

Climate Change, Sea-Level Rise, and Cultural Rights: The Case of Bonaire

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On the 28th of January, the District Court of the Hague rendered its judgment in the case of [Greenpeace v. the Netherlands](#). The case addressed the Dutch State's mitigation and adaptation obligations towards the Caribbean territory of the Kingdom of the Netherlands, specifically Bonaire – a small island situated off the coast of Venezuela with the status of a '[special municipality](#)' within the Netherlands.

As the District Court compellingly observed, although it has been known for decades that Bonaire would experience the impacts of climate change earlier and more severely than the European parts of the Kingdom, measures to combat climate change on the island were adopted later and on a more limited scale than those implemented in Europe.

The court found that the Dutch government had violated art. 8 and 14 of the ECHR, and art. 1 of Protocol No. 12 of the Convention. Commentators elsewhere have remarked upon the District Court's [incorporation](#) of the ECtHR's findings in [KlimaSeniorinnen](#), and its frank discussion of the [discriminatory nature of Dutch climate policies](#) in the Caribbean. However, the Bonaire case is also notable for being one of the first climate judgments in which the impacts of climate change on cultural heritage have been explicitly considered.

Cultural heritage in climate litigation

Cultural heritage has long been marginalised in debates on climate change. Neither the UNFCCC nor the Paris Agreement mention culture, even though cultural heritage is both [threatened by climate change](#) and can [foster climate adaptation](#); only recently have heritage considerations begun to appear in [COP decisions](#). Likewise, climate change has gradually gained [greater prominence](#) within UNESCO's cultural conventions after long being [sidelined](#).

The same holds true for the inclusion of cultural heritage within climate litigation. Cultural claims in [early climate cases](#) were often declared inadmissible. Following on the heels of a 2020 [report](#) by the UN Special Rapporteur on Cultural Rights, the Human Rights Committee's 2022 decision in [Billy v. Australia](#) constituted the first engagement by an international judicial body on the issue. The Committee held that Australia's failure to take timely and adequate climate adaptation measures violated the Torres Strait Islanders' right to home, private and family life (art. 17 ICCPR) and their cultural rights (art. 27 ICCPR), expressly recognizing the negative impacts of climate change on their ability to maintain their spiritual ties to their traditional lands.

Similar concerns were raised in the pleadings of small-island States in the recent ICJ advisory proceedings on the [Obligations of States in respect of Climate Change](#), but were only marginally acknowledged by the Court (para. 72), [drawing critique](#). By comparison, the IACtHR addressed the issue in far greater depth in its 2025 [Advisory Opinion](#), explicitly recognising climate change as a threat to cultural rights (para. 449) and affirming that States bear specific duties to protect cultural rights in the climate context, *inter alia* by integrating cultural considerations into adaptation planning, refraining from harmful conduct, and taking steps to protect, conserve, and rehabilitate affected heritage.

The District Court's findings

[The impacts of climate change on cultural heritage](#) formed a significant element of Greenpeace's [written submissions](#) in the Bonaire case. Drawing explicitly on *Billy*, Greenpeace argued that by failing to adopt adaptation measures for Bonaire, the Dutch State had violated art. 27 of the ICCPR, asserting that it is obligated to protect the cultural rights of minorities within its territory from the impacts of climate change.

The District Court concurred that climate change is impacting – and will increasingly threaten – Bonaire's environment and cultural lifeways, noting that low-lying areas where much material cultural heritage is located or intangible heritage is practiced (e.g., coastal historical buildings and traditional fishing or agriculture) are especially vulnerable to sea-level rise and extreme weather (paras. 4.4–4.5 and 4.28–4.29).

Whilst the court conducted an 'overall assessment' of the State's mitigation and adaptation measures (10.24.5), its considerations on heritage primarily related to adaptation. It held that the State's failure to adopt a timely and comprehensive climate adaptation plan negatively impacted the Bonaireans' ability to enjoy their culture (11.23–24). Taken together with its failure to pursue an adequate mitigation policy (12.1), the court held that the State had violated its obligations under art. 8 ECHR – which it interpreted to include protection of the enjoyment of cultural life – and that unequal protection compared to the European Netherlands further compounded the State's discriminatory interference with cultural rights (11.50). Surprisingly, the court neglected to cite *Billy* in its judgment.

Whilst the State argued that it had already taken measures to safeguard Bonairean culture from the impacts of climate change, such as through the conclusion of a '[cultural covenant](#)' with Caribbean public entities in 2022 and the establishment of a dedicated '[Climate Table](#)' in 2023, the court considered these measures insufficient in the absence of a dedicated adaptation plan for Bonaire, ordering the State to adopt such a plan by 2030 (12.4). Indeed, the above-mentioned cultural covenant does not explicitly mention climate change; the more recently adopted [Bonaire Cultural Agenda](#) for 2024–2028 only briefly does so. In any event, the court noted that the State had failed to adopt these measures in a timely fashion.

Shortcomings

While the case is significant – being one of the first domestic climate judgments to consider the impacts of climate change on cultural heritage – several shortcomings remain.

For one, the court examined Greenpeace's arguments under art. 27 ICCPR solely through the lens of art. 8 ECHR (10.6). Although this approach may appear promising – given that art. 8 is not formally limited to minority groups, unlike art. 27 ICCPR – it risks entrenching the judgment within the ECtHR's restrictive jurisprudence on cultural heritage. The ECHR does not expressly recognise a [universal individual right to culture](#), and has largely [confined its protection of cultural rights](#) to national minorities and Indigenous peoples. As a result, the broader relevance of the case beyond minority settings may remain limited.

This limitation could have been avoided by engaging with a wider set of norms, including art. 15 of the ICESCR and UNESCO's cultural conventions. The CESCR has [repeatedly highlighted](#) disparities in the enjoyment of cultural rights in the Caribbean parts of the Kingdom, including in relation to climate change. Moreover, while no Bonairean [sites](#) or [practices](#) have been inscribed pursuant to the [World Heritage](#) and [Intangible Cultural Heritage](#) Conventions, these treaties are applicable throughout the Kingdom and impose safeguarding obligations extending beyond formally inscribed heritage. Their evolving interpretative practice explicitly recognises [climate change as a threat](#) requiring preventive and adaptive measures.

By not drawing on these frameworks, the court missed an opportunity for cross-fertilisation, depriving its analysis of a more solid normative foundation than art. 8 ECHR alone can offer. While the provisions of the [ICESCR](#) and the [cultural conventions](#) generally do not have direct effect within the Dutch legal order (and, indeed, were not invoked by the applicants), domestic courts can use such provisions to aid in the interpretation of provisions with direct effect. Such a framework would have moreover enabled the Court to scrutinise [differential cultural heritage policies](#) across the Kingdom in a manner analogous to its broader equality analysis under art. 14 ECHR.

Ultimately, the court limited itself to directing the State to adopt 'effective measures', without clarifying their precise content (1.7). Notably, it made no order for reparations. While this mirrors the applicants' forward-looking approach – seeking appropriate mitigation and adaptation measures rather than remedies – it also echoes a [broader marginalisation](#) of reparations within climate litigation.

Yet, there are strong reasons to engage with this issue. The UNFCCC is currently operationalising its [Loss and Damage](#) framework, within which cultural heritage impacts can qualify as a form of [non-economic loss](#). The ICJ's 2025 advisory opinion confirmed that the ARSIWA reparations regime applies to breaches of climate obligations; similarly, in *Billy*, the HRC reaffirmed the State's obligation to make full reparation for violations of cultural rights. What remains unclear, however, is [how cultural losses should be valued](#).

In the present case, reparations could encompass both compensation and satisfaction. Compensation could address both economic harm caused by reduced tourism revenues and moral harm, including the mental suffering associated with the loss of one's heritage. Satisfaction would also seem particularly apt, given the State's failure to adopt timely and adequate measures.

What does the future hold?

Given that the State may yet appeal, the above considerations are not set in stone. Nonetheless, the *Bonaire* case marks an important step towards the judicial recognition of violations of cultural rights resulting from climate change. In a field characterised by strong cross-jurisdictional influence, this initial recognition has the potential to inform future climate litigation – and, over time, contribute to a more robust protection and effective reparation of cultural rights. In doing so, other courts should consider the role of cultural rights in the climate emergency [beyond their traditional framing through minority protection](#). Ultimately, cultural heritage has the potential to play a pivotal role in securing [climate justice](#); but doing so will require engaging with all the possibilities that heritage law and human rights provide.