

## **CULTURAL RIGHTS AND MIGRATION**

### **Response to the call for contributions by the United Nations Special Rapporteur in the field of cultural rights**

**by**

### **Section on Archives and Human Rights of the International Council on Archives (ICA/SAHR)**

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To facilitate the treatment of our submission, the following observations are presented according to a selection of the questions posed by the Special Rapporteur (questions 1, 3, 5, 8 and 11).

**1. *What are the issues relating to cultural rights that you see in your country's migration processes? Please provide relevant information concerning laws and regulations, programmes and measures, services and practices that seem relevant.***

- In order to enable migrants to prove their identity SDG Target 16.9: "Provide universal legal identity" is of particular importance from the point of view of archives supporting human rights. As explicitly stated by the UN, this means that by 2030 legal identity for all should be provided, including birth registration. We recommend that all UN member states be encouraged to register all births, no matter whether that provides birthright citizenship or not.

**3. *Are tangible artefacts belonging to migrants protected by the state? Does their use affect the cultural rights of migrants?***

- We wish to draw attention to the *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (E/CN.4/Sub.2/2005/17) ([file:///C:/Users/Asus/Downloads/E\\_CN.4\\_Sub.2\\_2005\\_17-EN.pdf](file:///C:/Users/Asus/Downloads/E_CN.4_Sub.2_2005_17-EN.pdf)), also known as the Pinheiro Principles. In this context archives and records constitute an important topic for refugees and other forced migrants, as particularly reflected in paragraph 15: "Housing, land and property records and documentation" and, more specifically, in 15.5: "*States and other responsible authorities or institutions should provide, at the request of a claimant or his or her proxy, copies of any documentary evidence in their possession required to make and/or support a restitution claim. Such documentary evidence should be provided free of charge, or for a minimal fee*".
- Treating migrants with dignity, i.e. respecting the dignity of the individuals, is of paramount importance, in particular in view of the difficult, sometimes traumatizing, conditions many forced migrants have suffered during their travels/escapes. One

example: Depriving migrants of personal belongings, including jewellery which may have affective value, should be strictly prohibited by international law and practice. Separating migrant families (for example parents from their children, or separating couples, married or not and regardless of gender) can also have destructive consequences for cultural rights of the individuals and communities in question.

**5. *What are the steps that relevant local and national authorities take to ensure that the rights of migrants to access, practice, maintain and transmit living cultural resources are protected, especially forced migrants?***

- Preserving archives and documentation in all existing forms is essential for the protection of cultural rights. In this context, the Safe Havens for Archives at Risk Initiative has been developed as a programme managed by swisspeace (<https://www.swisspeace.ch/>) in cooperation with the International Council on Archives and other partners. This programme enables a person, who wants to provide a copy of critical documentation before leaving the homeland, to get in touch with an institution that might be able to hold a copy. The categories of refugees and other forced migrants who could particularly benefit from this programme would probably be photographers, writers, journalists, scientists, lawyers, judges, and other cultural and academic workers in the fields of culture, information and communication. Information about the programme can be found here: <https://www.safehavensforarchives.org/>

**8. *How do the different sectors of the population learn about the cultures of the migrants, especially new and forced migrants? Please provide information about existing spaces, including media spaces, and opportunities for the host society to encounter and engage with cultural resources of migrants.***

- One important way of acknowledging cultures and histories of migrants is through migration museums and other memory, history and cultural heritage institutions. This is already done in numerous countries but should be encouraged worldwide, and not only at a national but also at a local level. Such activities are significant both for migrants (individually and collectively) themselves and for people in the societies the migrants come to. As regards the latter, the objective should be to share and provide knowledge about the values and characteristics of various migrant communities' backgrounds, including information about the circumstances that made them migrate (as regards forced migrants: made them flee). Migration museums should be encouraged to include transnational dimensions, by which we mean that the process of looking at links and connections between migrant groups around the world can foster deeper understanding of them and of the world we live in; transnational approaches can also inspire research and education in a number of fields, in particular but not only in social and human sciences.

- Education systems should be advised to include information about migrants and their histories and situations in curricula and textbooks, as well as in specific educational activities, including by promoting personal contacts between pupils/students/classes with migrants. This is a way of enhancing mutual understanding and strengthening the cultural rights of migrants. Archives and records can play an important role here, as well as for the preceding points.

***11. Please advise how cultural rights of vulnerable and marginalised sections of migrants are protected.***

- Documentation and transparency with regard to social and economic rights for migrants are important to guarantee basic cultural rights. For example, migrant workers who are heavily exploited and have no knowledge of their rights as workers, such as the right to be a member of a trade union, are not in a position to genuinely benefit from cultural rights. This is relevant to SDG 8.8: "Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment". SDG target 16.B: "Promote and enforce non-discriminatory laws and policies" is also important in this context
- We wish to draw attention to the problem presented by the archives left behind by individuals and ethnic, political or religious groups who are forced to leave their countries or territories. All member states of the UN should respect their obligations to take steps to protect such archives by ensuring safe preservation and secure access, including by the individuals and groups who were forced to leave. This is in line with Resolution A/Res/68/165 on the Right to the truth, as adopted by the UN General Assembly on 18 December 2013 (<https://digitallibrary.un.org/record/764405>)