enjoy equal rights and respect. All of Africa's diversity is to be valued".[10]

This reflects the *Indigenous and Tribal Peoples Convention*, in which there is a conceptual distinction made between indigenous and tribal peoples — a distinction that needs to be upheld in World Heritage given the existence of UNESCO policy specific to indigenous peoples — but a lack of distinction in practical application.[11] Local non-indigenous ("tribal") communities should be afforded the same human dignity by seeking their consent and participation in World Heritage processes that affect their lands, resources and ways of life, but without invoking policy on indigenous peoples.

Application of an Approach to Indigenous Heritage

The Terms of Reference for this report require idenitificataion of indigenous heritage among sites on the World Heritage List and the Tentative Lists. The purpose of this exercise is to initiate discussion in the Working Group and not to create an authoritative list of indigenous peoples in World Heritage. Therefore, some of the following issues raised in identification of indigenous heritage for the purposes of this report are not necessarily the same issues that will be faced through the real-world work in which ICOMOS engages.

Perhaps the most intuitive aspect of indigeneity is the notion of being of the land, being the original inhabitants who precede arrival of other, generally distinctly different, groups and especially settlers fom other lands. In most cases, this is the basis for identifying indigenous people; however, the importance of "historical continuity" need not be understood only in terms of autochthonous status in relation to a more recent immigrant and/or settler population. As Cobo suggests, historical continuity may also be expressed through persistence of cultural traditions, and in particular those that separate indigenous peoples from a cultural majority, rather than actual occupation of ancestral lands; such traditions are "the basis of their continued existence as peoples". Thus, indigenous peoples continuing their cultural traditions outside of the lands they historically occupied, including people living in urban centres, are still indigenous.

Identification of indigenous peoples in ("sub-Saharan") Africa seems particularly vexed and is therefore worthy of note here. There are a great number of African peoples who maintain a unique cultural identity rooted in their historical attachment to a specific area but are not considered indigenous (e.g., Dogon, Yoruba). This tendency may reflect an understanding of "indigenous" as being autochthonous and therefore preceding arrival of other African cultural groups, as the people conventionally understood to be indigenous largely have very unique linguistic and genetic characteristics associated with their ancient roots in the

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[10] http://www.ipacc.org.za/en/africa's-indigenous-people.html.

[11] Article 28 of ILO Convention (C169) does have provisions specific to indigenous languages but that is the only distinction.

continent.[12] Even if such a perspective is adopted for Africa, it is not consistent with how indigenous peoples are identified in other regions.

Moreover, it is inappropriate to see indigenous peoples of Africa (or elsewhere for that matter) as corresponding to classic anthropological categories of hunting and gathering and pastoralism. This neglects the way hunting, fishing, gathering, agriculture, and herding are livelihood strategies that people adopt, in various combinations, under certain ecological circumtances; such circumstances can change as a result of environmental change, demographic change, or movement to new environmental conditions. Livelihood strategies are not a reliable marker of a *type* of human society, much less a society that must carry a double-generalisation such as "indigenous hunter-gatherer". It is not sensible that farming should disqualify a people as indigenous in an African context. Such a standard is not applied in the rest of the indigenous world.

Further discussion is therefore needed to better understand how approaches to respecting the rights and interests of indigenous peoples in World Heritage processes can be applied in an African context, without abandoning the specificity of the term "indigenous" and the primacy of the principle of self-identification as indigenous peoples. For the purposes of this report, a restrictive, traditional approach to identifying indigenous peoples in Africa was adopted; in UNESCO's real-world work, a more inclusive approach is advised, following the IPACC principle that "all Africans should enjoy equal rights and respect."

Further to the issue of historical continuity, where World Heritage consists of archaeological remains without a clear and locally valued connection to living indigenous peoples (i.e. where heritage was not created *and currently valued* by living indigenous people), it is debatable that heritage should be seen as part of indigenous heritage. If the significance of relict, archaeological values is attributed by non-indigenous sources then that significance is not itself arising from an indigenous worldview. Where there is a clear connection between living people and archaeological remains, those "elements of the archaeological heritage constitute part of the living traditions of indigenous peoples".[13]

For example, at Qal'at al-Bahrain – Ancient Harbour and Capital of Dilmun (Bahrain), the Dilmun (Semitic-speaking peoples) may be considered indigenous but there is no sustained or self-identified cultural connection to present peoples so the site has not been classified as "indigenous". The same applies to sites such as Stone Circles of Senegambia (Gambia) and Tiwanaku: Spiritual and Political Centre of the Tiwanaku Culture (Bolivia), for which the culture that created the site has no sustained or identified cultural connection to present-day indigenous peoples living in the area.

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[12] See Indigenous Peoples of Africa Co-ordinating Committee (IPACC): "Peoples such as the San and Khoe, the Hadzabe, and the various 'Pygmy' forest peoples represent some of the oldest gene types on the planet" (http://www.ipacc.org.za/en/africa's-indigenous-people.html).

[13] ICOMOS (1990), *Charter for the Protection and the Management of the Archaeological Heritage*.

There are also sites for which the values of current indigenous peoples associated with a site are not part of site OUV; for instance, the Rock Shelters of Bhimbetka (India), where it is only noted "the cultural traditions of the inhabitants of the twenty-one villages adjacent to the site bear a strong resemblance to those represented in the rock paintings". A similar case is found at Kuk Early Agricultural Site (Papua New Guinea), where the current values of the indigenous Kawelka are not part of the OUV. While such sites may in fact reflect shared cultural traditions that are the basis for the continued existence of indigenous peoples, if that significance is not celebrated in site OUV then the site, as a World Heritage site, cannot be said to adequately reflect or celebrate indigenous heritage. Such a conclusion is a statement only of the way in which World Heritage status reflects indigenous heritage, not of the significance or continuity of indigenous heritage itself (outside of World Heritage).

Examples of archaeological sites where contemporary indigenous people continue to value the site and therefore help to define its significance include: Quebrada de Humahuaca (Argentina), Kakadu National Park (Australia), Head-Smashed-In Buffalo Jump (Canada), Pimachiowin Aki (Canada), Konso Cultural Landscape (Ethiopia), Bassari Country: Bassari, Fula and Bedik Cultural Landscapes (Senegal), Papahānaumokuākea (United States of America) and Chief Roi Mata's Domain (Vanuatu).

Conclusions

The current World Heritage policy context provides no specific requirement for but expresses an expectation that State Parties ensure the free, prior and informed consent and effective participation of indigenous peoples, and only indigenous peoples, in development of nominations and in management of inscribed sites.

While there is no clear policy direction specific to the role of ICOMOS as an Advisory Body to the World Heritage Committee, ICOMOS can support policy on indigenous peoples by raising concerns to the Committee, and to States Parties through the Committee, where proposed and inscribed World Heritage sites demonstrate a neglect for the consent and participation of affected indigenous communities. The need to voice such concerns is directed by the commitment of ICOMOS to rights-based approaches (if not a moral imperative to uphold the integrity of World Heritage processes).

However, in some situations it may be unclear if a people associated with a proposed or inscribed site are in fact "indigenous" and therefore subject of the provisions of policy addressing indigenous peoples. Therefore, it is here recommended to adopt a flexible yet principled approach to addressing indigenous heritage as World Heritage. There is no need to define indigenous peoples or indigenous heritage but instead outline an approach to understanding and working with indigenous heritage.

For the purposes of this report, decisions as to who is and is not indigenous needed to be made and, as a result, the process was somewhat arbitrary as it depended on identification by the States Parties (in their Statements of OUV) and in many cases,

assessment without knowledge of how people self-identify (as discussed in Methods); therefore, assessments and all related figures on representation in World Heritage in the next section are suggestive only.

It may make sense for the World Heritage Centre to maintain a registry of people associated with specific sites that have self-identified as indigenous or are conventionally known as indigenous peoples. Such a registry is best developed not in the abstract, from some general definition of "indigenous", but from existing and emerging cases, and under the guidance of regional and subject matter experts, including indigenous peoples respresentative organizations and the International Indigenous Peoples Forum on World Heritage (IIPFWH). Such a registry may help identify and track progress on specific cases and, more generally, how well the World Heritage system is addressing indigenous heritage and the rights and interests of indigenous people in World Heritage.

History of Indigenous Heritage as World Heritage

This section provides a summary of historical trends in: (1) representation of indigenous heritage in proposed and inscribed World Heritage sites; and (2) actions related to indigenous heritage including World Heritage Committee decisions and other discussions specifically within World Heritage contexts.

The source data from which figures in this section are developed is contained in an Excel spreadsheet submitted with this report as a separate digital file (whc-sites-2018 Markup.xls). Additional details on this file are provided under Methods, above, and in a separate document (Description of Excel File whc-sites-2018 Markup.xls.docx) submitted with this report.

Given the difficulty in reliably identifying what sites contain indigenous heritage, data presented here is only a first cut to be further developed through regional and subject matter expertise.

1. Representation of Indigenous Heritage in Inscribed Sites

As of 2018, a total of 1092 sites have been inscribed on the World Heritage List, 883 of which are inscribed under cultural criteria, either as cultural or mixed sites. Fifty-three sites have been identified as containing indigenous heritage.

Appendix One provides a tabular summary of representation of indigenous heritage among all World Heritage sites inscribed under cultural criteria as of 2018. For those sites identified as having indigenous heritage, the following is provided: a general (high-level) description of values; the cultural name, where possible, of indigenous peoples associated with site; whether indigenous heritage is living or relict; the form of their participation in site management, if known; and the criteria under which the site is inscribed.

An additional sixty-six sites have been identified as possibly having indigenous heritage; these sites are listed in a second table provided in Appendix One. The uncertainty associated with these sites is not based on a lack of evidence of indigenous heritage, in which case sites were assessed as *not representing* indigenous values. If a Statement of OUV cannot even suggest the presence of indigenous heritage there is no reason to consider the site as representing indigenous heritage. This does not mean the site does not contain indigenous heritage or is not significant to indigenous peoples; indeed, the site may even celebrate its indigenous heritage, but *outside* of World Heritage.

Sites are identified as possibly containing indigenous heritage for two reasons: (1) there is no clear connection between relict, especially archaeological, values and current indigenous peoples, including through (intangible) associations; and (2) it is unclear if the people associated with that heritage should be understood as indigenous. In some cases, both issues applied (e.g., Ennedi Massif: Natural and Cultural Landscape (Chad), Ancient Villages of Northern Syria (Syrian Arab

Republic)) and these sites were classified in Appedix Two as lacking a clear connection to present indigenous peoples.

The approach taken here is to be fairly strict in defining indigenous heritage. The Working Group can consider what specific principles should guide how widely it is desireable to identify sites as indigenous.[14] Table 1 provides an outline of the regional distribution of those sites identified as possibly representing indigenous heritage, showing the reasons identified above: (1) "Connection" to present lacking, and (2) "Identity" as indigenous peoples uncertain. This information is provided here primarily in the interests of clarifying methods and calling attention to regional variations in certainty of identifying indigenous peoples.

TABLE 1.   REGIONAL DISTRIBUTION OF SITES IDENTIFIED AS POSSIBLY REPRESENTING INDIGENOUS HERITAGE

	NOT Indg.	POSSIBLY Indigen.		INDG.	sum
		Connection	Identity		
Africa	36	5	6	10	95
Latin America and the Caribbean	69	14	0	20	141
North America	10	3	0	7	40
Europe	424	0	4	3	476
Asia and the Paciic	158	2	21	12	256
Arab States	67	3	8	1	84
sum:	764	27	39	53	1092

Figure 1 provides an overview of the number of World Heritage Sites inscribed under cultural criteria since the adoption of the *Convention Concerning the Protection of World Cultural and Natural Heritage* by the General Conference of UNESCO in 1972. Separate portions of the total number of sites are shown as stacked areas, with their own colour and cross-hatching, for sites identified as: representing indigenous heritage; possibly representing indigenous heritage; and, not representing indigenous heritage (i.e. having a Statement of OUV that does not refer to indigenous heritage).

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[14]   A more inclusive interpretation of indigeneity would identify many more sites in Africa, including, for example, sites associated with the Dogon (Cliff of Bandiagara (Land of the Dogons), Mali) or the Yoruba (Osun-Osogbo Sacred Grove, Nigeria).
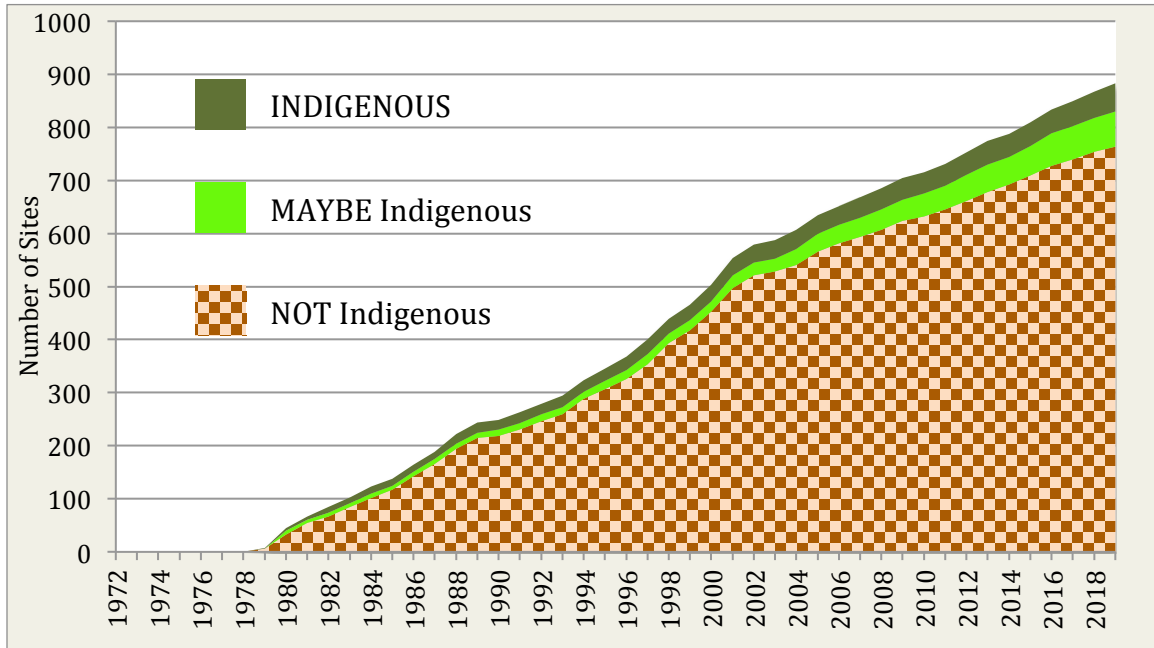
Figure 1.a shows the change over time in percentage of all sites that consist of those representing indigenous heritage. Separate lines are provided for sites identified as representing indigenous (Indg Hert) and for both these sites combined with those identified as possibly ("maybe") having indigenous heritage (Indg Hert + Maybe). The graph shows that with a strict definition of indigenous representation, the proportion of sites identified as having indigenous heritage has been fairly constant, perhaps even slowly declining with a slight uptick only in the last few years. In sum, indigenous heritage presently accounts for 6.0% of all heritage, while the average for the last twenty years (1999–2018) is 5.7%.

FIGURE 1.A RELATIVE PROPORTIONS, OVER TIME, OF SITES REPRESENTING INDIGENOUS HERITAGE AND THOSE NOT REPRESENTING INDIGENOUS HERITAGE
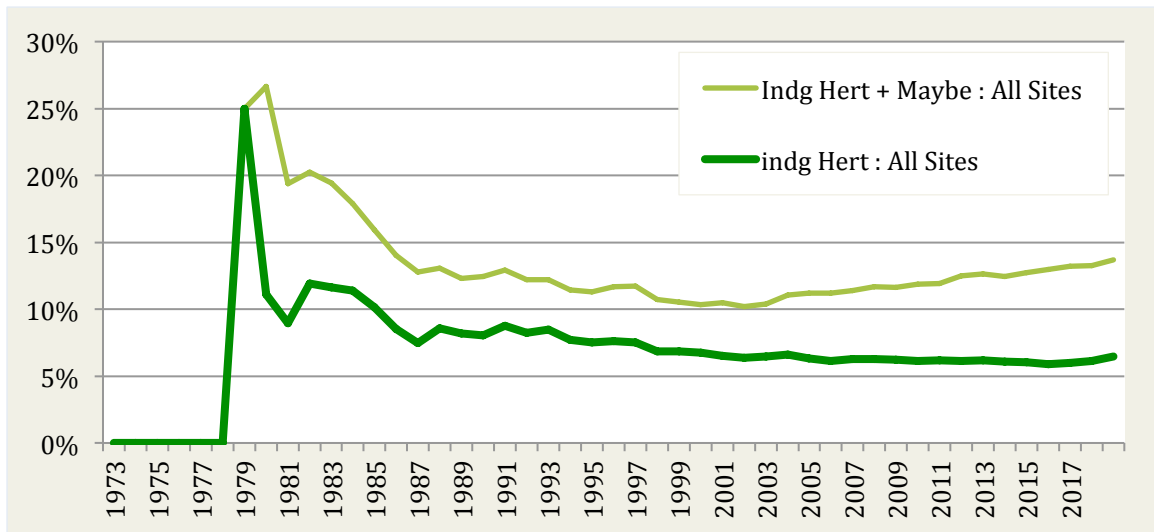
Figure 2 shows inscriptions over time for sites that include indigenous heritage as part of site OUV, broken down by region. Table 2 provides a summary of the data shown in Figure 2. In both cases, those sites assessed as possibly having indigenous heritage are excluded from the figures for representation of indigenous heritage; sites assessed as possibly having indigenous heritage are grouped here with sites not representing indigenous heritage.

For both Table 2 and Figure 2, the World Heritage region of "Europe and North America" has been split in two so as to better reflect the vastly different indigenous heritage found in these two regions. The region "Europe and North America" perhaps does make some sense in terms of linking people in the Arctic and Subarctic regions. The Working Group can consider if further work is needed to refine regions so as to better understand representation of indigenous heritage, keeping in mind that Periodic Reporting is summarised according to the established World Heritage regions.

TABLE 2.   REGIONAL REPRESENTATION OF INDIGENOUS HERITAGE (2018)

	Indigenous Heritage		NO Indigenous Heritage		
	Cultural	Mixed	Cultural	Mixed	Natural
Africa	9	1	43	4	38
Latin America and the Caribbean	15	5	81	2	38
North America	5	2	13	0	20
Europe	2	1	420	8	45
Asia and the Pacific	7	5	174	7	63
Arab States	1	0	75	3	5
TOTAL:	39	14	806	24	209

FIGURE 2.   HISTORY OF WORLD HERITAGE INSCRIPTIONS THAT INCLUDE INDIGENOUS HERITAGE, SHOWING REGIONAL REPRESENTATION
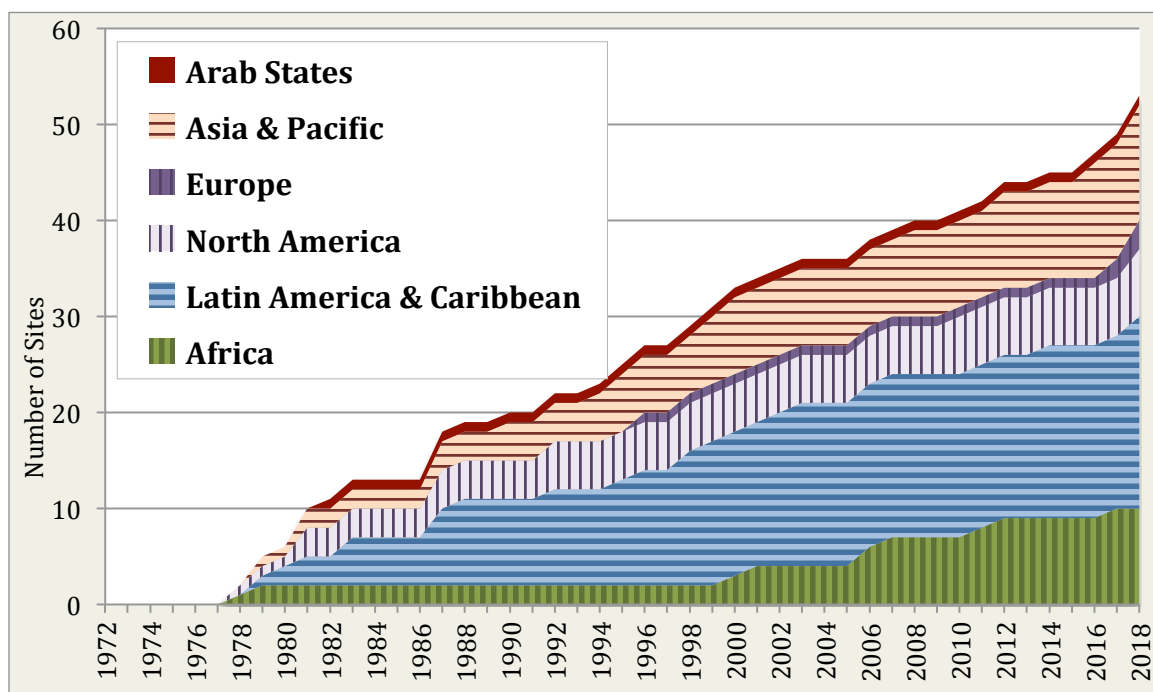
Figure 2 shows the number of indigenous Word Heritage sites has grown most significantly in Latin America and the Caribbean; the number of sites in Asia and the Pacific, North America and Africa has grown more slowly; Europe and especially the Arab States have both remained at fairly low levels of representation.

Figures 2.A through 2.F provide regionally-specific views of indigenous heritage in World Heritage inscriptions over time. For these figures it is easier to represent separately the number of sites assessed as possibly having indigenous heritage so those sites are not grouped with sites representing only non-indigenous heritage. Each figure uses the same range on the vertical scale so they can be compared to one another.

FIGURE 2.A HISTORY OF WORLD HERITAGE INSCRIPTIONS IN AFRICA
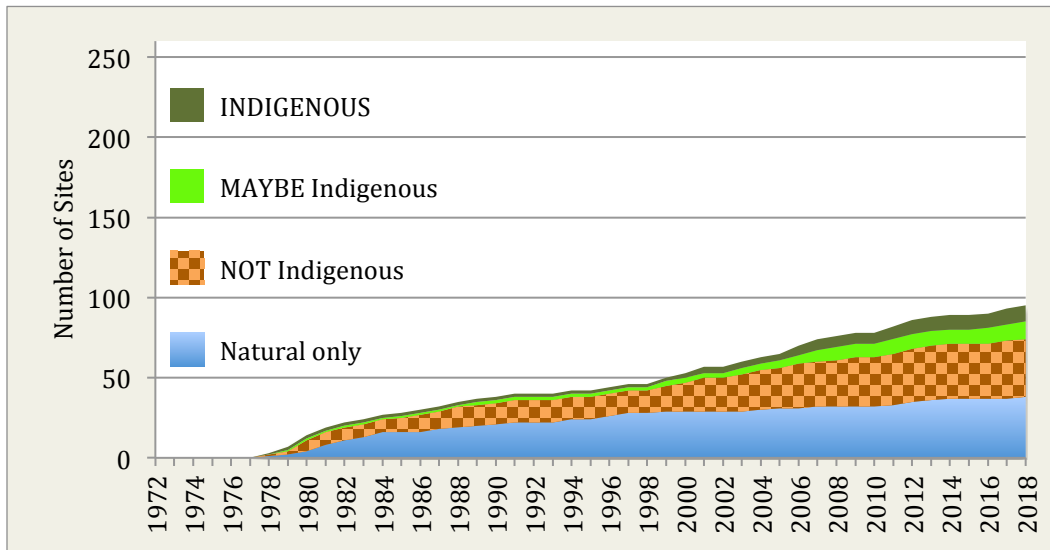
FIGURE 2.B HISTORY OF WORLD HERITAGE INSCRIPTIONS IN LATIN AMERICA AND THE CARIBBEAN
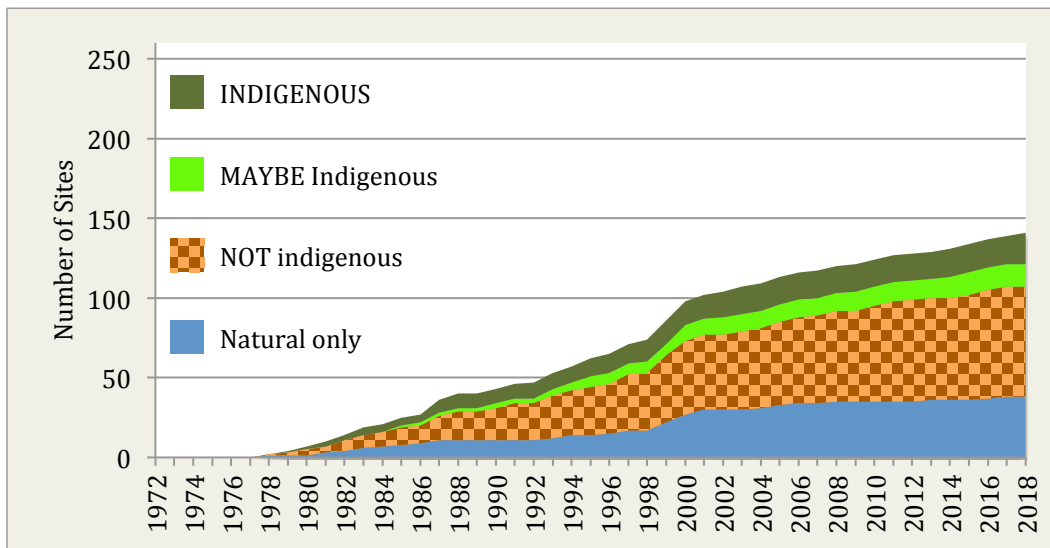
FIGURE 2.C HISTORY OF WORLD HERITAGE INSCRIPTIONS IN NORTH AMERICA
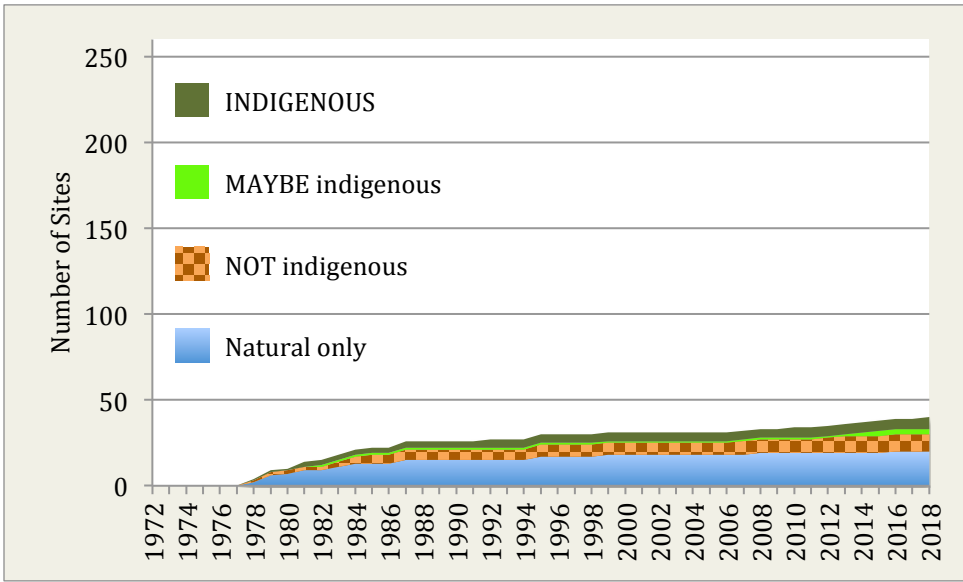
FIGURE 2.D HISTORY OF WORLD HERITAGE INSCRIPTIONS IN EUROPE
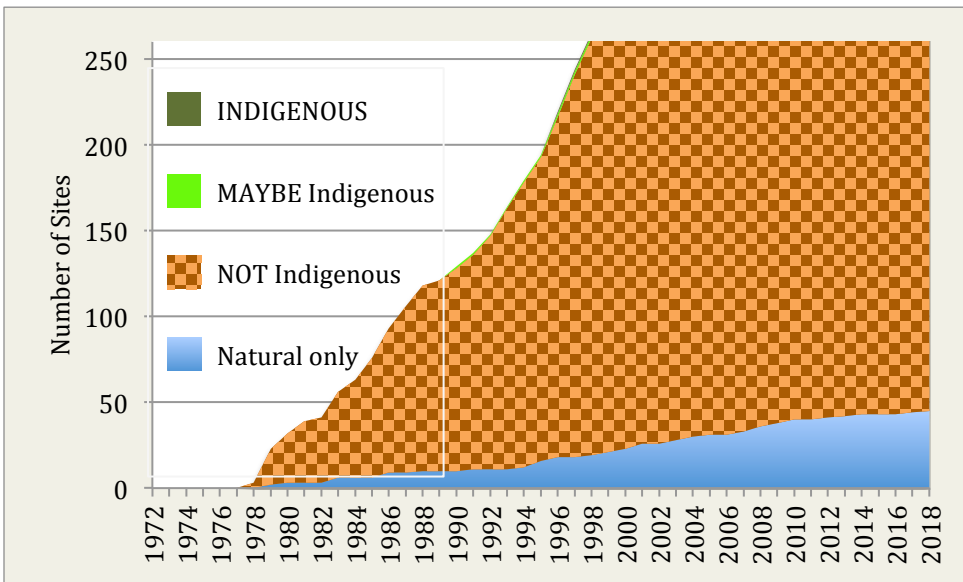
FIGURE 2.E HISTORY OF WORLD HERITAGE INSCRIPTIONS IN ASIA AND THE PACIFIC
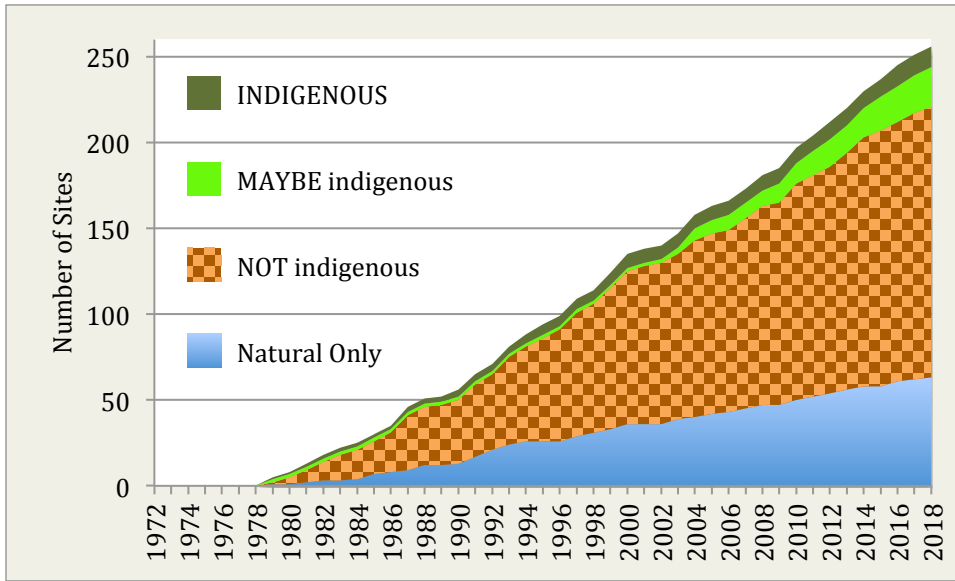
FIGURE 2.F HISTORY OF WORLD HERITAGE INSCRIPTIONS IN THE ARAB STATES
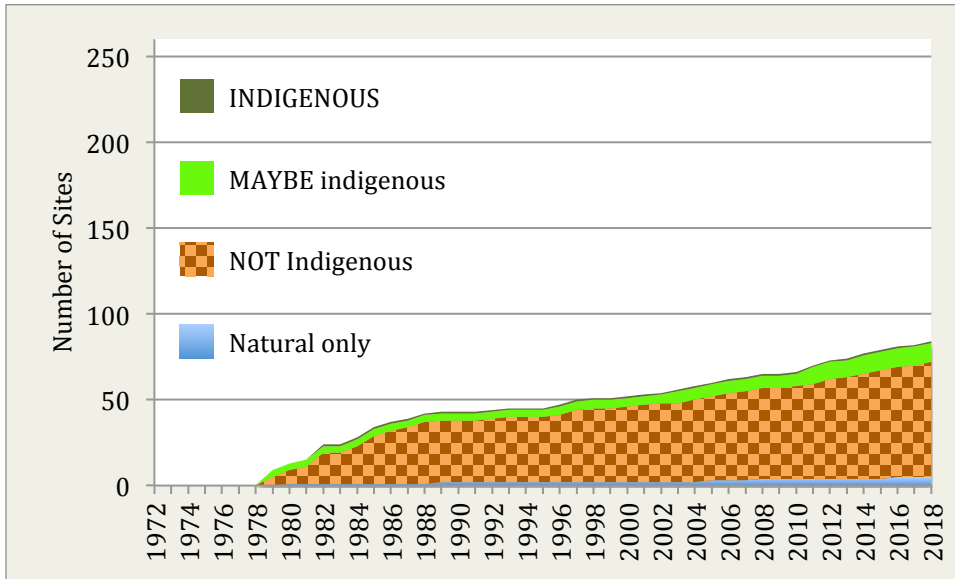
Figure 3 shows trends in World Heritage inscriptions that include indigenous heritage as part of site OUV, breaking down inscriptions by whether the heritage is living (i.e. continuing to be actively used/maintained by a living indigenous people) or relict only. Relict sites include archaeological sites that may have a living indigenous population in or adjacent to the site but those indigenous people are not actively involved in the use or maintenance of the site and their (intangible) associations with the site are not expressed in the Statement of OUV. Sites with living heritage are increasing as a proportion of all sites with indigenous heritage, a positive trend on the whole

Figure 3 includes only those sites sites assessed as representing indigenous heritage. Table 3 provides a more detailed breakdown for living and relict indigenous heritage in both those sites assessed as representing indigenous heritage and those sites assessed as potentially or "maybe" representing indigenous heritage.
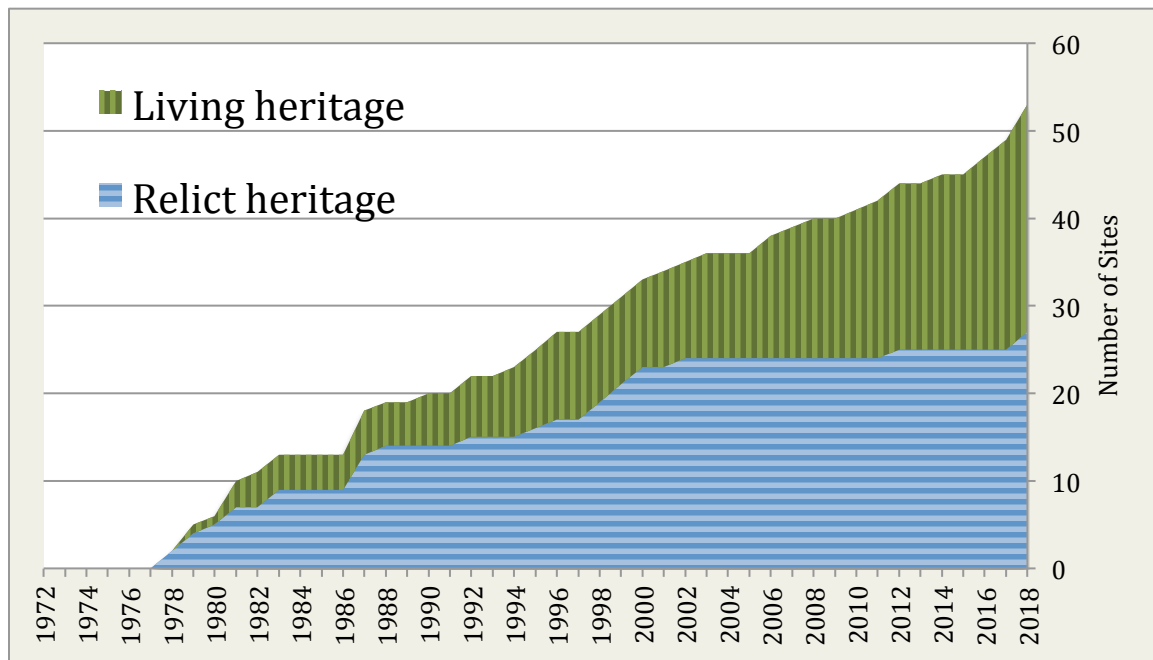
| | Indigenous | | | Maybe indigenous | |
	living	relict		living	relict
Globally	26	27		20	46
Africa	7	3		5	6
Latin America and the Caribbean	2	18		2	12
North America	4	3		0	3
Europe	3	0		3	1
Asia and the Pacific	9	3		9	14
Arab States	1	0		1	10

Figure 4 shows representation of high-level themes among current (2018) inscribed sites identified as having either living or relict indigenous heritage. Sites assessed as possibly containing indigenous heritage are not addressed in this figure.

Assignment of themes to sites focuses on what is stressed in the Statement of OUV. Themes that may be present but are not part of the OUV are therefore not assigned to sites. By way of example, Kakadu National Park (Australia) contains evidence of

contemporary land use, cultural traditions and intangible values, and the National Park works closely with traditional owners to integrated these values in site management and promotion; however, the focus of the site *as a World Heritage site* continues to be on rock art and other archaeological values so only the archaeology theme is assigned to this site.

Multiple themes can be applied to one site and all sites have been assigned at least one theme. The range of themes is perhaps limited but it seems additional themes (e.g., cultural routes, cultural landscapes) will only produce a diminishing number of instances. Appendix Two contains the coding of themes for all sites identified as representing indigenous heritage (and most that are assessed as possibly containing indigenous heritage).

FIGURE 4.   PROPORTION OF SITES THAT ARE LIVING AND RELICT FOR EACH HIGH-LEVEL THEME
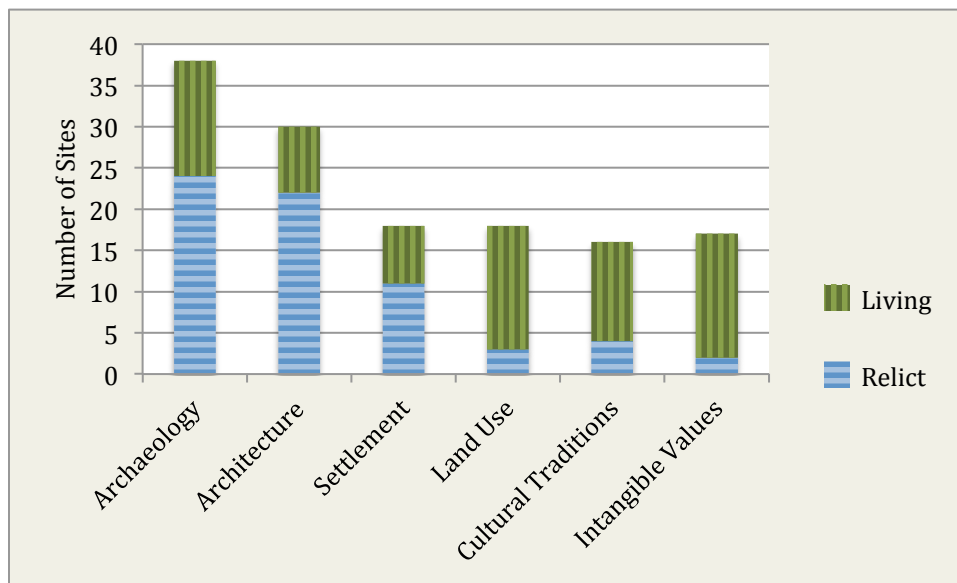
Archaeological sites, including rock art, account for a large proportion of indigenous heritage on the World Heritage List. Sites expressing the themes of archaeology and architecture together account for 45 of 53 sites (85%) representing indigenous heritage. Even where current associations with indigenous peoples are expressed, often the Statement of OUV and focus of site management is very strongly on the tangible features (e.g., Head-Smashed-In Buffalo Jump). In many such cases the impetus for inscription was focussed on externally identified values but indigenous peoples have pushed to expand the focus (e.g., Tongariro, Uluru-Kata Tjuta). This issue is discussed further in the next section, "Discussion of Issues in Addressing Indigenous Heritage".

Table 4 shows how themes are represented in each of the World Heritge regions. These results are potentially of interest to people working in specific regions; for example, intangible values are more highly represented in Asia and the Pacific, and archaeological sites and architecture are dominant themes for Latin America and the Caribbean.

	Archaeology	Architecture	Settlement	Land Use	Cultural Traditions	Intangible Values
Globally	38	30	18	18	16	17
Africa	4	3	2	4	3	5
Latin America and the Caribbean	20	17	11	4	5	2
North America	5	3	1	3	3	4
Europe	2	0	1	3	0	0
Asia and the Pacific	6	6	2	3	5	6
Arab States	1	1	1	1	0	0

Table 5 provides an indication, *as reported by States Parties and ICOMOS Evaluations*, of forms of participation by indigenous peoples in management of those sites identified as representing indigenous heritage. Given the diversity of management arrangements and the absence of clear data, involvement in management is described in as few categories as possible: collaborative management includes anything from direct community management by indigenous peoples to close collaboration in which indigenous peoples play a significant role in daily management boards (even though the State Party does not actually cede authority over land-use decision making); participation covers a variety of participatory mechanisms, including representation as stake-holders on site management boards, but more than merely consultation; consultation is included with none, since it is not a form of inclusion in site management. Where it was not possible to make a determination, sites were classifies as "unknown".

TABLE 5. INDIGENOUS PARTICIPATION IN MANAGEMENT OF INSCRIBED SITES

	collaborative management	participation	none	unknown
living	9	9	5	3
relict	0	4	21	2
sum:	9	13	26	5

Details on free, prior and informed consent (FPIC) are not generally provided for the sites identified as representing indigenous heritage; it is highly likely that FPIC was not actually obtained formally. In the case of Nan Madol (Micronesia), the ICOMOS Evaluation (2016) explains, "Free prior and informed consent to the nomination was signed by the traditional owners in 2011" (by signing the MOU for site creation). In some cases, a form of consent was obtained (e.g., Chief Roy Mata's

Domain (Vanuatu) and Tongariro National Park (New Zealand));[15] in some cases consent can be seen to have been obtained by virtue of indigenous peoples' active role in creation of the site (e.g., Laponian Area, Sweden, and Pimachiowin Aki, Canada). Given the range of forms of consent and the lack of a standard applied in World Heritage, unlike for the *Convention for the Safeguarding of the Intangible Cultural Heritage*, it is not helpful to determine retrospectively (i.e. in advance of clear policy and guidelines on FPIC) whether or not consent has been obtained in individual cases.

2. Sites on the Tentative Lists

Figure 5 provides a summary view of representation of indigenous heritage among the 1,694 sites on the Tentative Lists, based on the current (2018) Tentative Lists posted on the World Heritage Centre website. This information is provided to give a picture of what is being planned for, potentially, by States Parties but does not give a sense of what sites might have good potential or may be significant in terms of improving representation of indigenous heritage. Also, Figure 5 provides no indication of how long sites have been on the Tentative Lists.

Details on Tentative List sites identified as containing indigenous heritage are provided in Appendix Three.

FIGURE 5.   REPRESENTATION OF INDIGENOUS HERITAGE ON THE TENTATIVE LISTS (2018)

Legend:
- Indigenous Cultural
- Indigenous Mixed
- Non-indigenous Cultural
- Non-indigenous Mixed
- Natural Sites

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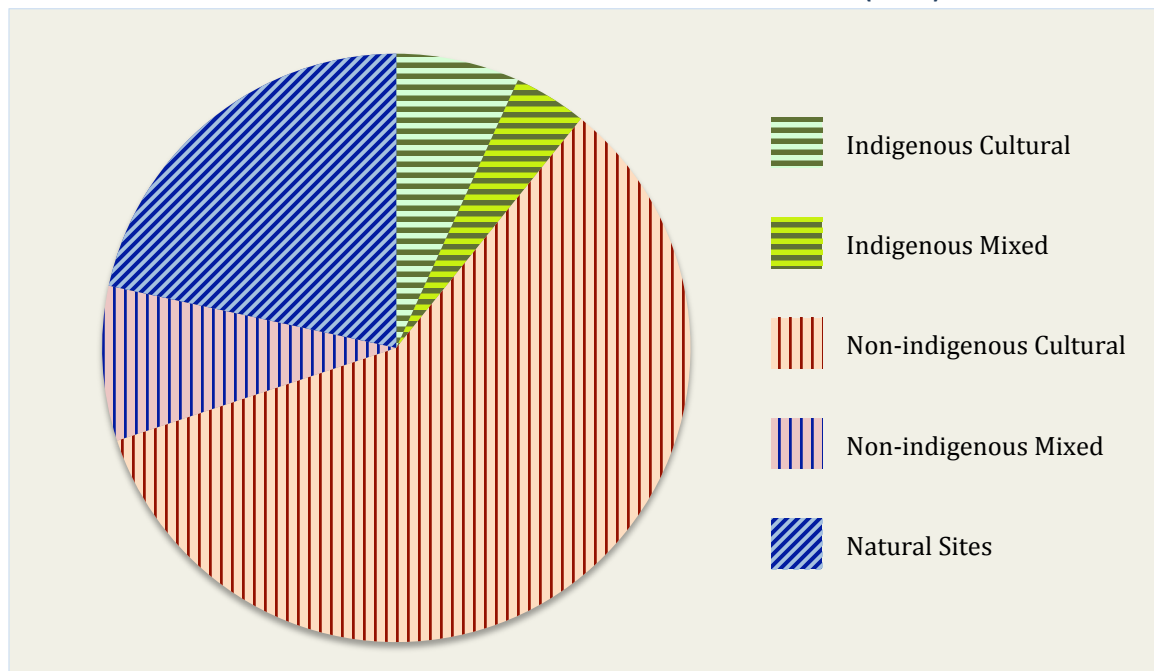
[15]   Tongariro raises the question of how "informed" consent is when cultural misunderstanding leads to different expectations for inscription and post-inscription management (see George Asher "The Tangible and Intangible Heritage of Tongariro National Park: A Ngāti Tūwharetoa Perspective and Reflection," in Disko & Tugendhat, 2014: 377–401).
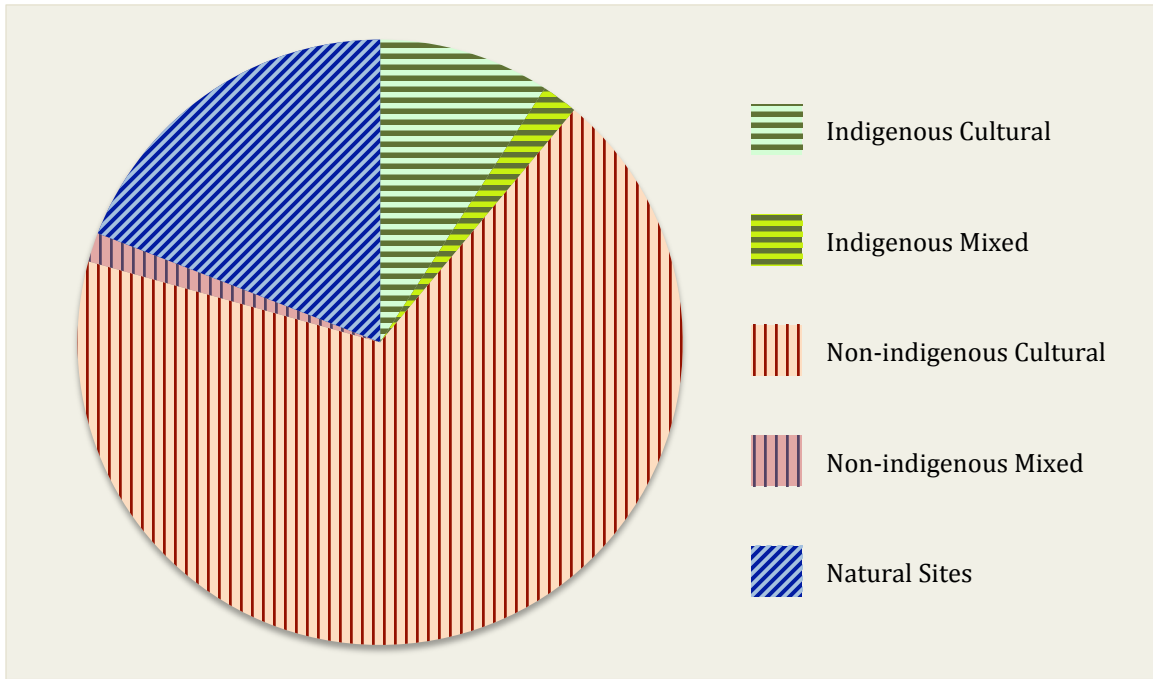
Figure 5.a shows, as a point of comparison, representation of indigenous heritage on the World Heritage List itself *including those sites identified as possibly containing indigenous heritage*; this is a more accurate point of comparison given it uses the more liberal interpretation of "indigenous" that was used in identifuying Tentative Lists sites with indigenous heritage, as discussed in Appendix Three.[16] Among Tentative List sites, those with indigenous heritage represent 10.8% of all sites. On the World Heritage List, sites with or possibly with indigenous heritage make up 11.1% of all sites (5.3% if excluding sites *possibly* containing indigenous heritage).

Table 6 provides a comparison between the current composition of the Tentative Lists and the World Heritage List *excluding* sites identified as possibly representing indigenous heritage. The only significant change in types of sites proposed on the Tentative Lists is the much larger proportion of mixed sites making up both indigenous and non-indigenous stes. However, as discussed in the next section, inscription of mixed sites is much more difficult and therefore less likely.

TABLE 6.   RELATIVE PROPORTIONS OF SITES INSCRIBED AND ON THE TENTATIVE LISTS (2018)

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16   Unlike the World Heritage List itself, the Tentative Lists contain separate entries for each States Parties portion of a transnational site and for individual elements of a serial nomination. In some cases (e.g., Silk Road), individual portions of a serial site and the larger composite site itself are listed separately so what would be one inscribed site is several Tentative List sites. Extensions to existing, inscribed sites are also present on the Tentative Lists. With the exception of the Silk Road proposed serial transnational site, over-counting does not apply to indigenous heritage and is a small part of the whole so does not change trends shown in Table 6.

	Tentative Lists		Inscribed Sites	
	total	%	total	%
Cultural with indigenous	115	6.8%	39	3.6%
Mixed with indigenous	68	4.0%	14	1.3%
Cultural without indigenous	1001	59.1%	806	73.8%
Mixed without indigenous	144	8.5%	24	2.2%
Natural sites	366	21.6%	209	19.1%
	1694	100.0%	1092	100.0%

Table 7 shows representation of indigenous heritage on the Tentative Lists within each region compared to inscribed sites (the latter being the same data presented in Table 3). It's not clear any meaningful conclusions can be drawn from this data since the Tentative Lists of some States Parties are more aspirational "to-do" lists than short-lists of the best-chance candidates. However it is worth noting the differences between the lists in terms of number of sites proposed as containing indigenous heritage and as mixed sites (with and without indigenous heritage).

TABLE 7. **RELATIVE PROPORTIONS OF SITES INSCRIBED AND ON THE TENTATIVE LISTS (2018), BROKEN DOWN BY REGION**

	The Tentative Lists						Inscribed Sites					
	Indigenous		Not Indigenous			Sum	Indigenous		Not Indigenous			Sum
	cult	mix	cult	mix	nat		cult	mix	cult	mix	nat.	
Africa	19	12	127	34	77	269	9	1	43	4	38	95
Lat. Amer. & Carib.	30	25	89	16	40	200	15	5	81	2	38	141
North America	6	4	11	1	10	32	5	2	13	0	20	40
Europe	4	4	406	52	94	560	2	1	420	8	45	476
Asia & the Pacific	45	21	245	28	105	444	7	5	174	7	63	256
Arab States	11	2	123	13	40	189	1	0	75	3	5	84
SUM:	115	68	1001	144	366	1694	39	14	806	24	209	1092

Without inside knowledge of both the site in question and the process through which it is being prepared for nomination, it is not possible to say with any certainty that indigenous heritage is potentially outstanding or even if in fact the site has a reasonable chance of inscription. Nevertheless, some Tentative List sites are identified as of interest, primarily based on the contemporary presence of indigenous peoples and sufficient explanation of indigenous heritage to raise reasonable expectation for their potential to represent multiple facets of living indigenous heritage:
  • Les Oasis à Foggaras et les Ksour du Grand Erg Occidental (Algeria)

- Parc des Aurès avec les Établissements Oasiens des Gorges du Rhoufi et d'El Kantara (Algeria)
- Budj Bim Cultural Landscape (Australia)
- Sakteng Wildlife Sanctuary (SWS) (Bhutan)
- Gwaii Haanas (Canada)
- Sirmilik National Park and Tallurutiup Imanga (proposed) National Marine Conservation Area (Canada)
- Stein Valley (Canada)
- La forêt et les campements résidentiels de référence pygmée AKA de la République Centrafricaine (Central African Republic)
- Huangguoshu Scenic Area (China)
- Les Iles Marquises (France)
- Ecosystème et Paysage Culturel Pygmée du Massif de Minkébé (Gabon)
- Apatani Cultural Landscape (India)
- Garo Hills Conservation Area (GHCA) (India)
- Turkic sanctuary of Merke (Kazakhstan)
- Paysage culturel d'Azougui (Mauritania)
- Huichol Route through the sacred sites to Huiricuta (Tatehuari Huajuye) (Mexico)
- Highlands of Mongol Altai (Mongolia)
- Sacred Binder Mountain and its Associated Cultural Heritage Sites (Mongolia)
- Baldan Bereeven Monastery and its Sacred Surroundings (Mongolia)
- Oasis de Figuig (Morocco)
- Sān Living Cultural Landscape (Namibia)
- Itinéraires Culturels du Désert du Sahara : Route du sel (Niger)
- Kikori River Basin/Great Papuan Plateau (Papua New Guinea)
- Trans-Fly Complex, and Upper Sepik River Basin (Papua New Guinea)
- Fagaloa Bay - Uafato Tiavea Conservation Zone (Samoa)
- Marovo–Tetepare Complex (Solomon Islands)
- Yalo, Apialo and Sacred Geography Northwest Malakula (Vanuatu)

3. Discussions about additional potential sites

This sub-section contains details of sites that have been identified as potentially significant and therefore possible candidates for the Tentative Lists. The purpose if this section is only to provide information on additional potential sites of interest and not to raise any questions as to why such sites have been identified or why they have not been included on the Tentative Lists. Sources of information are so far limited to published reports and workshop outcomes. Regional expertise is needed to compile a more complete list of potentially significant sites.

The only site identified for this report is Várjjat Siida (Norway), a Saami site being proposed by the Saami people for addition to Norway's Tentative List. Audhild Schanche, Senior Advisor to the Saami Parliament in Norway, spoke about the proposal at the International Expert Meeting on World Heritage and Indigenous Peoples (Copenhagen, 2012). Várjjat Siida is described as within "the old territory of

the Varanger Saami and a core area in the formation of Saami cultural traits". Attributes include habitation sites, a burial ground, sacred stones, sacrificial stone rings, and remains of trapping systems for wild reindeer. The initiative is supported by local reindeer herding organizations, local government, the Saami Council, and the Saami Parliamentarian Council (joint body of the Saami parliaments in Finland, Sweden and Norway).[17]

4. World Heritage Committee Decisions

The purpose of this section is to clarify the perspectives of the World Heritage Committee, through time, as seen in their formal decisions relating directly to indigenous heritage. These decisions comprise general decisions and case law. General decisions apply, in theory, to all States Parties and, where applicable, to the Secretariat or Advisory Bodies; for example, the Decision 39 COM 11 through which reference to indigenous peoples was adopted in the *Operational Guidelines*, paragraphs 40 and 123.

Case law, as defined in the Draft Policy Compendium,[18] includes decisions adopted by the World Heritage Committee in reference to specific nominations or inscriptions; for example, decisions (including referrals, deferrals, and inscriptions on the List of World Heritage in Danger) that make statements about how indigenous peoples and their heritage have been addressed in nomination materials or site management. While these decisions are made in reference to specific sites, they reflect precedents in decision-making. As stated in the ICCROM Scoping Study for the Policy Compendium, "even though each World Heritage Committee is sovereign, not formally bound by decisions taken by previous Committees, successive Committees have decided to follow agreed approaches and modify them over time if necessary".[19]

Case law includes decisions about indigenous peoples, and especially their values and role in management, with respect to natural sites; however, no attempt is made to be comprehensive. Case law from natural sites, typically addressing State of Conservation or reactive monitoring reports, is only included where decisions explicitly address indigenous peoples and their values. Given the huge effort to sift through all Committee decisions, the list of case law provided here is only a first cut that requires additional regional expertise to make more complete. Since the Policy Compendium already addresses case law on indigenous peoples and their heritage, it will be helpful for ICOMOS to continue compiling this case law for inclusion in the Policy Compendium.

A full compendium of Committee decisions, including case law, is provided in Appendix Four. Figure 6 provides a simple view of aggregate trends in Committee decisions addressing indigenous peoples and their heritage. Although the absolute number of decisions referencing indigenous peoples and/or indigenous heritage is

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[17]   Disko & Tugendhat (2013): *Report on the International Expert Workshop*, pp. 33–34.
[18]   UNESCO (2018b).
[19]   ICCROM (n.d.), *Scoping Study*, p. 4.

relatively small (see also Figure 7), there has been a trend towards an increasing number of such decisions, as seen in the three-year moving average. Figure 7 shows cumulative decisions and case law since the adoption of the *World Heritage Convention*.

Since the recording of case law is incomplete, Figure 6 is misleading in showing trends in case law as a component of Committee decisions; it more accurately reflects trends in *reporting* of cases. For example, Larsen and Buckley[20] report on several cases in 2015, creating a spike in the data for that year.

FIGURE 6. **WORLD HERITAGE COMMITTEE DECISIONS AND CASE LAW ADDRESSING INDIGENOUS PEOPLES AND/OR INDIGENOUS HERITAGE IN EACH YEAR (1972–2018)**
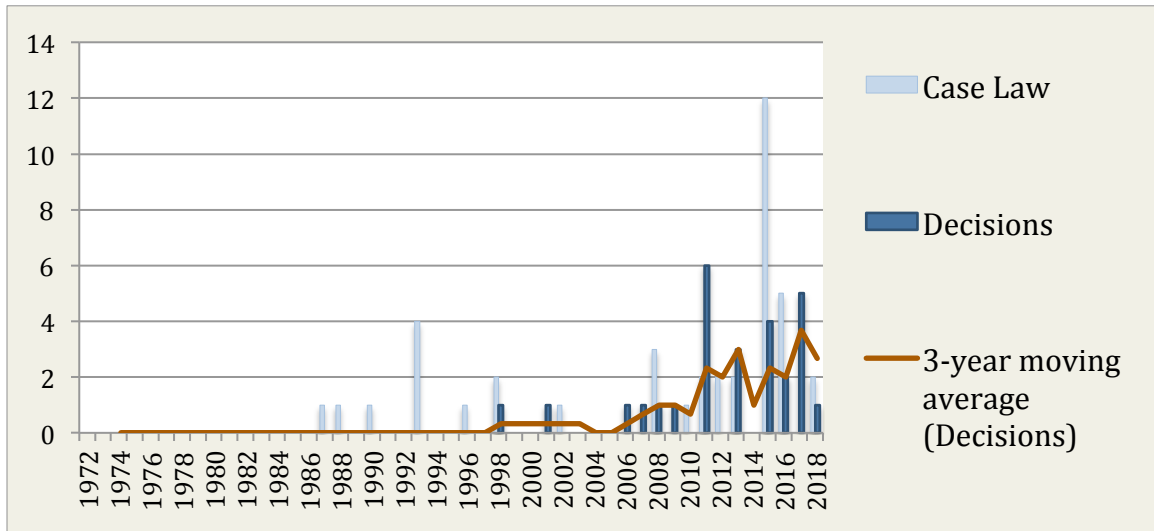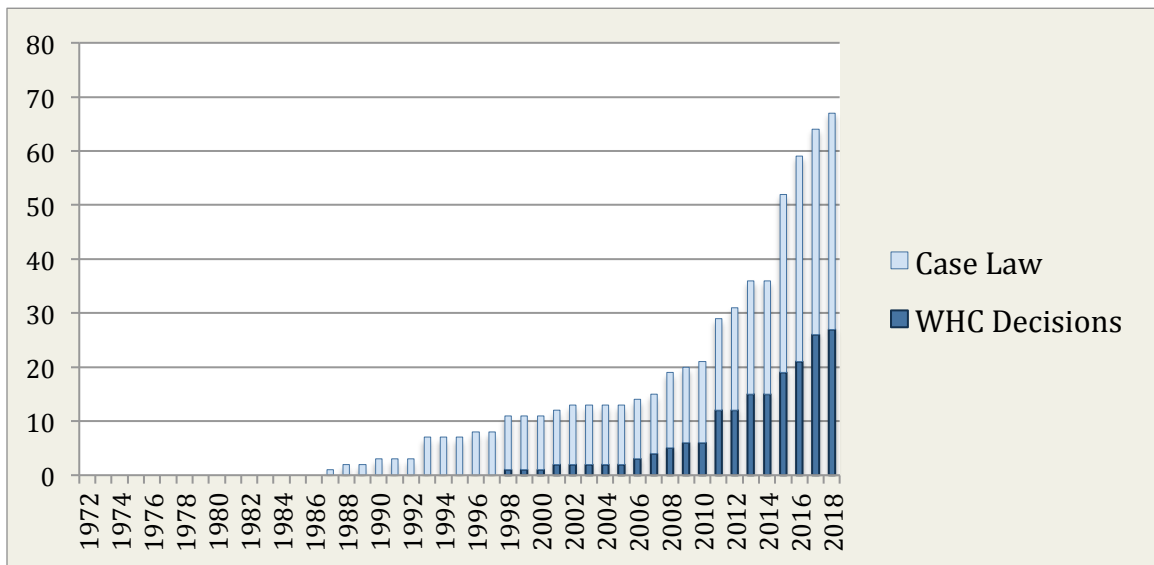

FIGURE 7. **CUMULATIVE WORLD HERITAGE COMMITTEE DECISIONS ADDRESSING INDIGENOUS PEOPLES AND/OR INDIGENOUS HERITAGE TO DATE (2018)**

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20 "The World Heritage Committee and Human Rights" (2018).

What the above charts do not convey is the significance of individual decisions since all are weighted equally. Some decisions in fact contain different, separate points addressing indigenous peoples and their heritage so it is possible that each sub-decision could be counted separately in order to better weight the importance of separate, multiple issues addressed in a single decision; for example, Decision 35 COM 12E Article 15 has two, perhaps three, separate points addressing indigenous peoples: "e) Involve indigenous peoples and local communities in decision making … and link the direct community benefits to protection outcomes, f) Respect the rights of indigenous peoples …".

Moreover, certain decisions are particularly significant. For example, **Decision 35 COM 12E**, Article 15 establishes explicitly, for the first time in World Heritage, the importance of respecting the rights of indigenous peoples and ensuring their participation in all aspects of World Heritage site management. While only presented as a desired outcome rather than a requirement ("The World Heritage Committee … encourages States Parties to …") the decision reminds "being a signatory to the *World Heritage Convention* entails certain responsibilities, including … management of World Heritage properties according to the highest international standards, [and] promotion of good governance". The first sub-clause of Article 15 calls on States Parties to "set up a collaborative framework between agencies for the conservation of properties, including agencies in charge of the follow up of other conventions and international agreements"; among these other conventions can be included the United Nations *Declaration on the Rights of Indigenous Peoples*.

Much attention has been paid to the importance of **Decision 39 COM 11**, through which new wording on indigenous peoples and their rights was adopted in the *Operational Guidelines,* Paragraphs 40 and 123. Paragraph 40 does include indigenous peoples as potential stakeholders, which should help encourage realization of Decision 35 COM 12E, Article 15.e ("involve indigenous peoples"). However, the new wording in Paragraph 123 does little to implement the guidance of Decision 35 COM 12E, Article 15.f ("respect the rights of indigenous peoples"). Paragraph 123 encourages States Parties,

> to demonstrate, as appropriate, that the free, prior and informed consent of indigenous peoples has been obtained, through, inter alia making the nominations publically available in appropriate languages and public consultations and hearings.

This only encourages States Parties to inform the public of cases where free, prior and informed consent has already in fact been obtained; it does not even encourage, much less require, States Parties to actually obtain such consent.

Another highly significant Committee decision was **CONF 203 XIV.3** in 1998, through which traditional management was accepted as an adequate form of management for World Heritage properties. The Committee adopted revised wording for Paragraph 44(a) of the *Operational Guidelines*, recognizing "legal and/or traditional protection and management mechanisms". As the decision notes, "The Committee had a considerable debate on customary protection and agreed that customary management should be supported. It pointed out that while traditional

protection and management mechanisms are provided for in the Operational Guidelines for cultural sites (par. 24 b(ii)), no similar provision exists for natural sites (par. 44 b (vi))".

The impetus for this change came from the inscription, through Decision CONF 203 VIII.A.1, of East Rennell (Solomon Islands) under natural criterion (ii) [now (vii)] alone. The East Rennel nomination explains, "most of the land at East Rennell remains under customary tenure and decisions concerning that land are the direct responsibility of the resource owners";[21] moreover, the "Solomon Islands lacks any formal protected areas legislation".[22] The decision to inscribe explains,

> A number of delegates welcomed the nomination and noted that a site protected by customary law is breaking new ground, and that the inclusion of this type of property is in line with the Global Strategy. Sites from other States Parties, which are under traditional management and customary law, may provide examples for general principles.

While no other cases of World Heritage sites being protected by traditional protection alone have since been inscribed,[23] several sites highlight the important role of traditional protection and customary management:

- Kakadu National Park (Australia): Decision 37 COM 8E adopts retrospective Statement of OUV: "The property is well protected by legislation and is co-managed with the Aboriginal traditional owners, which is an essential aspect of the management system. ... A majority of Board [the Kakadu National Park Board of Management] members represent the park's traditional owners."
- Pimachiowin Aki (Canada). Decision 42 COM 8B.11 adopts Statement of OUV: "First Nations have played the leading role in defining the approach to protection and management of Pimachiowin Aki. ... Protection and management of the property are achieved through Anishinaabe customary governance grounded in Ji-ganawendamang Gidakiiminaan, contemporary provincial government law and policy, and cooperation among the four First Nations and two provincial government partners."
- Konso Cultural Landscape (Ethiopia). Decision 35 COM 8B.18 adopted Statement of OUV: "The property is protected by traditional, Regional and Federal laws. The traditional code of management of the cultural landscape is practiced side by side with the modern administrative system".
- Cultural Landscape of Bali Province: the Subak System as a Manifestation of the Tri Hita Karana Philosophy (Indonesia). Decision 36 COM 8B.26 recommends "To sustain the living landscape ways will need to be found to provide more support to support the traditional systems and to provide benefits that will allow farmers to stay on the land."

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[21] Wingham (1998), "'Resource Management Objectives and Guidelines for East Rennell," p. 14.
[22] Wein and Chatterton (2005), "A Forests Strategy for Solomon Islands".
[23] There are two additional sites on the Solomon Islands Tentative List: Marovo–Tetepare Complex and Tropical Rainforest Heritage of Solomon Islands. See Appendix Three for details.

- Bassari Country: Bassari, Fula and Bedik Cultural Landscapes (Senegal). Decision 36 COM 8B.16 adopted Statement of OUV: "Forms of traditional protection and management continue to be implemented, complemented by the action of several national and local institutional bodies and NGOs. Overall the combination of legal, institutional and traditional protective measures is adequate to ensure the safeguard of the Outstanding Universal Value of the property".

An interesting note on traditional protection: **Decision 35 COM 12E** Art. 7, "Requests the World Heritage Centre and the Advisory Bodies to develop guidance ... [on] The uses, limits and documentation requirements for traditional management (paragraphs 108 and following)". It seems to date no such guidance has been provided, at least none that is publically available. Further discussion of traditional management is provided in the next section, under "Protection and Management."

Also highly significant for recognition of indigenous peoples and their heritage, was the adoption of the fifth "C" (Communities) to the strategic objectives of *World Heritage Convention* in 2007. **Decision 31 COM 13A** (and 31 COM 13B) noted "the critical importance of involving indigenous, traditional and local communities in the implementation of the Convention". This shift in focus to stress the important role communities play in World Heritage roughly corresponds with the rising number of Committee decisions regarding indigenous people and their heritage, as shown in Figure 6.

Potentially the most significant decision for recognition of indigenous peoples in World Heritage processes is the adoption of the *World Heritage and Sustainable Development Policy* by the General Assembly of States Parties to the *World Heritage Convention*, through **Resolution 20 GA 13**. The Draft policy document was supported by the World Heritage Committee through Decision 39 COM 5D.

Article 22 of the *Sustainable Development Policy*, calls on States Parties to:

i. Develop relevant standards, guidance and operational mechanisms for indigenous peoples and local community involvement in World Heritage processes;

ii. Ensure adequate consultations, the free, prior and informed consent and equitable and effective participation of indigenous peoples where World Heritage nomination, management and policy measures affect their territories, lands, resources and ways of life;

iii. Actively promote indigenous and local initiatives to develop equitable governance arrangements, collaborative management systems and, when appropriate, redress mechanisms.

Article 22 strengthens the commitments made in 2011 (Decision 35 COM 12E, Article 15) to engage indigenous peoples through obtaining consent to develop (or modify) sites and by ensuring effective participation, including through collaborative management. Promotion of indigenous and local initiatives in

management may also support the role of traditional management and/or customary governance in site protection and management.

However, it is still too early to know how this new policy will be implemented. Article 8 of Resolution 20 GA 13 states that World Heritage Centre and Advisory Bodies are to report on "necessary changes to the *Operational Guidelines*, which would translate the principles of the policy document on sustainable development into specific operational procedures". For its part, the World Heritage Committee has encouraged States Parties, through Decisions 40 COM 5C and 41 COM 5C, "to ensure that sustainable development principles are mainstreamed into their national processes related to World Heritage".

Another major decision outstanding is the commitment to address the outcomes of the International Expert Workshop on World Heritage Convention and Indigenous Peoples (Denmark, 2012), which include extensive recommendations on changes to the *Operational Guidelines* to better address the rights and interests of indigenous peoples in World Heritage processes. As expressed in **Decision 37 COM 12ii**, and again in Decision 39 COM 11, the Committee has pledged to re-examine the recommendations of the International Expert Workshop "following the results of the discussions to be held by the Executive Board on the UNESCO policy on indigenous peoples".

Finally, two important decisions that will shape the future of how indigenous heritage will be addressed in World Heritage. **Decision 41 COM 7**, Article 41, established the International indigenous Peoples Forum on World Heritage, a formal consultative mechanism for presentation and advocacy of indigenous peoples' concerns in World Heritage deliberations, including Committee meetings. This follows the much earlier Decision CONF 208 XV.1-5 in 2001 to not establish a World Heritage Indigenous Peoples Council of Experts as proposed by the Indigenous Peoples Forum convened in association with the Committee meeting at Cairns, Australia, in 2000.

Also highly important is **Decision 41 COM 10A**, Article 14 and Decision 41 COM 11, Article 11, through which the Committee adopted substantial changes to the Periodic Reporting process. Both the *Operational Guidelines* (2017) and the Cycle 3 Questionnaire have been dramatically changed to gather a wider range of data, including on the role of indigenous peoples (see Appendix Six for excerpts from the Cycle 3 Questionnaire). These revisions should promote gathering of more comprehensive information on participation of indigenous peoples, which previously was not expected of States Parties unless specifically requested through Committee decisions.

In summary, some important decisions have been made to clarify the role of indigenous peoples in identification and management of their heritage but the really big decisions, those related to implementation of the UNESCO Policy *Engaging indigenous Peoples* and the World Heritage Sustainable Development Policy, have yet to be made.

5. International Efforts to Better Address Indigenous Heritage

This section contains a brief discussion of international efforts to date to improve understanding and representation of indigenous heritage in World Heritage;

OUR COMMON DIGNITY

Our Common Dignity is an initiative on rights in World Heritage undertaken by the Advisory Bodies to the World Heritage Convention (ICCROM, ICOMOS and IUCN) under the coordination of ICOMOS Norway.[24] The objective of this initiative is to build awareness of rights issues in heritage management and promote "good practice" approaches for World Heritage, from tentative list development, to nomination and site management.[25]

Activities that have been sponsored under this initiative include: a Heritage Management and Human Rights Pilot Training Course; the Advisory Bodies bibliography project on human rights, and notes on the Advisory Bodies rights policy, including a brief summary on the ICOMOS rights policy review.[26]

ICOMOS reiterated its commitment to rights-based approaches to World Heritage in the Buenos Aires Declaration (5 December 2018), which marked the 70th anniversary of the Universal Declaration of Human Rights. The Declaration encouraged ICOMOS members, Committees and groups to, among other things, "Build strong relationships with communities and peoples in their work" and "Embrace the principle of free, prior and informed consent of source communities before adopting measures concerning their specific cultural heritage." At the General Assembly in Buenos Aires, the Our Common Dignity Initiative working group explained the concern for participation in cultural heritage conservation has expanded beyond World Heritage to cultural heritage more generally.

CONNECTING PRACTICE

Connecting Practice is a joint initiative between ICOMOS and IUCN, with the goal "to deliver a fully connected approach to considering nature and culture in the practices and institutional cultures of IUCN and ICOMOS."[27] One of the long-term objectives is to "influence a shift in conceptual and practical arrangements for the consideration of culture and nature within the implementation of the World Heritage Convention" (IUCN 2016).

Phase I (2013-2015) proceeded as a trial project at three World Heritage sites in Mongolia, Ethiopia, and Mexico. Among the outcomes were recommendations for implementing in actual World Heritage evaluations: (a) Joint briefing of the teams and preparation for the site visit; (b) Collaboration amongst team members and between them and locals colleagues; (c) Holistic approach over the interconnected

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[24] Established Resolution 19GA 2017/23 (Our Common Dignity: Next steps for Rights-Based-approaches in World Heritage) of the 19th General Assembly of ICOMOS, 2017.

[25] ICOMOS (n.d.), "Our Common Dignity Initiative".

[26] Sinding-Larsen & Larsen (2017), *The Advisory Body "Our Common Dignity Initiative"*, p. 4.

[27] IUCN (2016), "Connecting Practice".

character of the natural, cultural and social values of the property; and (d) a common report.[28]

As a result of implementing such changes, Kristal Buckley has noted,
> The communication between the Advisory Bodies during the evaluation cycle has improved significantly. Depending on the issues and resources available, both IUCN and ICOMOS provide advice on values and management to the other on selected nominations, and this advice is included in the reports presented to the World Heritage Committee.[29]

Phase II focussed on two case studies: Hortobágy National Park – the Puszta (Hungary) and the Maloti-Drakensburg Park (South Africa/Lesotho). The Phase II Report emphasises "institutional barriers" that impede realization of a fully integrated approach to considering natural and cultural heritage as World Heritage:
> This implies tackling organisational histories and interests, decision-making processes as well as instruments used to exercise authority. Any potential shifts in how cultural and natural heritage are currently conceptualised will fail to realise their full potential unless they are developed in parallel with efforts to overcome those institutional barriers.[30]

In many cases, such institutional barriers result from responsibility for site management being assumed by an agency that has expertise in only one of either natural or cultural heritage.

In order to align assessment and reporting metrics in Phase II field visits, IUCN and ICOMOS adopted (with adapttions) a common tool: the Enhancing Our Heritage Toolkit based on the IUCN World Commission on Protected Areas (WCPA) Framework for Assessing the Management Effectiveness of Protected Areas. The toolkit focuses on assessing the extent to which management is protecting values and achieving goals and objectives. The hope is that this toolkit will be able to be sed on all World Heritage properties.[31]

Results of the first two phases of Connecting Practice were presented at IUCN's World Conservation Congress in Hawai'i (2016) and again at the ICOMOS 19th General Assembly and Scientific Symposium (Delhi, 2017). Presentations and workshops address interlinkages of cultural and natural heritage to
> build on the growing evidence that natural and cultural heritage are closely interconnected in most landscapes and seascapes, and that effective and lasting conservation of such places depends on better

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28 IUCN & ICOMOS (2015). *Connecting Practice Project: Final Report*, pp. 15–16.
29 Buckley (2014), "Nature+Culture and World Heritage," pp. 111–12.
30 Leitão, et al. (2017), *Connecting Practice Phase II: Final Report*, p. 18.
31 Leitão, et al. (2017), *Connecting Practice Phase II: Final Report*, pp. 5–7, 21–22.

integration of philosophies and procedures regarding their management".[32]

Phase III specifically focuses on landscapes/seascapes with traditional agricultural and harvesting systems that demonstrate significant "biocultural values" (i.e. culture-nature interaction). The goal is "to establish new and stronger partnerships with a variety of organizations in order to enhance understanding and collaboration."[33] In planned fieldwork, the project partners "will engage directly with local management authorities to assess the cultural and natural values at the sites, understand traditional management frameworks, research dynamic evolution of biocultural practices, and review levels of acceptable site change."[34]

The latest activity reported on is a workshop at ICOMOS headquarters near Paris, France, 7–8 February 2019. There was a call put out for site managers of World Heritage sites interested in participating in the project, with a deadline of 30 September 2018. [35] Perhaps the 2019 workshop selected the field sites from among responses to the call.

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[32] World Heritage & Nature-Culture, IUCN World Conservation Congress, Hawai'i, 2016. https://www.usicomos.org/mainsite/wp-content/uploads/2016/08/N-C_WH-Journeys-Programme-1.pdf

[33] ICOMOS. n.d. "Connecting Practice Workshop | 7-8 February 2019." https://www.icomos.org/en/home-wh/56423-connecting-practice-workshop-7-8-february-2021.

[34] ICOMOS. n.d. "Connecting Practice Workshop."

[35] ICOMOS. n.d. "Launch of Connecting Practice Phase III and Call for Interest." https://www.icomos.org/en/178-english-categories/news/43156-launch-of-the-third-phase-of-the-connecting-practice-project.

Discussion of Issues in Addressing Indigenous Heritage

In this section is a discussion of issues, including gaps in understanding and ongoing challenges related to identification and presentation of indigenous heritage in the World Heritage context. Many of these challenges arise from cultural differences in understandings of key World Heritage concepts such as "outstanding", "exceptional", "universal", and "authenticity". Where relevant, successes in addressing indigenous heritage in World Heritage are identified.

Specific emphasis here is placed on issues directly impacting development of new nominations and ongoing management of inscribed sites; namely: (1) identification of values and justification of OUV; (2) assessment of authenticity; and (3) establishment of effective and appropriate forms of protection and management.

1. Identification of Values

As Stefan Disko reminds us, "which values are recognized as part of a site's OUV, and which ones are not, can have major ramifications for indigenous peoples living within or near a World Heritage site."[36] The discussion here focusses on two key issues that are particularly important to how indigenous heritage is identified and addressed in the World Heritage context: interpretation of the concept of Outstanding Universal Value, and understanding holistic views of nature/culture.

OUTSTANDING UNIVERSAL VALUE

Attribution of Outstanding Universal Value (OUV), or "significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity" (*Operational Guidelines* para. 49), is the foundation of the World Heritage List. As an earlier ICOMOS review of the OUC concept suggested, "all sites are somehow unique and therefore exceptional. Therefore, exceptional should here be interpreted as something that is exceptional in its quality, i.e. something that excels over the others".[37]

Assessment of OUV is therefore inherently comparative, since international assessors and reviewers need to understand the site in a wider context to be able to determine if it is in fact "outstanding"; that is, when compared to other similar examples of a form of heritage, the nominated site is shown to be a more highly representative or more exceptional example of that form of heritage. This is the institutional (and cultural) context that ICOMOS must operate within. In an indigenous cultural context, however, the practice of identifying something as outstanding or exceptional *above all others* is somewhat foreign; indigenous peoples generally are loath to compare themselves to other people, both as groups and as individuals. They tend not to see themselves as "exceptional" in relation to other indigenous peoples (i.e. the expected point of comparison) but merely different. They would agree, "all sites are somehow unique and therefore exceptional".

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[36] Disko (2017), "Indigenous Cultural Heritage", p. 10.
[37] Jokilehto (2008), *The World Heritage List: What is OUV?*, p.14.

For example, in their first nomination (2013) the First Nations of Pimachiowin Aki avoided making a definitive statement of exceptionality because "they did not want to make judgements about the relationships of other First Nations' [or indigenous peoples] with their lands".[38] Since the indigenous people of Pimachiowin Aki were leading development of the nomination, they were put in what was for them the awkward position of being required to demonstrate clearly in a public document that they were more worthy of recognition than other people and their lands. From a procedural perspective, however, it was understandable that ICOMOS felt "this view sets up a difficult dilemma" since,

> Such a relationship is not unique and persists in many places associated with indigenous peoples in North America and other parts of the world. … What has not been demonstrated is how this strong association between the Anishinaabeg and the land in the area nominated can be seen to be exceptional.

A similar assessment was made in the 2010 ICOMOS Evaluation of the Ngorongoro Conservation Area (United Republic of Tanzania) nomination:

> there are numerous pastoralist communities from Tanzania to Sudan... Notwithstanding cultural and regional differences, all of these groups share, in various ways and to various extents, a great number of cultural characteristics ... The Maasai, although extremely interesting in terms of their cultural traditions, are therefore, in ICOMOS's view, neither a unique nor an exceptional testimony to such pastoralist traditions.[39]

For a people who see everything as different and therefore unique,[40] there will understandably be concern over the suggestion they are not in fact unique. When the Pimachiowin Aki nomination was referred by the Committee (Decision 37 COM 8B.19), without mention of the issue of comparison, there was some attention paid to the issue by Canadian indigenous peoples and their supporters. At a World Indigenous Network conference in Darwin, Australia, coinciding with the 37th session of the Committee in Phnom Penh, Cambodia, a petition was circulated criticising World Heritage processes that require "indigenous people to make inappropriate claims of superiority about our cultures in comparison to other nations and communities in order to grant us special recognition".[41]

To be clear, there is nothing wrong with asserting "the *Convention* is not intended to ensure the protection of all properties of great interest, importance or value"

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[38] ICOMOS Evaluation 2013, WHC- 13/37.COM/INF.8B1,

[39] WHC-10/34.COM/INF.8B1. Note the Kenyan Tentative List site, The African Great Rift Valley - The Maasai Mara, that does propose to represent the pastoral tradition under criterion (v). Also, there is a site (Oldonyo Murwak) on the Tanzanian Tentative List specifically focused on the age-grade traditions of the Maasai.

[40] "I remember one day we were cutting firewood and I was looking at the trees. I just looked at those trees. Every tree was created differently, so beautiful. Each one was created in its own unique way" (Elder Ellen Peters, in translation, Pikangikum First Nation, Canada, November 25, 2004).

[41] Feneley (2013), "Indigenous leaders told of 'insulting' UN rule".

(*Operational Guidelines* para. 52); there would be little point in a List that admitted all interested sites, even if that were possible.

There is a need, then, to find ways to better understand and accommodate indigenous reticence to compare and assert exceptionality. Where the significance of indigenous heritage is articulated through a holistic understanding of the inseparability of nature and culture, or land/sea and people more generally, it is likely that heritage will be seen as essential to expressing and maintaining a specific indigenous identity (i.e. part of the unique customs that mark their indigeneity). In such cases, it will be more difficult to disentangle judgements about heritage attributes (on and of the land) and cultural identity as part of a more detached ("objective") World Heritage perspective.

The centrality of attachment/relationship to land in forming and expressing cultural identity should not be seen as another instance of "national pride" and desire for international prestige to justify the significance of "a property of [merely] national and/or regional importance" (*Operational Guidelines* para. 52). States Parties' attachment to symbols of national pride "stress the monumentality and importance of sites in order to provide an image of the nation as heroic, grand and powerful".[42] For indigenous peoples, cultural and personal identity, even cultural survival in the face of discrimination, is often wrapped up in their relationship to heritage attributes and their (intangible) associations.

Therefore, if a more holistic approach to heritage is to be recognised in World Heritage, greater attention needs to be paid to the importance of cross-cultural communication in World Heritage processes. A practical step for improving representation of indigenous heritage as World Heritage is to provide assistance to indigenous peoples and Staes Parties in understanding the World Heritage perspective, essentially a different cultural perspective, in the development of site proposals and nominations.

For example, it can be a difficult and perhaps subtle point that because the World Heritage Convention addresses tangible aspects of heritage manifest in land and water, OUV must inhere in the physical features of the site itself. Therefore, arguing that a site is exceptional should in fact avoid comparing cultures, or even people, and focus instead on the ways in which a site demonstrates a particular form of cultural heritage. Comparison is not to be an assessment of the cultural values themselves but the relative ability of a site to reflect or represent those values.

The concern for making judgements about other peoples through comparative analysis can also be addressed by ensuring comparison focuses on the ability of the specific geography of the nominated site to reflect a specific set of values in comparison to other sites with similar values. By way of example, Head-Smashed-In Buffalo Jump (Canada) is said to have OUV because it is "one of the *oldest, most extensive, and best preserved sites* that illustrate communal hunting techniques and the way of life of Plains people". The site is a globally exceptional illustration of

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[42]   Labadi (2007), "Representations of the Nation and Cultural Diversity", p. 161.

communal hunting practices, which were once more widespread in the world but are today uncommon (or perhaps non-existent).

Furthermore, because indigenous peoples tend not to want to speak about other peoples, and in particular other indigenous peoples, there may be difficulty in understanding the use of the term "universal"; they are likely to be more comfortale speaking for themselves rather than the entire world. As Jokilehto has explained, in the World Heritage context the term "universal" refers to issues or themes that are faced by people across the world but experienced, understood, and addressed in ways that are highly context-specific or culturally unique.[43] For example, the struggle for survival in the face of a harsh environment is a common general theme in human society (i.e., is "universal") but the specific expression of that general theme is what makes up the basis for potential OUV. The shrines and stone figures found on the islands of Papahānaumokuākea (United States of America) represent a culturally-specific expression of the human/universal search for meaning in life and death.

While such concepts and their application may be second-nature to ICOMOS, reaching understanding with indigenous peoples is likely going to require direct, face-to-face discussions and workshops in the development of Tentative List proposals and nominations. Written guidance documents on OUV and comparative analysis, with examples of successful indigenous nominations, will help indigenous peoples and States Parties work together more successfully.

The World Heritage List is to be composed of "the most outstanding" sites "from an international viewpoint", as justified by States Parties, assessed by the Advisory Bodies and ultimately decided upon by the Committee. Yet indigenous peoples are very often marginal to the centers of political and cultural power and are therefore less influential in defining this "international viewpoint". Also as a consequence of marginalization, indigenous peoples have largely not been directly involved in development of World Heritage nominations. As a result, inscribed sites with indigenous heritage have generally defined values from a non-indigenous perspective.

By way of example, the Kuk Early Agricultural Site (Papua New Guinea) was inscribed under criterion (iv) because the site "contains well-preserved archaeological remains demonstrating the technological leap which transformed plant exploitation to agriculture around 6,500 years ago". Although indigenous Kawelka use of the site for traditional agriculture continues, the 2008 ICOMOS evaluation determined the principal values of the site are in the evidence for origins of agriculture:

> ICOMOS considers that its outstanding universal value is associated with archaeological evidence and hence it is appropriate to consider this a relict landscape. The site is still farmed in a traditional way, but this farming has been re-introduced and modified from traditional practices and, although this is compatible with the archaeological evidence and

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[43] Jokilehto (2008), *The World Heritage List: What is OUV?*, p. 48.

provides a very appropriate context for understanding the archaeological remains, it is in itself not of outstanding value.[44]

While it is defensible to consider the values of contemporary Kawelka farmers as not being themselves of OUV, that the OUV is then based solely on origins of crop domestication without reference to Kawelka, demonstrates how OUV was defined solely by an external (expert) perspective. The same can be said of Ngorongoro Conservation Area (Tanzania), a case that demonstrates how,

if the recognized OUV of a site does not reflect or coincide with the values attached to the site by indigenous peoples, this can lead to restrictions and prohibitions on their traditional land use activities and thus have significant consequences for their lives, livelihoods, cultures and well-being.[45]

The Ngorongoro Conservation Area case is particularly disturbing given recommendaitons from Reactive Monitoring missions for social engineering to reduce the impact of grazing on natural heritage — which include the "truly superb natural phenomenon" of "well over one million" wildebeest migrating through the site — would directly reduce the authenticity of Maasai pastoral heritage;[46] recommendations included (voluntary) relocation, introduction of "improved" cattle stock, delivery of water and salt in proscribed locations, and provision of food aid.[47] Maasai adaptations (sedentisation and agriculture) were also seen as a threat to site cultural OUV, including archaeological heritage *potential*:

Further growth of the Maasai population and the number of cattle should remain within the capacity of the property, and increasing sedentarisation, local overgrazing and agricultural encroachment are threats to both the natural and cultural values of the property... The property encompasses not only the known archaeological remains but also areas of high archaeo-anthropological potential where related finds might be made.[48]

In both the Kuk and Ngorongoro cases, it may seem that outside people have identified something of international value beneath their land, a value they are not themselves a part of.

The paucity of indigenous sites *without* monumental architecture, rock art or other archaeological features, in comparison to the ongoing nomination of terraced agricultural fields, fortified settlements and vernacular architecture, suggests a systematic bias in how OUV is interpreted. As Disko has suggested,

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44 ICOMOS (2008): 87.
45 Disko (2017), "Indigenous Cultural Heritage", p. 10.
46 In the Kuk Early Agricultural Site, for example, adaptations such as improved crop varieties, non-indigenous crops, and drainage on a grid pattern, led the ICOMOS Evaluation to conclude, "This is not a continuation of traditional practice but a re-introduction of appropriate practice" (86).
47 Joint UNESCO/ICOMOS/IUCN Reactive monitoring mission to Ngorongoro Conservation Area (Tanzania)(2012). The one recommendation for social engineering that would not likely affect authenticity is that "more effort should be put into the promotion of family planning" (p. 41).
48 Adopted SOUV, Decision 34 COM 8B.13 (2010), para. 4.

> This is a reflection of the fact that the World Heritage Convention was inspired by a 'European-inspired monumentalist vision of cultural heritage which isolated its physical dimensions from its-non-physical ones' and favored – at least initially – the inscription of built and archaeological heritage.[49]

While now somewhat dated, the ICOMOS study of representativity ("Filling the Gaps") for the 2004 World Heritage List concluded, "the most represented cultural heritage categories on the World Heritage List are architectural properties, historic towns, religious properties and archaeological properties, which together constitute 69% of the cultural properties on the List". For the 2004 List, sites expressing the theme "indigenous belief systems" made up 28 of the 226 sites within the larger category "Spiritual Responses"; however, most of these sites "relate to antiquity, with relatively few relating to living spiritual traditions".[50]

As shown in Table 4 in the previous section, 38 (72%) of the 53 inscribed sites identified as representing indigenous heritage contain archaeological values as the focus of OUV; some 57% (30 of 53) have architecture as a focus of OUV.

Current indigenous heritage on the World Heritage List also emphasises major modifications of land such as fortified settlements and terraced landscapes that not only represent a unique adaptation to challenging conditions but also are a *visually striking* element of the landscape. Examples of this tendency include Rapa Nui National Park, Chile, which "contains one of the most remarkable cultural phenomena in the world. An artistic and architectural tradition of great power and imagination was developed by a society that was completely isolated from external cultural influences of any kind for over a millennium".[51] Rapa people actually continue to live on the island but their current values are not part of site OUV. Similarly, at Rock Islands Southern Lagoon (Palau): "Permanent stone villages on a few islands, … include the remains of defensive walls, terraces and house platforms … [and] provide an exceptional illustration of the way of life of small island communities". Current indigenous heritage, including use of the rock islands, is not part of site OUV.

For criterion (ii), which speaks to cultural interaction ("interchange of human values") as being of potential OUV, the scope of interchange addressed is currently limited to "developments in architecture or technology, monumental arts, town-planning or landscape design". Among the 121 sites identified here as representing or possibly representing indigenous heritage, only four have an OUV not specifically or dominantly focussed on archaeology and/or architecture: Quebrada de Humahuaca (Argentina), Qhapaq Ñan, Andean Road System (Argentina, Bolivia,

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49 Disko (2017), "Indigenous Cultural Heritage", p. 13.
50 Jokilehto (2005), "Filling the Gaps", 21, 35. Jokilehto indentifies 35 sites as representing the theme "Ancient and indigenous belief systems" but the 7 in Europe (e.g., Stonehenge) are more "ancient" than "indigenous" so are excluded here. The eight sites in Africa are not considered indigenous in this report but fit within the analytical framework of the Gap Analysis.
51 ICOMOS (1995), p. 4.

Chile, Colombia, Ecuador, Peru), Cultural Landscape of Bali Province: the *Subak* System as a Manifestation of the *Tri Hita Karana* Philosophy (Indonesia), and Osun-Osogbo Sacred Grove (Nigeria).[52] Given the scarcity of living indigenouos heritage inscribed under this criterion, the wording may be usefully amended to be broader in scope, without requiring the need to make retrospective changes to Statements of OUV for sites already inscribed.

Interpretation of criteria (iv) and (v) in particular is coloured by a perspective in which the core values are defined in archaeological terms that reflect the remnants of empire. Indigenous empires are situated in historical epochs and evaluated for their influence on world history, whereas indigenous peoples outside of empire are evaluated as representing a "stage in human history", which can serve at times as a euphemism for social evolution. Without the monolithic and architectural remains of empire, indigenous people seem to be regarded as being "without history".[53]

The ‡Khomani Cultural Landscape (South Africa), for example, "is uniquely expressive of the hunting and gathering way of life". The nomination and 2001 ICOMOS Evaluation of Tsodilo (Botswana) defined the core values of the site in reference to rock art, which "presents the people of Tsodilo (both indigenous and non-indigenous) as people whose significance is in terms of their interest to the outside world, as markers of humankind's evolutionary progress" (Taylor 2015: 127). Similarly, for Head-Smashed-In Buffalo Jump (Canada), "the significance of the landscape … lies in its historical, archaeological and scientific interest." The Statement of OUV for Kakadu National Park (Australia) is fairly explicit on the way contemporary indigenous peoples reflect a historical and externally-defined understanding: "The hunting-and-gathering tradition demonstrated in the art and archaeological record is a living anthropological tradition that continues today." At Ngorongoro Conservation Area (Tanzania) the evaluation of the "Maasai pastoral landscape" centers on the "settlements of the *previously pastoral* Maasai people and their extensive grazing areas" (emphasis added); as discussed further under Authenticity (p.45), the Maasai were assessed as not representing pastoralism because they combined pastoralism with agriculture. The Maasai case in particular points to the extremely narrow interpretation of indigeneity in the African context (see p. 8).

Compare this with terraced agricultural sites in Europe, for example, which are a category of heritage already well represented but inscriptions continue; the most recent being Cultural Landscape of the Serra de Tramuntana (Spain), inscribed in 2011 as "a significant example of the Mediterranean agricultural landscape."[54] This continued inscription of terraced Mediterranean agricultural landscapes suggests there is a highly nuanced understanding of differences among such sites. But it is unclear if at this point in time we have similar tools for differentiating and

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[52] Noting that both Quebrada de Humahuaca and Qhapaq Ñan have a strong focus on both archaeology and architecture.

[53] Wolf (1982), *Europe and the People Without History*.

[54] Which, it should be noted, was not recommended for inscription by ICOMOS.

recognizing the unique significance of indigenous landscapes without conventional markers such as monuments, vernacular architecture, or archaeological remains.

If indigenous sites cannot be framed within an archaeological or architectural perspective, will they default to being assessed through cultural anthropology as a *type of people* defined in ethnic/tribal terms (e.g., the Saami) or as a form of economic organization (e.g., hunting and gathering, or nomadic pastoralism)?

Speaking at the International Expert Workshop on World Heritage Convention and Indigenous Peoples (Denmark, 2012), Audhild Schanche, Senior Advisor to the Saami Parliament in Norway, spoke about of the proposal for a Saami Tentative List site (see above, under Discussions):

> there is a tendency to think that if one site includes part of an Indigenous people's heritage, that will be sufficient, the theme will be covered ... a [single] Saami site is seen as representing everything Saami through time and space. ... behind this tendency may lay an inheritance from the days when Indigenous peoples were seen as lacking in history and having static and uniform cultures.[55]

Similar concerns were raised in the Pimachiowin Aki case when the second ICOMOS Evaluation suggested,

> ICOMOS considers that what is clear from the work undertaken is that ideas similar to the Keeping the Land concept are common across the vast area of the American North Subarctic. ... What is not clear on the basis of the evidence provided is whether there are few social and cultural differences between the many communities and thus Pimachiowin Aki is the best place to represent this vast part of the globe on the World Heritage list, or whether there are cultural differences related to specific aspects such as hunting traditions, governance, water management, and cultural history, and there could be an opportunity for more than one place to be put on the World Heritage List as a reflection of differing approaches to the idea of Keeping the Land in this region.

In the Pimachiowin Aki case, the Evaluation provided a positive response by allowing "the possibility that other landscapes reflecting different nuanced approaches of Keeping the Land might be considered for the World Heritage list in the future". But in truth, the ability to differentiate indigenous nominations from one State Party, or from similar regions, *without archaeological or architectural markers* has yet to be fully tested. The comparative analysis for Uluṟu National Park (Australia) is a possible exception in that it provided comparison with Kakadu National Park (Australia), concluding: "While the cultural landscapes of the Kakadu and Uluṟu National Parks originate in related cultural traditions, they exemplify cultural adaptations to opposite poles of an ecological continuum."[56]

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[55] In Disko & Tugendhat (2013), Report on the *International Expert Workshop*, p. 34.
[56] Although it is possible that ecology, not culture, was the deciding factor in differentiating the two claims to OUV.

This long discussion of issues in identifying OUV of indigenous heritage is not provided as a critique of ICOMOS practice but to point out that the legacy of an early focus on archaeology, monuments and buildings (already noted by ICOMOS in 2004, "Filling the Gaps") seems to persist. It is not clear how reliance on outside, expert assessment of value is going to change since States Parties agencies responsible for World Heritage typically represent the technocratic elites of their societies. Because indigenous peoples are generally marginal to the centers of power, they are unlikely to find much support from those centers of power without clear incentives and technical support for States Parties to nominate indigenous heritage.

Given indigenous worldviews are significantly different from those of non-indigenous peoples, participation of indigenous peoples in the identification of values is particularly important; if living indigenous heritage is to be part of a site's OUV, engagement with local experts, those who live their own heritage, is necessary to understand the significance of that heritage.

Insofar as contemporary indigenous heritage very often does not focus on those values already well represented on the World Heritage List (i.e. rock art, architecture, monuments or massive changes to the earth), there should be specific value for the World Heritage List in terms of indigenous ways of life and ways of seeing the world. If indigenous peoples and their values are in fact different from the cultural mainstreams of their wider nations, then so too should be their contributions to World Heritage. Encouraging nominations of indigenous heritage to consider using criterion (iii), and perhaps also criterion (v), together with criterion (vi), to address cultural traditions (and/or land/sea use) and their intangible values, is a useful approach; this was the approach suggested by ICOMOS for Pimachiowin Aki following the deferral of their first nomination.[57]

These are some suggestions for avenues forward that seek to better accommodate indigenous understandings of their contemporary relationship to the land/sea where that relationship is not articulated through rock art, architecture, monuments or massive changes to the earth.[58]

HOLISTIC VIEWS OF NATURE AND CULTURE

Given the importance of continuing relationship to land in expressing indigenous heritage, identity and cultural survival, separation of heritage into two exclusive categories, natural and cultural, is perhaps the most significant issue preventing

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[57] This approach was also suggested by the the Expert Meeting on "Authenticity and Integrity in an African Context" (Zimbabwe, 2–29 May 2000), "to consider the possibility of using criterion (iii) – the exceptional testimony to a cultural tradition or civilization – or (v) – traditional human settlement or land use -, in relation to intangible testimony of a civilization. This would mean using criteria (iii) or (v) together with (vi). It is noted that criteria (iii) and (v) so far have only been used for tangible evidence" (UNESCO 2000: 32).

[58] On massive changes to the earth: "Is there evidence for a large, even huge, input of human energy and skill, perhaps in moulding an extensive area for a particular function such as worship, irri-gation, agriculture, communication, or artistic effect" (ICOMOS (2001) in Fowler (2003), p.128).

better representation of indigenous heritage on the World Heritage List. As Disko has suggested, "Some of the strongest criticism over the years of the concept of heritage embodied in the Convention has come from indigenous peoples and has related to its separation of natural and cultural heritage and its focus on tangible aspects at the expense of intangible aspects".[59]

A holistic view of heritage as equally and inseparably consisting of values that are natural and cultural, and tangible and intangible, is an important contribution indigenous peoples can make to the World Heritage List.

As will be argued here, the legacy of a World Heritage focus on archaeology, monumental works and buildings prevents a fuller understanding of holistic views of heritage in which culture and nature, and tangible and intangible values, are seen as equally and inseparably forming one whole. The inability to address holism is not especially inherent in World Heritage operational requrements (e.g., criteria for evaluation of OUV) but a reflection of institutional inertia rooted in differing cultural perceptions of heritage, and division of responsibilities between Avisory Bodies and between two conventions,

At the meeting of the Committee in Cairns, Australia (2000), the indigenous Peoples Forum urged the Committee and all States Parties to "recognise the holistic nature of indigenous natural and cultural values and traditions … [which] are dynamic living values rather than static historic ones".[60] By way of illustration, for the Anangu of Uluru-Kata Tjuta National Park (Australia), people, plants, animals, landforms are all the living embodiment of the creation beings: "humans and every aspect of the landscape are inextricably one".[61] Similarly, for the Dehcho associated with Nahanni National Park (Canada), inscribed under only natural criteria, "the dichotomy between 'natural' and 'cultural' is a false distinction for the Dehcho First Nations, who hold a holistic view of the Dene people as inseparable from the land".[62]

The desire of indigenous peoples to see natural and cultural values expressed as a single entity is well understood at this point in the history of World Heritage. Rather than try to demonstrate this point, this sub-section will focus on how World Heritage can better recognise the holistic nature of indigenous heritage, with specific reference to the nature-culre dichotomy.[63]

In 2017, the Committee highlighted "the importance of promoting integrated approaches that strengthen holistic governance, improve conservation outcomes and contribute to sustainable development" in accordance with the Sustainable Development Policy (Decision 41 COM 7, Arts. 37 & 38). The Sustainable Development Policy itself suggests States Parties should

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[59] Disko (2017), "Indigenous Cultural Heritage", p. 2.
[60] WHC-2000/CONF.204/21.
[61] Calma and Liddle (2003: 104–5).
[62] Pitaken and Antoine (2014).
[63] Notwithstanding the ongoing focus on tangible heritage noted above (i.e. a focus on archaeology, monuments and architecture), the application of criterion (vi) along with criterion (iii) and perhaps also criterion (v) does allow for addressing holism of tangible and intangible values.

recognise the close links and interdependence of biological diversity and local cultures within the socio-ecological systems of many World Heritage properties. These have often developed over time through mutual adaptation between humans and the environment, interacting with and affecting one another in complex ways, and are fundamental components of the resilience of communities.

The policy basis for recognising the interdependence of nature and culture in World Heritage therefore now exists. However, the Sustainable Development Policy has not been operationalized, including through changes to the *Operational Guidelines*, so actually achieving recognition of this interdependence in new nominations is likely to continue to be difficult. As discussed in the next section, "International Efforts to Better Address Indigenous Heritage", there are currently efforts being made to better address the integration of natural and cultural values, including through collaboration of Advisory Bodies in the assessment process.

ICOMOS has acknowledged that it is difficult to accommodate, under the terms of the current *Operational Guidelines*, an indigenous perspective that sees natural and cultural values as inseparable. In the 2013 Evaluation of Pimachiowin Aki, ICOMOS stated:

> This nomination raises fundamental issues in terms of how the indissoluble bonds that exist in some places between culture and nature might be recognised on the World Heritage List for the cultural value of nature. ... Although cultural and natural criteria have been merged, their use has not. Currently there is no way for properties to demonstrate within the current wording of the criteria, either that cultural systems are necessary to sustain the outstanding value of nature in a property, or that nature is imbued with cultural value in a property to a degree that is exceptional.[64]

Some practitioners, including Suvi Lindén (Minister of Culture of Finland, addressing the twenty-fifth session of the Committee in Helsinki, Finland, 2001), have called for changes to the criteria for assessment of OUV: "it would be very much easier to include the cultural heritage of indigenous peoples if the criteria of cultural and natural sites were combined into one set of guidelines".[65] However, this is not practical at this time since this would involve review and possibly revision of a large number of Statements of OUV for already inscribed sites. This is nonetheless a project that can be borne in mind should a wholesale revision of the World Heritage system be envisioned in the future.

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[64] ICOMOS (2013), p. 45. It can be pointed out, however, that the reverse perspectives are intimately a part of World Heritage assessments of site integrity and OUV: *removal* of (environmentally destructive) cultural systems is necessary to sustain the outstanding value of nature, and nature can reflect the *absence* of cultural value (i.e. habitation and use) to a degree that is exceptional.

[65] WHC-01/CONF.208/24, p. 97. Merging of cultural and natural criteria was also recommded by the Expert Meeting on Authenticity and Integrity in an African Context (UNESCO 2000: 171).

Mixed nominations are not an easy solution, since they require much more work to complete given that natural and cultural values are assessed independently. A review of decision processes for mixed nominations revealed, "in most cases these appear to be more complex than those nominated for only cultural or natural values"; they required more time to prepare, greater coordination between Advisory Bodies, and are more difficult to prepare a single decision on given there are two separate evaluations.[66] As a result, States Parties are now recommended to seek upstream assistance from IUCN and ICOMOS "at least two years before a possible nomination is submitted".[67]

Because mixed nominations are effectively two separate nominations, information and justification for both should be balanced or the nomination may be considered incomplete.[68] As a result, according to Kristal Buckley, a key reason there are so few mixed sites on the World Heritage List is that many States Parties lack the information and/or capacity to develop both natural and cultural arguments for inscription to the same degree of detail.[69] According to Larsen and Wijesuriya, unless there is clear added value, nominations are urged to downplay the interconnection between nature and culture in favour of the most likely winner.[70] This point is echoed by Disko, who suggests,

> even if States [Parties] have the best intentions, there are significant practical and financial reasons why they may choose to disregard indigenous values in preparing nominations. In particular, they may prefer to nominate nature-protected areas as natural rather than mixed sites because mixed nominations are considered too complex".[71]

Even in a case such as Pimachiowin Aki (Canada), in which the proponents were very clear in their desire to nominate the site for its strong interplay of nature and culture — "Our intention has been to have this area recognised for both its cultural and its ecological values … the two are inseparable for us. There is no distinction" (Sophia Rabliauskas, Poplar River First Nation)[72] — that interplay was not seen to have been expressed in the initial nomination. As the report on the reflection on processes for mixed nominations noted,

> The analysis of the particular case of the deferred nomination of Pimachiowin Aki occasioned the decision that has led to the present paper, and provides a clear example of a site that does reflect a symbiosis between culture and nature and a process where the disconnect that can

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66 WHC-14/38.COM/9B, p.3 art.14.
67 15/39.COM/9B.
68 WHC-14/38.COM/9B, p.4 art. 18.
69 Buckley (2014), "Nature+Culture and World Heritage", p. 116. This can be seen in Tentative List descriptions for proposed mixed sites that provide highly imbalanced descriptions, typically leaning to natural values (e.g., National Park Sierra del Lacandón (Guatemala)); indeed, some Tentative List descriptions for proposed cultural sites provide more detail for *natural values* than for cultural values.
70 "Nature-Culture Interlinkages" (2015), p. 10.
71 "Indigenous Cultural Heritage" (2017), p. 15.
72 In Feneley (2013).

occur is evident. IUCN and ICOMOS note that this disconnect is also evident in the nomination as submitted, not only in the evaluation process.[73]

There is, then, a general concern in World Heritage that mixed sites can effectively demonstrate the interplay of nature and culture,[74] regardless of the desires of the nominating party and the willingness of ICOMOS (and IUCN) to accommodate these desires. In fact, it has been said,

> the majority of inscribed mixed sites does not reflect a true symbiosis or indissoluble bond between culture and nature. For places where cultural and natural attributes have only tangential links and may not readily coincide in spatial terms, there can often be considerable difficulties in defining a common boundary and putting in place coordinated management. This raises the issue whether mixed properties should demonstrate a clear interplay between culture and nature.[75]

Cultural landscapes, while also helpful in expressing the interrelationship between culture and nature, are not necessarily a practical solution either since they don't change the way a nomination has to be argued and assessed under cultural criteria; nomination under natural criteria is entirely optional (and if adopted, the concerns outlined above will apply).

However, there is value in promoting the use of the cultural landscape concept for proposals and nominations addressing indigenous heritage from a more holistic perspective. The cultural landscapes concept can help indigenous peoples, States Parties and ICOMOS organise thinking and efforts in a way that is cross-cultural, accommodating both indigenous and World Heritage perspectives. As Lisitzin and Stovel have suggested,

> The real advantage of admitting cultural landscapes to the heritage family, however, is the opportunity afforded to embrace a holistic 'way of looking', in assessing what it is important to retain and manage. ... A cultural landscape approach demands another way of working, one focused on the key processes that have shaped and continue to define the character of the landscape over time.[76]

The cultural landscape concept helps to:

1. Clarify the whole range of essential elements that express the character of the land as it has been formed through interaction with its occupants; this approach almost requires careful consideration of intangible cultural heritage and indigenous cultural perspectives more generally. More than any other aspect of World Heritage, cultural landscapes allow for a holistic and

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[73] WHC-14/38.COM/9B, p.4 art. 22.
[74] WHC-15/39.COM/9B Progress Report.
[75] WHC-14/38.COM/9B, p.4 art.20.
[76] "Training Challenges in the Management of Heritage" (2003: 35).

complex expression of how indigenous people identify with and relate to the land (and sea).[77]

2. Enable articulation of a holistic understanding of land and culture forming a coherent whole without the complexity of a mixed nomination. Even if, at present, ICOMOS cannot assess a claim that cultural values are essential to sustaining nature to an extent that is outstanding, that connection can still be suggested since the *Operational Guidelines* state, "The continued existence of traditional forms of land-use supports biological diversity in many regions of the world. The protection of traditional cultural landscapes is therefore helpful in maintaining biological diversity" (Annex 3, para. 9).

3. Allow for better understanding of the importance of cultural traditions, including traditional protection and management, in demonstrating authenticity. As ICOMOS noted in the Evaluation of Ennedi Massif (Chad), "living communities cannot be conceived as static entities. In this regard, a cultural landscape approach would be beneficial for the fine-tuning of the articulation of the conditions of authenticity with regard to traditions and human/environment interactions."[78]

4. Allow for a wide range of expressions of how places (attributes) and associations are interconnected across an entire landscape. "The possibility of designating long linear areas" (*OG* Annex 3, para. 11) is specifically of relevance to indigenous peoples who travel widely and understand their progress across the land as a series of named nodes associated with key historical and mythological events (e.g., songlines), rather than the cartographic ("bird's eye") view of mainstream society.

5. Accommodate change: "They are illustrative of the evolution of human society and settlement over time, under the influence of the physical constraints and/or opportunities presented by their natural environment and of successive social, economic and cultural forces, both external and internal" (*OG* Annex 3, para. 6). Continuing, organically evolved cultural landscapes in particular play "an active social role in contemporary society closely associated with the traditional way of life, and *in which the evolutionary process is still in progress*" (*OG* Annex 3, para. 6, emphasis added). This can help find ways to express mutual adaptation of nature and culture in ways that are outstading and/or exceptional.

But the cultural landscape concept is not an indigenous concept and indigenous perceptions and understandings should not be made secondary to or somehow tailored to fit the cultural landscape concept. That said, World Heritage is not an indigenous concept either, so cultural landscapes can help facilitate cross-cultural communicattion about how to understand natural and cultural heritage as an integrated whole within the World Heritage context. A cultural landscape approach

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[77] Associative cultural landscapes, in which "material cultural evidence … may be insignificant or even absent" (*OG* Annex 3, para. 10), would be possible using criterion (vi) in combination with criterion (iii) and/or perhaps criterion (v).

[78] ICOMOS (2016: 25).

is a means to an end (i.e. justification of indigenous heritage as being of OUV) more than an end in itself.

In sum, World Heritage processes lack effective mechanisms for addressing the interplay of culture and nature. While not specific to indigenous nominations, this issue will likely be recurring for nominations (or re-nominations) seeking to express indigenous values as holistic understandings of the inseparability of nature and culture. As suggested in the previous sub-section, such holistic views represent an important potential contribution to the World Heritage List. Therefore, further discussion is needed to find ways to accommodate these holistic understandings within existing criteria, without suggesting "that cultural systems are necessary to sustain the outstanding value of nature in a property, or that nature is imbued with cultural value in a property to a degree that is exceptional".

Emphasis on cultural traditions and cultural landscapes is one practical way forward at this time as they allow for a wide spectrum of potential nominations focussed on indigenous peoples' relationship to land. Also, as mentioned earlier, combining criterion (vi) on intangible associations, with criterion (iii) on cultural traditions, or potentially criterion (v) on traditional land/sea use, can provide for a holistic articulation of indigenous heritage. The progress report on the reflection on processes for mixed nominations, "at present, there is no evidence that the wording of the criteria created difficulties for the evaluation of mixed sites".[79] The same seems to be true for nominations expressing the inseparability of culture and nature; however, *interpretation* of how nominations are justified under specific criteria that shapes the acceptance of holism in the World Heritage context.

In presenting (and assessing) a holistic view of nature-culture, it is actually not necessary to demonstrate that cultural practices have preserved natural values to a degree that is exceptional or outstanding; in many cases, indigenous peoples have historically been forced into marginal and spatially restricted landscapes and have therefore had to change how they move around in and make use of the land (or sea) and its resources. Such changes should not necessarily be seen as signalling a decline in authenticity, and therefore OUV, since indigenous practices may still express a unique and potentially outstanding relationship to land (or sea). As the Expert Meeting on Desert Landscapes and Oasis Systems in the Arab Region (Egypt, 2001) noted, "It is the integrity of the relationship *with* nature that matters, not the integrity of nature itself".

2. Authenticity

Discussed here are issues facing Indigenous heritage in assessment of authenticity, the ability of a site to credibly demonstrate its OUV. Issues related to assessment of integrity are discussed in the next sub-section and focus on completeness of representation of cultural heritage within a site.

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[79]   UNESCO (2015b), WHC-15/39.COM/9B, Art. 4, p.2.

Assessment of authenticity is in principle a technical exercise involving application of clear criteria to verify a proposed OUV continues to have significance in a site. Following the Nara Document on Authenticity, these criteria need not be rigidly defined; they only need to be clear in their intention and adaptable to a specific context. In most respects this is the case for World Heritage. Attributes of Authenticity — form and design, materials and substance, use and function, etc. (*Operational Guidelines* para. 82) — are clear and practical criteria for assessing whether cultural values are truthfully and credibly expressed in the specific context of a nominated site.

A nomination should be able to demonstrate, for instance, that a traditional harvesting site in a specific, documented *location and setting* continues to support a specific *use and function*, following historic *traditions, techniques and management systems* (that are part of the OUV). And this demonstration should be made culturally-specific to remain truthful to the cultural context and proposed OUV. As laid out in the *Operational Guidelines* para. 81 (following the Nara Document on Authenticity), "the respect due to all cultures requires that heritage properties must be considered and judged within the cultural contexts to which they belong".

However, achieving a culturally appropriate assessment can be extremely difficult since assessors are required to make an independent assessment that is understood and acceptable *within an international context* (i.e. World Heritage); moreover, and especially in the case of indigenous heritage, assessors are likely *not familiar* with the local cultural context.

As outlined in the *Operational Guidelines*, "the ability to understand the value attributed to the heritage depends on the degree to which information sources about this value may be understood as credible or truthful" (para. 80), with information sources being "all physical, written, oral, and figurative sources, which make it possible to know the nature, specificities, meaning, and history of the cultural heritage" (para. 84).

In practice, cultural and language barriers, as well as more subtle biases stemming from the expert position of assessors, can make it difficult to fully acknowledge oral sources in particular, which are typically the primary source of local knowledge of indigenous heritage resources. As a result, it can be easier to accept information from a recognised non-local expert than an indigenous elder (i.e. local expert). The same dynamic plays out in all manner of venues in which indigenous peoples must communicate their values, especially legal processes requiring testimony, political forums, and decision making over development priorities. Because indigenous peoples are generally marginal to the mainstreams of cultural, political and economic power, they are already at a disadvantage in having their perspectives voiced and understood.

Integral to and compounding the problem of cross-cultural communication is the problem of assessing the authenticity of values that blend in seamlessly with, and perhaps make up a part of, the natural environment. Audhild Schanche, Senior

Advisor to the Saami Parliament in Norway, remarked that identification and understanding of indigenous heritage is hampered by,

> the notion that indigenous cultural monuments [i.e. attributes] are vague and unnoticeable. They are seen as part of the 'wilderness' rather than as physical expressions of remarkable cultural achievements. ... However, what is vague or recognizable as cultural monuments has very much to do with knowledge on how and where to look.[80]

As explained in the Pimachiowin Aki (Canada) nomination,

> Although most habitation and processing sites are used seasonally and may be left unused for long periods, these sites are many generations old and their locations have been established based on proximity to resources, ease of access, good drainage, shelter from elements, and safety from wild fire. Even where these sites are not currently in use, they remain important in providing a home base for future harvesting, when resource availability and personal circumstances allow for greater use of the area. Moreover, unused habitation sites are important in oral traditions, acting as physical markers of personal and collective histories, including claims to resources.

Someone looking for well-maintained (i.e. using traditional material and methods) built structures as evidence of continued significance of a habitation site may not properly understand the indigenous value of that habitation site, which is not rooted in the structures themselves but the relationship of people to the site.

There is also the issue of accommodating cultural change; that is, "how much of the twenty-first century should be permitted to intrude in these landscapes of outstanding universal significance before their values are compromised and changed in meaning?"[81] The following cases illustrate the conflict between external expectations and local needs that can arise in the assessment of Authenticity.

The 1995 Evaluation of Rice Terraces of the Philippine Cordilleras (Philippines) remarks, "One discordant element in the landscape of the terraces is the use of corrugated iron sheets for roofing in place of the traditional thatch". In addition, as Jill Cariño of the Cordillera Peoples Alliance has noted, the local government has sought to prohibit construction in the rice terraces area in order to preserve the traditional appearance of the site; however, the indigenous farmers often defy the prohibition because they need space to build more homes for their expanding community.[82]

Regarding Ngorongoro Conservation Area (Tanzania), William Olenasha (Maasai lawyer and legal advisor to the Ngorongoro Pastoral Council) has commented, "The rich pastoralist and Maasai culture was not included in the justification for inscription because, according to UNESCO, it is no longer pure enough".[83] The

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[80]   In Disko & Tugendhat (2013), p.34.
[81]   Lennon (2003), p. 120.
[82]   In Disko & Tugendhat (2013), p. 45.
[83]   In Disko & Tugendhat (2013: 48).

ICOMOS Evaluation had earlier noted, "the Maasai within the Ngorongoro Conservation Area cannot be said to represent the Maasai pastoralists who are spread over a much wider area to the north in Kenya as their distinctive pastoralism within the Conservation area has now been significantly changed into agro-pastoralism through the impact of population growth and other factors". It has however been argued that tending crops has been a long-established tradition among the Maasai.[84] There is also the important and very valid ICOMOS observation that, as a result of successive forced relocations, there is too little land used by the Maasai within the site to adequately represent pastoral values at a landscape level.[85]

The 2013 ICOMOS Evaluation of the first nomination of Pimachiowin Aki (Canada), also noted that adoption (or planned adoption) of new forms of livelihood was an indication Anishinaabeg no longer represented an authentic, presumably hunter-gatherer, tradition: "continuity of land-use traditions will not necessarily be the way forward as the Anishinaabeg will seek new livelihood opportunities to allow them to continue to live in the area".[86] This assessment was based on the justification for OUV under criterion (v), whereas the subsequent nomination under criteria (iii) and (vi) did allow for more flexibility in understanding the indigenous relationship to land as part of a cultural tradition rather than a form of traditional land use.

The Pimachiowin Aki re-nomination highlights the value of focusing on indigenous cultural traditions as reflected in and sustained by relationship to land (or sea), rather than static depictions of cultural/ethnic identity represented in historical (anthropological) texts. As Calma and Liddle have suggested for the A_nangu of Ulu_ru-Kata Tju_ta National Park (Australia), the cultural traditions that define their relationship to land and one another (i.e. *Tjukurpa*, "the law") can survive adaptations to a changing socio-economic context:

> It is incumbent on modern A_nangu to follow *Tjukurpa*, both in their management of the environment and in their social relationships ... [even where] resources have been hunted with rifle or were reached by means of a four-wheel-drive vehicle.[87]

Although not specific to indigenous heritage, Buggey and Mitchell's comments on the importance of accommodating change in cultural landscapes are highly relevant here; if indigenous heritage is to be seen as an integration of natural and cultural

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[84] See, for example, Spear and Nurse (1992) who explain, "'Maasai farmers' is not an oxymoron". Nevertheless, "Maasai in general are often taken as a paradigm for 'pure pastoralists' [whose] cultures and values, it is asserted, are uniquely related to a pastoral mode of production and are sharply distinguished from the cultures and vales of Bantu-speaking farmers".

[85] It may also be that restricions of access to land have encouraged adoption of agriculture.

[86] ICOMOS (2013), p. 39. Future livelihood activities proposed by First Nations included a community-led low-impact forestry operation in the buffer zone (proposed by a First Nation that withdrew from the site), and remote area tourism at a handul of community-owned lodges and a healing camp without road access.

[87] Calma & Liddle (2003), p. 105.

values, survival of the people who formed, maintain and embody that heritage is equally important as preservation of the physical fabric of a landscape:[88]

> Successful conservation of this type of lived-in landscape accommodates change while retaining landscape character, cultural traditions and economic viability.[89]

The above issues are not merely technical in nature but moral. Fowler questions if we,

> for heritage reasons have in the last resort the right to inhibit, even prevent, 'normal' economic development — like acquiring basic facilities of water, electricity and hygiene — in archaic landscapes with communities living in undeveloped circumstances … [that is,] whether or not 'preserving' small, essentially non-Westernized indigenous populations in their 'natural' habitats is the proper business of those implementing the World Heritage Convention.[90]

In a living landscape change is alays occurring, as traditional practices adapt to and in turn sponsor ecological change. Climate change in particular will increasingly require adaptation by indigenous peoples since,

> Indigenous peoples are among the first to face the direct consequences of climate change, due to their dependence upon, and close relationship, with the environment and its resources. Climate change exacerbates the difficulties already faced by indigenous communities including political and economic marginalization, loss of land and resources, human rights violations, discrimination and unemployment.[91]

As Thomas Andrews (Territorial Archaeologist at the Prince of Wales Heritage Centre, Yellowknife, Northwest Territories, Canada) asks, how then does one test authenticity on a changing, living landscape?[92] Continuity of cultural traditions is not simply the sameness of practices being repeated over time, almost passively, but continued survival, including through adaptation. As Andrews and Buggey suggest, "Aboriginal cultural landscapes are living landscapes that change as time progresses" but "only the landscape of today is available to us: the others can only be conceived in our imagination … [and so] … to seek a sense of authenticity in the past is to search for an artificial construction".[93]

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[88] As noted by Tokie Laotan Brown, ICOMOS Nigeria: "It is thus imperative that the measures of authenticity need instead to respect the cultural contexts to which places belong, the belief systems associated with them, and the related concepts of land, time and movement that embody meaning in the cultural landscape. Authenticity… is not just exclusively about places; rather about the people and cultures living within their collective traditions."

[89] "Cultural Landscape Management Challenges and Promising New Directions" (2003).

[90] *World Heritage Cultural Landscapes* (2003), p. 56.

[91] United Nations Department of Social and Economic Affairs, Indigenous People (n.d.) "Climate Change" (https://www.un.org/development/desa/indigenouspeoples/climate-change.html).

[92] "Recasting Authenticity in Aboriginal Cultural Landscapes" (2014), p. 97.

[93] "Authenticity in Aboriginal Cultural Landscapes" (2008), p. 70.

In sum, human societies always change and adapt to the needs of the present. For indigenous peoples in particular, adaptation is part of cultural survival. The Nara Document on Authenticity directs ICOMOS to judge cultural values in their cultural context and that context will almost certainly involve some form of adaptation. And yet, while cultural interaction is specifically identified as a desired form of heritage on the World Heritage List (i.e. under criterion (ii)), *cultural adaptation* by indigenous peoples seems largely off the table. Indigenous heritage is generally assessed by a standard of authenticity that is focussed on preservation of ideal types in specific historical periods.

This isn't to suggest abandoning a set of standards for assessing authenticity of indigenous heritage, but it is no longer sufficient to work from standards that identify values frozen in some arbitrary point of time depicted in historical (anthropological) texts. The functions (or role and uses) of heritage in society are what determine its primary significance and source of life. As Jokilehto and King suggest, "the functions themselves become a fundamental part of the heritage [and] … If the functions continue, they will also necessarily involve change."[94] This emphasises on the ongoing, dynamic social processes and cultural values that make indigenous heritage not only meaningful but possible, reflects the Nara Document on Authenticity (1994): "the respect due to all cultures requires that heritage properties must be considered and judged within the cultural contexts to which they belong."

3. Integrity

To begin, we can recall the conclusions of the Expert Meeting on Desert Landscapes and Oasis Systems in the Arab Region (Egypt, 2001) — "It is the integrity of the relationship *with* nature that matters, not the integrity of nature itself". Where heritage expresses an indigenous relationship to land/sea, it is important to understand the range of tangible and intangible components that characterise that relationship. Therefore, discussion of Integrity here focuses on inclusion of a breadth attributes within a site needed to sufficiently reflect the proposed OUV.

With this in mind, issues of integrity particularly relevant to indigenous heritage largely result from a lack of participation by indigenous peoples in site designation and identification of values. Unfortunately, most site boundaries are inherited from protected area designation with little or no concern for representation of indigenous heritage. Such was the case with the Ngorongoro Conservation Area (United Republic of Tanzania), for which consideration of Maasai heritage was not a basis for designation of Conservation Area boundaries. On the contrary, Maasai were deliberately excluded from most of the site. As a result, ICOMOS could conclude, "the pastoral traditions of the Maasai in the property … apply to only a comparative small area, and that the grazed landscape cannot be said to represent the more widespread Maasai pastoralist tradition".[95]

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[94] "Authenticity and Conservation" (2000), p. 38.
[95] ICOMOS Evaluation (2010), p. 76.

When the identication of values and subsequent rationale for conservation of those values has been determined without reference to indigenous values, there is a high likelihood key parts of the landscape representing indigenous heritage will be omitted.

The re-nomination of Uluru-Kata Tjuta National Park (Australia) is a case in point. For the Anangu people, the landscape is understood to have been formed by ancient, ancestral creation-beings whose "bodies, artefacts and actions became places imbued with their presence." These places have potent spiritual significance and are connected to one another by "tracks" that record the travels and activities of the ancestral creation-beings.[96] As Graeme Calma, an Anangu traditional owner at Uluru-Kata Tjuta National Park has explained,

> For cultures such as that of Anangu, the concept of landscape, rather than discrete areas, is more appropriate. ... The monolith of Uluru has attracted the attention of Western society from an aesthetic point of view, but in fact ... the significance of Uluru to Anangu is not restricted to the monolith itself. Its significance is tied into the stories of the ancestors that extend around and beyond Uluru and into the country beyond the Uluru-Kata Tjuta National Park. Unlike some sacred mountains, Uluru is not viewed by Anangu as a discrete entity, a conceptual and geographical location; this is a Western cultural construction.[97]

The specific cultural significance of sites is often for indigenous peoples deeply tied into the wider landscape of which the site is a part. For example, as Jill Cariño (Cordillera Peoples Alliance) explained at the Copenhagen Expert Worksop (2012) with respect to Rice Terraces of the Philippine Cordilleras (Philippines): "for the World Heritage system, the focus is really on the rice terraces zone, whereas the focus for indigenous people is on maintaining the watersheds, and also on the *muyong*, the private forests."[98]

A final important point on integrity and boundaries: for many indigenous peoples, boundaries that define an area of stewardship responsibility are established and renewed through historical negotiation and often not strictly defined cartographic lines, unless as an outcome of collaboration with (colonial) government (e.g., tribal administration/"indirect rule", land claims, protected area co-management). Speaking at the Expert Meeting on African Cultural Landscapes (Kenya, 1999), Dawson Munjeri of Zimbabwe has suggested,

> The problem of the boundaries of landscapes is often the result of a long and complex history. It is often preferable to consider the boundaries of a site more as a combination of stable and flexible elements, forming an approximate contour, rather than a lineal and exact boundary.

Even though indigenous people may know through custom and oral history where their area of responsibility ends and another's begins, it is another matter to begin

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[96] ANPWS (1994). Renomination, pp. 21, 4.
[97] In Calma & Liddle (2003), p. 104.
[98] In Disko & Tugendhat (2013), p. 44.

drawing lines on a map. For many indigenous (and local) peoples, their relationship to land is typically not a territorial relationship, in the sense of a defined area serving as tribal homeland. As Dawson Munjeri explained at the Expert Meeting on Authenticity and Integrity in an African Context (Zimbabwe, 2000), "In the area around the Great Zimbabwe World Heritage site constant problems have arisen when its boundaries have been asserted and legally enforced against a surrounding community who have always known that '*Duma harina muganhu'* (the Duma have no boundary)."[99]

However, there is evidence in ICOMOS Evaluations of a desire to see indigenous peoples completely represented within a defined area. Concern was raised, for example, that the Maasai of the Ngorongoro Conservation Area (United Republic of Tanzania) "are not confined to the Conservation Area and include neighbouring groups in Tanzania and in Kenya." Moreover, "the Maasai cannot be directly linked to earlier peoples living in the area as they are believed to have migrated to the area only in the early 19th century (although there is evidence that pastoralists have grazed the area for some two millennia)." As a result, "recognition of a palimpsest cultural landscape is more appropriate than trying to link the property with a particular cultural tradition or civilization."[100]

A similar assessment was applied in the case of ǂKhomani Cultural Landscape, South Africa):

> The integrity of the nominated property also poses questions, as the original landscape of the ǂKhomani and other San-related people is much larger than the one being nominated and therefore the nominated property represents only a portion of what used to be the ǂKhomani San associative landscape.[101]

In both cases there is a legitimate concern for whether the sites are able to fully represent indigenous heritage within the specific geography of the site.

And again for Pimachiowin Aki (Canada):

> The boundaries do not encompass all the Anishinaabeg ancestral lands; some lie outside the boundaries and of these some are in the buffer zone. The Anishinaabe / Ojibwe language is spoken in an extensive area on both sides of the border between Canada and the United States of America. The people within the nominated area represent around less than a quarter of all those speaking *Anishinaabemowin* as their first language.[102]

From there, the Evaluation enters a lengthy debate, using published sources not cited in the portion of the Evaluation made public, on the history of indigenous occupation of the area. Recognizing the lack of rigid cultural boundaries, the

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[99] UNESCO (2000), p. 4. The Duma being descendant from the builders of Great Zimbabwe.
[100] ICOMOS Evaluation (2010), pp. 67–69.
[101] ICOMOS Evaluation (2017), p. 67.
[102] ICOMOS Evaluation (2018), p. 23.

Evaluation nevertheless seeks to assign identity to one or the other group, as mutually exclusive:

> ICOMOS considers that as the Cree and Ojibwe are very closely related, including linguistically, as both are part of the entire Shield common area, and as both have lived in the wider area over thousands of years, probably in an ever changing dynamic, with some groups living close to each other and some further apart, then Pimachiowin Aki could be said to be both Anishinaabe and Cree, with the Anishinaabeg being the current 'caretakers'. Pimachiowin Aki was an area previously shared by the Anishinaabeg and Cree, but, under the influence of the western ideas of land ownership, it came to be assigned to the Anishinaabeg.[103]

Equally, one could say that the people of Pimachiowin Aki have come under the influence of *western ideas of ethnicity*, which are distinctly tribal; that is, seen as well-bounded (distinct) and tied to a territorial homeland. ICOMOS need not put itself in the position of identifying well-bounded ethnicities and assigning those to delimited areas. Similar to the issue of identifying indigenous peoples as representing a "stage of human history", there is a need to discuss how indigenous heritage can be freed from having to represent sections of some map of indigenous cultures. There is no similar approach applied in the non-indigenous world; no one is, for example, suggesting the Cultural Landscape of the Serra de Tramuntana (Spain) need be representative of the Balearic people.

In sum, assessment of integrity is likely to remain a difficult task with regard to indigenous heritage where, (a) site designation precedes assessment of potential for nomination as a World Heritage Site representing indigenous values, and (b) indigenous heritage is not confined to a fixed geography inhabited by an ethnically homogeneous and sedentary people. Ensuring participation by indigenous peoples in the identification of values and boundaries *prior to creation of a site* is the best solution.

4. Protection and Management

The importance of indigenous peoples' consent to and participation in World Heritage processes has already been identified as a key part of policy on indigenous people (more than heritage specifically) in World Heritage processes (i.e. UNESCO *Policy on Engaging with Indigenous Peoples*, the World Heritage Sustainable Development Policy, and the *Operational Guidelines* para. 40). Of particular interest here is Article 22.iii of the Sustainable Development Policy, which calls on States Parties to "actively promote indigenous and local initiatives to develop equitable governance arrangements, collaborative management systems and, when appropriate, redress mechanisms."

The focus in this sub-section is on the importance of incorporating traditional or customary forms of indigenous stewardship in site protection and management; that is, as part of "equitable governance arrangements, collaborative management

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[103] ICOMOS Evaluation (2018), p. 24.

systems." This focus underscores the importance of understanding the role that indigenous people themselves, as carriers of cultural traditions, play in embodying and reproducing heritage through their shared understandings and collective actions.

As discussed earlier under World Heritage Committee decisions, support for customary protection and management of natural heritage was highlighted in the inscription of East Rennnel (Solomon Islands) in 1998 under only natural criterion (ix) (which was criterion (ii) at that time). At the time of inscription, Solomon Islands had no protected areas legislation but in 2010 passed the Protected Areas Act; requirements for declaring East Rennell a protected area are in place but the site has not been so declared.[104] A 2003 Reactive Monitoring mission report concluded, "little management intervention is required in protecting the natural values of the site, which is protected by customary practices that include a respect for the natural environment and sustainable use of its resources".[105] However, by 2010 the Committee raised concerns "that commercial logging may be threatening the property and adjacent areas in West Rennell" (Decision 34 COM 7B.17). A 2012 Reactive Monitoring report suggested "The provincial government, and the community leaders and people of East Rennell who are the customary owners of the land, are opposed to logging but under current laws are essentially powerless to prevent it." Timber extaction in the Solomon Islands requires a licence, which is issued following an environmental impact assessment, neither of which requirements were being enforced by the national government.[106]

The real issues then is that "the State Party has taken no steps to ban logging on Rennell Island, as requested by the World Heritage Committee, nor has it signalled any intention to do so." Therefore, it is not clear how protected areas designation would actually improve the situation given government unwillingness to enforce legislation to curtail commercial timber harvests: "In practice, the Government ignores the need for development consent [from the Ministry of Environment] as enforcement is a problem, and no timber company has been prosecuted for not having proper legal authority to undertake logging activities." Moreover, the national government does not adequately fund or provide capacity to community managers of the site.[107]

As the landmark case of East Rennel shows, community protection and management of World Heritage sites can be extremely complicated, especially without adequate support from the State Party. Small indigenous communities do not generally have the resources and power to effectively prevent resource extraction industries from threatening their land, resources and way of life. Equally, indigenous peoples very

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[104] Dingwall (2013), p. 13.
[105] Tabbasum & Dingwall (2005). "Report on the Mission to East Rennell World Heritage Property & Marovo Lagoon, Solomon Islands," p. 11.
[106] A 2010 IUCN delegation noted "that forestry is one of the most politically volatile issues in the country and that several government ministers of the time had logging interests, which were public knowledge" (Dingwall 2013: 17).
[107] Dingwall (2013), p. 18.

often do not have the capacity to oppose creation of protected areas that limit their access to land and resources.

Nevertheless, these limitations in capacity do not rule out the potential significance of customary management of indigenous heritage. Even without recognising customary tradition and management as "necessary to sustain the outstanding value of nature in a property" (i.e. assessing that relationship to be part of the OUV), it is still possible to identify customary protection and management as part of history, integrity and protection and management. It is still possible, and important, to acknowledge the role people have played, even if that role cannot at this time be identified as being of OUV.

The 2001 ICOMOS Evaluation of Tsodilo (Botswana) is a case in point wherein the role of indigenous people in the preservation of OUV is entirely ignored (and perhaps attributed in a negatively sense to *their inability to harm* heritage resources): "three basic long-term facts contribute to Tsodilo's outstanding state of preservation: its remoteness, its low population density, and the high degree of resistance to erosion of its quartzitic rock" (63). It can't be said that culture sustains nature to a degree that is exceptional, but it can be said that nature is sustained by an absence of culture to a degree that is exceptional. It is not clear how the latter view is not also a retrospective assumption that fulfils a cultural paradigm, in this case a Western, Malthussian view of the relationship between nature and culture.

Recognition of customary management as an important local (if not universal) value supports Article 22.iv of the Sustainable Development Policy provision that addresses the fifth strategic objective of the *World Heritage Convention* (to enhance the role of communities):

> Support appropriate activities contributing to the building of a sense of shared responsibility for heritage among indigenous people and local communities, by recognizing both universal and local values within management systems for World Heritage properties.

As the Expert Meeting on "Authenticity and Integrity in an African Context" (2000), concluded, "without taking into account these traditional systems, heritage managers run the risk of alienating the communities who are the primary custodians of their heritage."[108] A positive instance of ICOMOS encouraging States Party to recognize customary management is in the evaluation of Khangchendzonga (India):

> ICOMOS recommends that, in the protection and management of natural resources, consideration also be given to the deep ties and associations that local communities have developed with nature over several centuries to build and nurture their world-view.[109]

Moreover, where customary management (and governance) is an essential part of how indigenous peoples relate to one another and the resources on which they

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[108] UNESCO (2000), p. 28.
[109] ICOMOS Evaluation (2016), p. 57.

depend, those customary management traditions will be integral to the understanding and conservation of indigenous heritage. In this sense, customary management may itself be an important part of indigenous cultural heritage. Indigenous management practices and institutions are generally not discrete technical enterprises as in modern western heritage and resource management; they are inseparable from all other social and cultural relations. In large part this is an aspect of holism: just as people and land, culture and nature, are inextricable, so is their management. As Calma and Liddle note for Uluru-Kata Tjuta National Park (Australia), "It is incumbent on modern Anangu to follow *Tjukurpa*, both in their management of the environment and in their social relationships".[110]

In such cases where customary protection and management are intimately a part of living cultural heritage, it is important to understanding and supporting the management processes (both in past and present) that have defined and are therefore necessary for continuity of indigenous heritage. Speaking of cultural landscapes more generally, Fowler has suggested, "it would follow in many cases logically that if we sustain the people then we have secured the best means of maintaining the heritage which we wish to look after".[111] Lisitzen & Stovel's comments on managing cultural landscapes are also highly relevant to management of living indigenous heritage: "Does it mean anything to save the appearance of the landscape without maintaining the underlying traditional social structure?"[112]

Recognizing the potential OUV of customary management can be seen as part of a new approach to understanding interlinkages between culture and nature described by Larsen and Wijesuriya: an approach that "entails re-embedding OUV in the everyday fabric of connections, which allowed specific attributes to emerge and persist in the first place".[113]

It has been noted earlier, under World Heritage Committee Decisions, that the Committee had requested in 2011, "the World Heritage Centre and the Advisory Bodies to develop guidance, for consideration at the 36th session of the World Heritage Committee, to clarify: uses, limits and documentation requirements for traditional management".[114] The earlier recommendations of the Expert Meeting on African Cultural Landscapes (Kenya, 1999) also suggested,

> Noting the importance of traditional protection and management mechanisms in living cultural landscapes, it was suggested that Management Guidelines for cultural landscapes be prepared as soon as possible, on the basis of case studies, which take into account customary laws and practices, as well as traditional management mechanisms.

These important tasks remain to be addressed, to my knowledge.

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[110] (2003), p. 105.
[111] *World Heritage Cultural Landscapes 1992-2002* (2003), p. 56.
[112] "Training Challenges in the Management of Heritage Territories and Landscapes" (2003), p. 35.
[113] "Nature-Culture Interlinkages" (2015), p. 13.
[114] Decision 35 COM 12E Art. 7.a.

Conclusions and Recommendations

Several issues in the identification and representation of indigenous heritage as World Heritage have become clear over the last decade or so.

First, there is the importance of recognizing and respecting the rights of indigenous peoples in World Heritage contexts, including through securing free, prior and informed consent (FPIC) to any development of (or change to) World Heritage sites and through effective participation in all aspects of World Heritage site processes, from identification of values to daily management of those values. The importance of indigenous peoples' FPIC is well established in policy and recognized by ICOMOS through their commitment to rights-based approaches.

While ICOMOS has advocated for increased participation of indigenous peoples (e.g. "In its interim report, ICOMOS asked the State Party to explain how local communities will be involved in the management of the property and its expanded buffer zone"), there is no evidence the World Heritage system has moved to address FPIC of indigenous peoples. In cases where indigenous peoples have been instrumental in bringing a nomination forward (e.g., Laponian Area and Pimachiowin Aki), that leadership can be taken as a proxy for FPIC. Consultation is not FPIC because issues are defined in advance and a response required in specific (usually culturally-inappropriate) contexts such as meetings, in which indigenous representatives may not be able to give a definitive answer; and silence does not give consent.

While respecting the rights of indigenous peoples is largely the responsibility of States Parties, ICOMOS can play a role through the processes in which they have an important role (e.g., upstream assistance, evaluation, reactive monitoring); ICOMOS can monitor compliance and raise objections or concerns, where appropriate, in cases where the rights of indigenous peoples are being violated. ICOMOS can also help the World Heritage Centre develop a guidance note on FPIC.

Second, it has become clear there is a need for greater representation of indigenous heritage on the World Heritage List. The 2004 ICOMOS gap analysis identified some gaps relevant to indigenous heritage, notably living "traditional" cultures and indigenous belief systems in the Americas. Inscriptions of indigenous heritage have continued fairly steadily since 2004 and in particular the representation of living indigenous heritage has begun to improve somewhat (see Figure 3).

Third, there is a need to better accommodate heritage that expresses a more holistic understanding of cultural and natural values, and tangible and intangible values. Insofar as indigenous heritage is often expressed in this holistic manner, the current limitations of the *Operational Guidelines* and assessment procedures to address an integrated approach are an obstacle to better representation of indigenous heritage as World Heritage. A particularly vexing contradiction lies in the way indigenous heritage is considered cultural heritage (only) and yet site boundaries are typically defined by natural values.

Procedural improvements have been made in collaboration between ICOMOS and IUCN to ensure nominations that express an integration of cultural and natural heritage are assessed in an appropriately integrated manner. The Reflection on processes for mixed nominations occasioned by Decision 37 COM 8B.19, in which the Committee "recognizes that maintaining entirely separate evaluation processes for mixed nominations does not facilitate a shared decision-making process between the Advisory Bodies", and subsequent collaboration between ICOMOS and IUCN in the evaluation processes is evidence of this improvement in approach.

Recommendations for Future Work

CAPACITY-BUILDING SUPPORT FOR STATES PARTIES

ICOMOS can play an important role in developing capacity building initiatives for States Parties to be better able to identify and nominate indigenous heritage as World Heritage. States Parties and their representatives are the key point around which change can occur in specific, concrete cases.

The Phase I Report for the Connecting Practice initiative has recommended development of a *joint* Resource Manual on managing natural and cultural World Heritage properties rather than having the two separate manuals, revising the Resource Manual "Preparing World Heritage Nominations" to incorporate guidance on how to link culture and nature, and produce a guidance document on best practices in development of Tentative Lists.[115]

States parties also need guidance on how to respectfully engage with indigenous people, including by securing their consent and participation in World Heritage processes that affect their lands and resources. Perhaps this support would be part of the upstream process.

The newly formed International Indigenous Peoples Forum on World Heritage will play a role in advocating for indigenous people but cannot realistically be expected to take up the role of meeting with indigenous peoples and States Parties in specific countries to plan Tentative List proposals and nominations.

DISCUSSION ON HOW TO BETTER UNDERSTAND INDIGENOUS HERITAGE AS WORLD HERITAGE

Discussions in the ICOMOS Indigenous Heritage Working Group can consider what it is about indigenous heritage that makes it unique, and perhaps therefore more difficult to address in a World Heritage context rooted in very different understandings of heritage. Indigenous people can breath new life into World Heritage, in particular by bringing a more holistic understanding that sees natural and cultural values, and tangible and intangible values, as one integrated whole.

Indigenous heritage can also provide a strong sense of the living aspects of heritage; the immediacy of heritage in the cultural continuity, even survival, of people engaging with their heritage in the present. As Xavier Forde (ICOMOS New Zealand) remarked, heritage "has often been understood more as a 'stock' of things/artefacts

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[115] IUCN & ICOMOS (2015). *Connecting Practice Project,* p. 9.

representative of abstract notions of history and culture in the past"; however, indigenous heritage is better thought of as "a 'flow' of the contemporary living relationship of peoples to their lands and to their ancestors through artefacts, natural features, traditional resources and activities, subsistence activities and methods, gatherings and rituals. ... [Thus,] 'indigenous heritage' cannot be conceived of outside of the personal living relationships of indigenous peoples to their heritage."

There needs to be a more accommodating and nuanced way of understanding indigenous relations to land/sea, as manifest in specific attributes, that allows for a variety of forms of expression, beyond either: (a) reflected in archaeology, architecture and monuments, including monumental earth works, or (b) abstract ideal types such as stages in human history (e.g., hunter-gatherers) or representative ethnicities (e.g., The Saami). Such categories are static and bounded in ways that indigenous heritage is not; they encourage a view of present indigenous people as being "without history".

THEMATIC STUDY ON INDIGENOUS HERITAGE

As has been noted, "evaluation [of nominations] is significantly improved where a comparative study has already been carried out, whether at local, state, regional or global levels".[116] While there have been several Expert Meetings on cultural landscapes and several publications on sacred sites, there has not yet been a thematic focus on indigenous cultural traditions or indigenous cultural landscapes, particularly for regions not well represented and perhaps even understood in terms of their indigenous heritage (e.g., Arab States, and Eurasia).

Such a comparative or thematic study will help guide States Parties in nominating and the Advisory Bodies in assessing indigenous heritage sites where the focus of OUV is not primarily based on archaeological or architectural attributes.

CONTINUE REFINING KNOWLEDGE OF INDIGENOUS HERITAGE IN EXISTING INSCRIBED SITES

One opportunity to improve representation of indigenous heritage in World Heritage is simply to better understand what indigenous heritage already exists in inscribed sitesbut is not well articulated. Building an inventory of sites in which the breadth of indigenous heritage is not fully recognised will require broader regional expertise, including collaboration with IUCN. One of the goals of such an inventory would be to advocate for, and perhaps work with States Parties to develop recommendations for, retrospective changes to Statements of OUV and, where relevant and practicable, renomination under additional criteria (as was done for Uluṟu-Kata Tjuṯa National Park). Khangchendzonga National Park (India) is a recent case where ICOMOS identified the site would benefit from being inscribed under criterion (vi), which was not proposed by the State Party, in addition to criteria (iii), (vii) and (x).

As the Phase II Report for the Connecting Practice initiative noted,

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[116] Fowler (2003). *World Heritage Cultural Landscapes 1992-2002*, p. 51.

findings from the case studies showed that properties possessed a wider range of values than had been recognised when the property was inscribed on the World Heritage List. This led some of the teams to question how the properties were inscribed and if a re-nomination should be considered.[117]

Kakadu National Park (Australia) is a clear case where the Statement of OUV does not fully reflect the significance of values recognised as being of OUV under criterion (vi). While there is no doubt the Park celebrates indigenous heritage, it is not reasonable that the World Heritage system itself downplays the significance of living indigenous World Heritage at this important site.

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[117] Leitão et al. 2017. *Connecting Practice Phase II: Final Report*, pp. 13–14.

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