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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## Cultural rights defenders

### Report of the Special Rapporteur in the field of cultural rights\*

#### *Summary*

The aim of the present report is to raise awareness about the work of cultural rights defenders – human rights defenders who defend cultural rights in accordance with international standards – and to increase the attention and assistance they receive. The report includes an overview of the diverse kinds of human rights work that cultural rights defenders engage in, the challenges and risks they face, and the international legal framework that enables their work, and offers specific recommendations as to how to better support and protect them.

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\* The document was submitted late to conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.



## I. Introduction

1. Cultural rights defenders – human rights defenders who defend cultural rights in accordance with international standards – are an important constituency among human rights defenders. Their work in every region of the world is essential for the implementation of an integral part of the universal human rights framework: cultural rights. As Secretary-General António Guterres said to the Human Rights Council in 2019: “More people are speaking out about the indispensability of cultural rights for protecting the diversity of beliefs and practices on our planet, recognizing these rights as an essential tool for preserving diversity and our common heritage.”<sup>1</sup>

2. The rights that cultural rights defenders defend are a core part of international human rights law. They are vital to the human experience and critical to implementing other human rights and to sustainable development. They include the right of all to take part in cultural life, without discrimination (one component of which is the right to access and enjoy cultural heritage), and the rights to freedom of artistic expression and scientific freedom. Despite the importance of these rights, and their normative grounding, they are not always given the attention they deserve, and not always recognized as human rights with the same standing as other rights. Cultural rights defenders are therefore often not fully recognized for their work, do not receive adequate support and are not granted appropriate protection. This must change, and both cultural rights and those who defend them must be acknowledged as critical to the human rights framework and its full implementation.

3. The aim of the present report is to raise awareness about the work of cultural rights defenders, with a view to enhancing the attention and assistance they receive. The report includes a definition of cultural rights defenders; an overview of the diverse human rights work they engage in; discussion of the challenges and risks they face and of the international legal framework protecting and enabling their work; and specific recommendations for better recognizing, defending and supporting them.<sup>2</sup> In keeping with Council resolutions related to the cultural rights mandate, the report emphasizes disability and gender perspectives.<sup>3</sup>

4. In preparation for the present report, the Special Rapporteur held expert meetings in Frankfurt, Germany, and in New York. Experts from various regions and areas of specialization participated. The Special Rapporteur thanks them for their input and appreciates the contributions of the Artists at Risk Connection in organizing the New York meeting.

## II. Cultural rights defenders: an overview

5. In the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), human rights defenders are described as individuals, groups and associations that contribute to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals. Cultural rights defenders are one large and internally diverse constituency of human rights defenders. They pursue the elimination of violations of cultural rights and promote respect for and protection and fulfilment of these rights, and may specialize in working to these ends. According to article 1 of the Declaration, everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international

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<sup>1</sup> [un.org/sg/en/content/sg/statement/2019-02-25/secretary-generals-remarks-the-human-rights-council-delivered-bilingual-scroll-down-for-all-english-version](https://www.un.org/sg/en/content/sg/statement/2019-02-25/secretary-generals-remarks-the-human-rights-council-delivered-bilingual-scroll-down-for-all-english-version).

<sup>2</sup> As in previous reports, country situations mentioned herein include cases that have been the subject of previous consideration by United Nations mechanisms and officials, reports from States, multilateral institutions and civil society organizations.

<sup>3</sup> See, e.g., Council resolution 19/6.

levels. Hence, the work of cultural rights defenders is grounded in international human rights standards, and they have the right to undertake their work.

6. Human rights defenders are defined by what they do. They can be any person or group of persons working peacefully to promote human rights, including cultural rights, ranging from intergovernmental organizations, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), to individuals working locally. Defenders can be of any gender or age, from any part of the world and from any professional or other background. Human rights defenders are not only found within non-governmental and intergovernmental organizations; in some instances, they could be government officials, civil servants or members of the private sector.<sup>4</sup> Cultural institutions themselves may be cultural rights defenders.

7. Cultural rights defenders include experts, activists and ordinary people who act in defence of cultural rights. While respect for expertise is today essential, it is also important to avoid elitism in defining cultural work and to recognize wide-ranging contributions to the defence of cultural rights. Some are unable to obtain the credentials necessary for expert recognition because of discrimination, such as when women are excluded from educational opportunities.

8. Cultural rights defenders may work on different substantive areas of cultural rights such as scientific freedom or the right to participate equally in sports. Collectively, they reflect the vibrancy of broad cultural ecosystems. They may also work in different ways, including those defenders who: (a) seek to understand, protect and develop cultural rights, in line with human rights principles; (b) seek to protect individuals and groups who work within cultural rights spaces through advocacy, education and research; (c) work to secure the rights of all to have access to, participate in, contribute to and enjoy cultural life, without discrimination; (d) use their work in the arts or culture to defend human rights generally (A/HRC/37/55); (e) seek to protect the locations, broadly defined, where culture is enjoyed, practised or developed, and ensure equal rights to access and enjoy those sites, including public spaces and cultural heritage sites; (f) seek action to end impunity and gain accountability for those that violate cultural rights, and remedies for victims of violations of cultural rights; (g) advocate for or participate in processes of cultural change aimed at enhancing the enjoyment of cultural rights and non-discrimination, in accordance with international human rights norms; (h) work to strengthen policy to protect cultural rights; or (i) seek opportunities, such as through education and communication, to highlight the importance of cultural rights, including the cultural rights of specific groups, or to highlight threats to those rights.

9. Cultural rights defenders have many similarities with other human rights defenders and their work should be recognized as being in the same category and of equal importance. However, recognition of their own commonalities and specific needs, which are sometimes overlooked, is vital. Moreover, the identities of human rights defenders may overlap. For example, someone can be an indigenous human rights defender or a woman human rights defender, and be a cultural rights defender simultaneously, or a person can be one and then another, at different times.

10. The present report does not create a new category. Instead, it explicitly names, clearly identifies, and seeks to empower and raise the profile of an existing, often ignored, subcategory of human rights defenders, in keeping with the Secretary-General's call for a more coherent and comprehensive approach to implementation of the Declaration on Human Rights Defenders and for filling gaps in their protection (A/73/230, para. 66). While naming is not a panacea for the difficulties faced by cultural rights defenders and may in some situations have only modest benefits, it is one way of addressing challenges and marshalling resources to do so, and can have significant impact in certain situations. The task is to find cross-sectoral collaborative pathways to encourage the provision of funding and the development of improved support and protection programmes for people working on these rights, and to work against their unintentional erasure. Owing to the broad nature of cultural rights and their specificities, many cultural rights defenders work outside what

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<sup>4</sup> [ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx](http://ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx).

are considered traditional human rights defender spaces or roles. This can make it more difficult for Governments, international organizations and civil society to recognize them, but in no way undercuts their status as human rights defenders. They deserve the same level of attention and protection as other human rights defenders.

11. Many people may be cultural rights defenders, or function as such, without necessarily describing themselves in those terms. These include anthropologists, archaeologists, archivists, artists, athletes, cultural heritage professionals and defenders, cultural workers, curators and museum workers, educators, historians, librarians, media producers, public space defenders, scientists, staff and directors of cultural institutions, writers, defenders of cultural diversity in accordance with international standards and those promoting intercultural understanding and dialogue.

12. It remains important to respect a person's right to characterize their own work and to recognize that, in certain contexts, people may fear they will be further penalized or stigmatized for being labelled a human rights defender, or they may prefer not to define themselves. However, in other contexts, there may be significant added value for being recognized as such, including funding, acknowledgement, protection and various forms of support. The relevant constituencies should be clearly consulted and engaged in participatory processes to discuss such labelling or status, and the implications for their work, based on their own understandings and needs, which may be diverse. Moreover, whether or not someone is or can be a cultural rights defender depends on the objective nature of their work, regardless of official restrictions, for example, on who is considered an artist, such as those requiring artists to be authorized or officially recognized, or members of a professional association.

13. Cultural rights defenders may work to protect and promote the cultural rights, including the right to take part in cultural life without discrimination, of specific constituencies, such as indigenous peoples; members of minorities; women; persons with disabilities; peasants and rural persons; lesbian, gay, bisexual, transgender and intersex persons; youth or older persons; or refugees and migrants.

14. Women human rights defenders who defend women's cultural rights, including their rights to take part in cultural life without discrimination, not to participate in certain cultural practices or to change those practices in accordance with international human rights standards, and to enjoy equal access to cultural sites, including heritage sites (A/HRC/34/56, para. 77), are cultural rights defenders. Women cultural rights defenders promote feminist approaches to cultures, and the transformative and empowering nature of equality in cultural rights that can also lead to the realization of other human rights (A/67/287, para. 5). They enable women to embrace or reject particular cultural practices and identities and to revise and (re)negotiate existing traditions, values or practices (A/67/287, para. 28). The work of women cultural rights defenders strengthens the rights of women to participate in, have access to and contribute to cultural life in equality, and thus to arrive at gender justice within cultural systems. This aspect of the struggle for gender equality has received insufficient attention. A general recommendation by the Committee on the Elimination of All Forms of Discrimination against Women on article 13 (c) of the Convention on the Elimination of All Forms of Discrimination against Women (guaranteeing women's rights to participate in all aspects of cultural life), taking into consideration the relevant work of the cultural rights mandate, could make a significant contribution.

15. As the Special Rapporteur has stressed, all people and all peoples have culture, not merely certain categories or geographies of people (A/HRC/31/59, para. 8). Indeed all people have cultural rights, as the Universal Declaration of Human Rights makes clear. Some have faced particular threats to such rights owing to histories of colonization, domination or exclusion, for which there has often been insufficient accountability.

16. Cultural rights are essential to the struggles of indigenous peoples for human rights, including the right to self-determination and land rights. In the United Nations Declaration on the Rights of Indigenous Peoples, the General Assembly noted that indigenous peoples had the right to practise and revitalize their cultural traditions and customs. Indigenous languages are a source of identity, belonging and knowledge systems that are critical to the

survival of indigenous cultures.<sup>5</sup> Cultural rights defenders are often custodians of dying languages, especially indigenous languages.<sup>6</sup>

17. Cultural rights defenders are also important in upholding the cultural rights of members of minorities as guaranteed by the United Nations Declaration on the Rights of Minorities. Ensuring an inclusive cultural space with adequate protection for cultural rights defenders is central to respect for diversity.

18. Not every claim based on cultural (or religious) arguments renders the person who makes it a cultural rights defender. The Declaration on Human Rights Defenders makes clear that human rights defenders must accept the universality of human rights, as defined in the Universal Declaration of Human Rights, and act in accordance with international human rights norms. As the Special Rapporteur has stressed, cultural rights are not tantamount to cultural relativism.<sup>7</sup> They are not an excuse for violations of other human rights. They do not justify discrimination or violence, and are firmly embedded in the universal human rights framework. Thus, those who deny the rights of some, or challenge the universality of human rights, or who advocate or practise human rights violations, violence or discrimination as defined by international standards, are not cultural rights defenders.<sup>8</sup> The central idea behind being a cultural rights defender is the advancement of cultural rights in accordance with international human rights standards. The cultural rights defender label must not be misused to shield or legitimate efforts to undermine human rights protection.

### **Examples of the work of cultural rights defenders**

19. The role of cultural rights defenders in defining, claiming and realizing cultural rights in all regions and across all sectors of cultural rights has been critically important. The Special Rapporteur expresses appreciation for them and their work, which is essential for the protection of the rights in her mandate.

20. The Special Rapporteur has highlighted, *inter alia*, the important work done by cultural rights defenders working in the field of cultural heritage;<sup>9</sup> by women cultural rights defenders;<sup>10</sup> by artists and those defending artistic freedom in general (A/HRC/23/34); and by socially engaged artists and cultural practitioners (A/HRC/37/55, para. 65), in particular. States and cultural organizations should consider undertaking detailed inventories of the cultural rights defence work being done within their spheres, because mapping this work, understanding its contributions and identifying remaining gaps could enhance rights protection and improve the support available to cultural rights defenders. The following is a brief review of examples of the types of work being done by cultural rights defenders to address some issues covered by the cultural rights mandate. The scope of the global body of work of cultural rights defenders expands far beyond what can be included here.

### **Freedom of artistic expression**

21. Artist-protection funds, networks and programmes have been developed to fill in gaps in scholars at-risk programmes and enhance support for those practicing and defending the right to freedom of artistic expression. Case work on and documentation of violations of the rights of artists is developing and carried out by many organizations such as Avant-Garde Lawyers. This must continue and increase, and include those whose work is considered controversial in accordance with international standards on cultural rights and freedom of expression. All such efforts are essential and should be supported and magnified by other human rights groups working to protect human rights defenders, fully reflecting

<sup>5</sup> Minnie Degawan, “Indigenous languages: knowledge and hope”, UNESCO Courier, Issue 1, 2019.

<sup>6</sup> Bérengère Sim, “Meet the women poets preserving indigenous languages in Mexico”, 9 August 2018. Available at [opendemocracy.net](http://opendemocracy.net).

<sup>7</sup> A/73/227, paras. 11, 14 and 48–55.

<sup>8</sup> International Covenant on Economic, Social and Cultural Rights, art. 5 (1).

<sup>9</sup> A/71/317, paras. 68–75 and 78 (k)–(o).

<sup>10</sup> A/72/155, paras. 37, 98 (l) and (n); see also A/67/287.

the cultural rights dimensions of such cases, and the particular needs and work of cultural rights defenders.

22. Artistic events are organized to highlight contributions of those facing discrimination or invisibility in cultural sectors and provide a forum for discussion of human rights. For example, in October 2019, Harare was the site of a three-day pan-African “Women, Wine and Words Festival”, the second such event organized by Theatre in the Park, one of the first independent theatre spaces in Zimbabwe. The festival brought together women artists from 51 African countries for performances, readings and debates about women’s rights. The goal was to advocate for Africa with a strong cultural identity, common heritage, values and ethics for a continent whose development is people-driven.<sup>11</sup>

### Language rights

23. Patricia Sánchez Santiago of the Alliance for Indigenous Women in Central America and Mexico is preserving her language (Tu’un ñuu savi) through storytelling and poetry.<sup>12</sup> Women cultural rights defenders have also striven to achieve gender-inclusive language, such as by ensuring that laws and constitutions are not written in entirely masculine terms. For example, deputy Prime Minister of Spain, Carmen Calvo, advocated in 2018 to make the country’s constitution gender neutral.<sup>13</sup>

### The cultural rights of persons with disabilities

24. Working for inclusion and participation of persons with disabilities in all aspects of cultural life is a global and vital part of cultural rights work. Such efforts are undertaken by a variety of non-governmental organizations such as the Stars of Hope Society in Palestine, which focuses on the rights of women with disabilities, and Bizchut, the Israel human rights centre for persons with disabilities, which defends the human rights of persons with disabilities, including in relation to education and public transportation.<sup>14</sup> It is also carried out by individual advocates including Ukei Muratalieva from Kyrgyzstan, who campaigned successfully for her country to ratify the Convention on the Rights of Persons with Disabilities and trained as a wheelchair dancer.<sup>15</sup>

25. Cultural institutions such as theatres, museums and libraries are central repositories of cultural knowledge; it is essential for persons with disabilities to access these places to enjoy their cultural rights. Those working to promote the equal cultural rights of persons with disabilities sometimes work within such cultural institutions to promote both accessibility and representation of persons with disabilities. The Special Rapporteur notes with admiration the emergence of a specialized field around arts, culture and disability, in particular in the last 20 years, and the work of related organizations such as Arts Access Victoria<sup>16</sup> in Australia, which advocates for inclusive arts practice, and the John F. Kennedy Center for the Performing Arts Leadership Exchange in Arts and Disability in the United States, which brings together professionals from cultural institutions to promote accessible cultural environments. Such constituencies also seek acknowledgement of the creative potential of disability through an understanding of disability arts and artistry. The Special Rapporteur hopes these issues will receive further attention from the Committee on the Rights of Persons with Disabilities, and from both cultural rights organizations and those working on the rights of persons with disabilities.

<sup>11</sup> Robert Tapfumaneyi, “Theatre in the Park hosts biggest pan-African Women, Wine and Words Festival”, *New Zimbabwe*, 19 October 2019.

<sup>12</sup> Bérengère Sim, “Meet the women poets preserving indigenous languages in Mexico”, 9 August 2018.

<sup>13</sup> [eldiario.es/politica/PSOE-llevara-igualdad-reforma-Constitucion\\_0\\_708679782.html](http://eldiario.es/politica/PSOE-llevara-igualdad-reforma-Constitucion_0_708679782.html).

<sup>14</sup> [untf.unwomen.org/en/news-and-events/stories/2018/07/new-funding-to-prevent-and-end-violence-against-women-and-girls-with-disabilities](http://untf.unwomen.org/en/news-and-events/stories/2018/07/new-funding-to-prevent-and-end-violence-against-women-and-girls-with-disabilities).

<sup>15</sup> United Nations Development Programme, “Ukei Muratalieva: don’t betray your dreams and yourself”, 11 October 2019. Available at [kg.undp.org](http://kg.undp.org). See also [urgentactionfund.org/2017/12/give2courage-ukei-muratalieva/](http://urgentactionfund.org/2017/12/give2courage-ukei-muratalieva/).

<sup>16</sup> See, e.g., “Art for Everybody: Approaches to Inclusive Practice”. Available at [www.artsaccess.com.au](http://www.artsaccess.com.au).

### Gender and inclusion in cultural life

26. Women religious leaders work for full inclusion of women in their faith traditions. For example, Dhammananda Bhikkhuni became the first modern Thai woman to be a fully ordained nun in the Theravada tradition, though she was required to seek ordination outside her home country.<sup>17</sup> She is part of a movement of Buddhist nuns challenging the hegemony of men in Buddhist monastic orders in Thailand. In a poem, she explained: “I’m just a small crack in the wall; the wall of patriarchy; on the wall of the hierarchy; on the wall of injustice. Soon there will be more cracks and someday the wall will fall.” Women imams creating women’s mosques and leading inclusive prayer services in numerous cities in which women and men pray side-by-side without dress codes, are also positive developments.<sup>18</sup>

27. In Mexico, the organization “Diversity, Sports, Sexuality” (DIDSEEX) works to develop a more inclusive sports culture. In June 2019, the first lesbian, gay, bisexual and transgender Pan-American Games were organized in Mexico City as a result of DIDSEEX’s efforts. Approximately 1,000 athletes from across the Americas competed.<sup>19</sup>

### Harmful cultural practices

28. Cultural rights defenders work to change cultural practices when they constitute harmful practices and do not comport with contemporary understandings of human rights. For example, women cultural rights defenders in Nepal advocated for an end to a cultural practice, based on an interpretation of Hinduism, that involves confining menstruating women and girls to sleeping sheds and excluding them from ordinary activities based on the belief that menstrual blood is impure, a practice that in some instances led to deaths.<sup>20</sup> The advocacy efforts resulted in the Government of Nepal codifying criminal penalties for anyone who forces a female relative to sleep outside during menstruation, norms which still need implementation.<sup>21</sup> Advocates of menstrual justice seeking to normalize periods have used cultural activities, such as the Red Cycle, a period poetry contest begun by a medical student in southern India.<sup>22</sup>

### The right to access and enjoy cultural heritage

29. The Special Rapporteur was pleased to learn of international networking between cultural heritage defenders, such as work by the Penn Cultural Heritage Center at the University of Pennsylvania Museum in the United States with frontline cultural heritage defenders on the ground, including in Afghanistan and Iraq, supporting courageous local protection of heritage. One area of emphasis has been assisting at-risk cultural rights defenders, both by protecting their individual rights when they are forced into exile, and through assistance in resettling them together, and enabling them to continue cultural heritage work in exile.

30. Frontline cultural rights defenders seek to preserve vital tangible and intangible heritage, including in situations of conflict and flight.<sup>23</sup> For example, Syrian women have preserved their culture through storytelling and connecting younger generations to Syrian

<sup>17</sup> [awaken.com/2012/12/bhikkhuni-dhammananda/](http://awaken.com/2012/12/bhikkhuni-dhammananda/); [bbc.com/thai/amp/50056107](http://bbc.com/thai/amp/50056107) (in Thai).

<sup>18</sup> See, e.g., Jaweed Kaleem, “Progressive Muslims Launch Gay-Friendly, Women-Led Mosques in Attempt to Reform American Islam”, *Huffpost*, 29 March 2012. See also Alison Hird and Grégoire Sauvage, “French Muslim women push for ‘inclusive’ mosque in Paris”, *RFI*, 10 January 2019.

<sup>19</sup> Lenin Patiño, “Inauguran primera edición de los Panamericanos LGBT”, *Milenio*, 26 June 2019.

<sup>20</sup> [www.radhapaudelfoundation.org/](http://www.radhapaudelfoundation.org/); [www.nfcc.org.np/menstrual-health-hygiene-and-rights/](http://www.nfcc.org.np/menstrual-health-hygiene-and-rights/).

<sup>21</sup> Danielle Preiss, “Why it’s hard to ban the menstrual shed”, *National Public Radio*, 13 May 2019.

<sup>22</sup> Jennifer Weiss-Wolf, *Periods Gone Public: Taking a Stand for Menstrual Equity* (New York, Arcade Publishing, 2017). See also Nikita Azad, “‘A young bleeding woman’ pens an open letter to the ‘keepers’ of Sabrimala Temple”, *Youth Ki Awaaz*, 20 November 2015.

<sup>23</sup> See, e.g., Mwatana for Human Rights, “The degradation of history: violations committed by the warring parties against Yemen’s cultural property”. Available at [mwatana.org/en/the-degradation-of-history-2/](http://mwatana.org/en/the-degradation-of-history-2/).

culture they might not otherwise experience as displaced persons.<sup>24</sup> When President Trump suggested in January 2020 that the United States might target sites of cultural importance in the Islamic Republic of Iran, rapid response by individuals and organizations concerned with heritage protection elicited clarification that relevant international norms would instead be respected.<sup>25</sup>

31. The global Climate Heritage Network was launched in 2019 with the objective of foregrounding cultural dimensions of climate change and mobilizing the culture sector for climate action.

### III. International legal framework

#### A. Cultural rights

32. The substantive cultural rights that cultural rights defenders work to protect and promote, including the right of all to take part in cultural life without discrimination, and artistic and scientific freedoms, are guaranteed by many provisions of international law. Such provisions include article 27 of the Universal Declaration of Human Rights; article 15 of the International Covenant on Economic, Social and Cultural Rights; and related provisions of the International Covenant on Civil and Political Rights. These norms have been explained in detail by successive special rapporteurs.<sup>26</sup>

33. Cultural rights protect in particular (a) human creativity in all its diversity and the conditions for it to be exercised, developed and made accessible; (b) the free choice, expression and development of identities, which include the right to choose not to be a part of particular collectives, and the right to exit a collective, and to take part on an equal basis in the process of defining it; (c) the rights of individuals and groups to participate, or not to participate, in the cultural life of their choice, and to conduct their own cultural practices; (d) the right to interact and exchange, regardless of group affiliation and of frontiers; (e) the rights to enjoy and have access to the arts, to knowledge, including scientific knowledge, and to an individual's own cultural heritage, and that of others; and (f) the rights to participate in the interpretation, elaboration and development of cultural heritage and in the reformulation of cultural identities (A/HRC/40/53, para. 15).

34. The Sustainable Development Goals are key to the work of cultural rights defenders and vice versa. Progress on human rights obligations and on the Goals are two sides of the same coin. Moreover, the safeguarding and promotion of culture contributes directly to many of the Goals – safe and sustainable cities, decent work and economic growth, reduced inequalities, the environment, the promotion of gender equality and peaceful and inclusive societies.<sup>27</sup> The cultural rights defended by cultural rights defenders are also essential tools for implementing Goals explicitly referencing culture, such as target 4 of Goal 11, on strengthening efforts to protect and safeguard the world's cultural and natural heritage, and target 7 of Goal 4, which requires that States ensure education related to sustainable development, cultural diversity and culture's contribution to sustainable development.<sup>28</sup>

<sup>24</sup> Catherine Cartier, "The storytellers of Syria: displaced women keep tradition and history alive with folktales", *The New Arab*, 27 June 2018.

<sup>25</sup> See, e.g., Helen Stoilas, "Cultural heritage officials condemn Trump's threats against Iranian sites", *The Art Newspaper*, 6 January 2020; and Jake Johnson, "Iranians flood Twitter with photos of favorite cultural sites as Trump threatens them with destruction", *Common Dreams*, 5 January 2020.

<sup>26</sup> See, e.g., [ohchr.org/EN/Issues/CulturalRights/Pages/InternationalStandards.aspx](http://ohchr.org/EN/Issues/CulturalRights/Pages/InternationalStandards.aspx); and A/74/255, paras. 19–31.

<sup>27</sup> Jyoti Hosagrahar, "Culture: at the heart of SDGs", *UNESCO Courier*. Issue April–June, 2017.

<sup>28</sup> General Assembly resolution 70/1, annex.



## B. Human rights defenders

35. The core of the international framework on human rights defenders is the Declaration on Human Rights Defenders adopted by the General Assembly. It is available in many languages, and recently marked its twentieth anniversary.

36. The Declaration articulates existing rights in a way that makes it easier to apply them to the practical role and situation of human rights defenders. The rights of defenders that are recognized include the rights to: meet and assemble peacefully; benefit from effective remedies; exercise their occupation as human rights defenders; effective protection under national law in peacefully opposing State human rights violations; conduct human rights work individually and in association with others; seek, receive and hold information relating to human rights; unhindered access to and communication with non-governmental and intergovernmental organizations; and solicit, receive and utilize resources (including funds from abroad) for the purpose of protecting human rights.

37. Under the Declaration, States have duties, including to: protect, promote and implement all human rights; provide an effective remedy for persons who claim to have been victims of violations; conduct prompt and impartial investigations of alleged violations; take all necessary measures to ensure the protection of everyone against violence, threats, retaliation or adverse discrimination as a consequence of legitimate exercise of rights referred to in the Declaration; and promote public understanding of all human rights, including cultural rights.

38. While the Declaration is not itself a legally binding instrument, its adoption as a General Assembly resolution represents a strong commitment by States to its implementation, and it contains legally binding principles and rights derived from treaties such as the International Covenant on Civil and Political Rights. Moreover, the Council has repeatedly called for the Declaration's full implementation, reaffirming that everyone has the right, individually and in association with others, to promote and strive for the realization of human rights and fundamental freedoms, including cultural rights.<sup>29</sup> The Committee on Economic, Social and Cultural Rights noted in its statement on human rights defenders and economic, social and cultural rights that it considered any threats or violence against human rights defenders to constitute violations of the obligations of States towards the realization of the rights contained in the International Covenant on Economic, Social and Cultural Rights, since human rights defenders also contributed through their work to the fulfilment of those rights (E/C.12/2016/2, para. 5).

39. The Office of the United Nations High Commissioner for Refugees interprets the Convention relating to the Status of Refugees in light of the Declaration on Human Rights Defenders. It has recognized human rights defenders as a category of persons in need of international protection (A/73/230, para. 49).

40. Particular categories of human rights defenders that overlap with cultural rights defenders are recognized in and protected by additional standards. In December 2013, the General Assembly adopted resolution 68/181 on protecting women human rights defenders, in which it stressed that respect for the activities of human rights defenders, including women human rights defenders, was essential to the overall enjoyment of human rights. It expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders, and called upon States to take all measures necessary to ensure their protection. It also called upon States to exercise due diligence in preventing violations against human rights defenders, including through practical steps to prevent threats, harassment and violence against women human rights defenders, and in combating impunity by ensuring that those responsible for violations and abuses, including gender-based violence and threats against women human rights defenders, committed by State and non-State actors, including online, were promptly brought to justice. It emphasized the need for the participation of women human rights defenders in the development of effective policies and programmes related to their protection and

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<sup>29</sup> See, e.g., Council resolution 31/32.

encouraged the integration of a gender perspective into programmes for the security and protection of defenders.

41. In 2016, the Council adopted resolution 31/32 on human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights, in which it recognized the positive, important and legitimate role of human rights defenders in promoting and advocating the realization of all economic, social and cultural rights. It reaffirmed the urgent need to respect, protect, promote and facilitate the work of those defending economic, social and cultural rights as a vital factor contributing towards the realization of those rights. The Council deplored the use of policies and legislation that restricted, hindered or limited the activities of human rights defenders in contravention of relevant provisions of international human rights law, and judicial harassment or threat thereof against human rights defenders, including those addressing economic, social and cultural rights, and underlined the obligation of States to prevent and stop such practices. Moreover, it called upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards the realization of economic, social and cultural rights.

42. In the same resolution, the Council strongly condemned the reprisals and violence against and the targeting, criminalization, intimidation, arbitrary detention, torture, disappearance and killing of any individual, including human rights defenders, for their advocacy of human rights, including in relation to economic, social and cultural rights. It stressed that legislation affecting human rights defenders must be in conformity with international human rights law, and encouraged non-State actors to refrain from actions that undermined the capacity of human rights defenders to operate free from hindrance and encouraged leaders to express support for their role. The Council also invited the Secretary-General to draw attention to the resolution in the United Nations system and to continue to include alleged cases of reprisal and intimidation against economic, social and cultural rights defenders.

43. Environmental human rights defenders were the topic of Council resolution 40/11.<sup>30</sup> In that resolution, the Council strongly condemned reprisals and violence against these defenders, including by non-State actors, and encouraged States to avail themselves of technical assistance in implementing relevant resolutions. The intersections of environmental and cultural rights defence work are numerous, including for indigenous human rights defenders.

44. In the field of cultural heritage protection, in armed conflict situations, the human rights standards protecting human rights defenders are complemented by article 15 of the Convention on the Protection of Cultural Property in the Event of Armed Conflict, which provides that personnel engaged in the protection of cultural heritage are to be respected and allowed to carry out their duties whenever the cultural property for which they are responsible falls into the hands of an opposing State party. In accordance with article 17 (2) (c) of the Convention, the distinctive emblem of cultural property, the Blue Shield, may be employed as a means of identification of such persons. In many circumstances, those protected by these provisions should also be recognized as cultural rights defenders.

45. This overview highlights the wide range of vital standards guaranteeing the rights and recognizing the work of human rights defenders, including cultural rights defenders. These should be fully implemented without delay at international and national levels. However, the Special Rapporteur notes that many of the standards on human rights defenders, including relevant resolutions, omit mention of aspects of human rights work specific to culture, cultural rights or cultural rights defenders. Moreover, many of the substantive standards on protecting culture and cultural rights omit specific mention of those who defend such rights. While the general standards regarding human rights defenders can and should be interpreted to cover these issues, elaboration of more explicit standards related to the work of cultural rights defenders, in the form, *inter alia*, of a resolution or guiding principles, would be a positive step. Moreover, mainstreaming of

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<sup>30</sup> See also United Nations Environment Programme, “Promoting Greater Protection for Environmental Defenders”, policy paper. Available on [unep.org](http://unep.org).

culture, cultural rights and the work of cultural rights defenders across all work on human rights defenders is urgently needed.

### C. Implementation mechanisms

46. The United Nations mandate on cultural rights celebrated its tenth anniversary in 2019 (A/HRC/40/53). Throughout its tenure, it has raised issues and cases related to cultural rights defenders, in the context of thematic and country reports, and in communications<sup>31</sup> and public statements<sup>32</sup> about cases in all regions. The current Special Rapporteur has striven to ensure that cultural rights defenders are heard in the United Nations system, including through side events and expert meetings, but has sometimes faced financial and logistical challenges in doing so, including the difficulty of obtaining visas. She also regrets instances in which cultural rights defenders she has met on mission have reportedly faced reprisals, or have had to fear meeting with her openly.

47. The mandate of the Special Rapporteur on the situation of human rights defenders was established in 2000 (as a special procedure) to support implementation of the Declaration on Human Rights Defenders.<sup>33</sup> The mandate has produced numerous reports that offer tools and recommendations that are useful for protection and support of cultural rights defenders, including those that focus on human rights defenders working in the field of economic, social and cultural rights (A/HRC/4/37), violations by non-State actors (A/65/223), safe and enabling environments (A/HRC/25/55), and impunity (A/74/159).

48. The Special Rapporteur in the field of cultural rights, and the Special Rapporteur on the situation of human rights defenders both have communications procedures under which cases of alleged violations can be raised confidentially with States and other actors, to be published later along with any reply.<sup>34</sup> To date, the cultural rights and human rights defenders mandates have sent approximately 25 joint communications, sometimes involving other special procedures, regarding cases in 15 countries and nearly every region. Replies were received in 13 cases. These have covered a range of issues related to cultural rights defenders, from the rights of those working to protect cultural diversity, artistic freedom, intercultural dialogue, the cultural rights of indigenous peoples and of those facing discrimination due to their sexual orientation or gender identity, to attacks on women cultural rights defenders. More cases concerning violations of the rights of cultural rights defenders should be submitted to both special rapporteurs.

49. The Special Rapporteur on the rights of indigenous peoples produced a report in 2018 on attacks against and criminalization of indigenous human rights defenders (A/HRC/39/17). In that report, the Rapporteur noted that the causes and impacts of criminalization and violence affecting indigenous peoples must be understood and addressed within the particular framework of the United Nations Declaration on the Rights of Indigenous Peoples and international and regional human rights instruments. It was also noted that those international legal sources recognized indigenous peoples' rights to their traditional lands, territories and natural resources, self-government, cultures and ways of life. Indigenous peoples' cultural rights are closely linked to land rights, making defence of these sets of rights often closely interlinked.

<sup>31</sup> See, e.g., communication UA BGD1/2019, 29 May 2019, available at <http://bit.ly/2Ryo53q>; communication OL CUB 2/2019, 12 June 2019, available at <http://bit.ly/2YvvqCl>; communication UA SDN 2/2017, 30 March 2017, available at <http://bit.ly/2LE4JGb>; communication AL RUS 8/2017, 17 October 2017, available at <http://bit.ly/2t3qb1b>; communication UA TUR 12/2017, 2 November 2017, available at <http://bit.ly/2RA5Z12>; communication UA USA 14/2016, 11 November 2016, available at <http://bit.ly/2DXADcy>; communication AL IND 15/2015, 10 December 2015, available at <http://bit.ly/2sdQMrW>. The United Nations must do more to publicize such communications and make them easier to find.

<sup>32</sup> [ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR\\_Cultural\\_Rights](http://ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Cultural_Rights).

<sup>33</sup> [ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx](http://ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx).

<sup>34</sup> [www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx).

## IV. Risks and challenges

50. The former Special Rapporteur on human rights defenders noted that defenders working in the field of economic, social and cultural rights often had a harder time having their work accepted as human rights work. As a result, they experience difficulties attracting funding, a lack of coverage from the media to violations of their rights, and a lack of attention paid to the violations and a hesitation in seeking remedial measures at the domestic or international level. There is a misconception that defenders working in the field of economic, social and cultural rights are not “real” human rights defenders (A/HRC/4/37). Cultural rights defenders and their work often receive even less attention than those working on economic and social rights, even from international bodies, including the United Nations, and civil society. This lack of visibility creates many challenges and magnifies risks. Cultural rights defenders who have faced violations have stressed to the Special Rapporteur that they feel safer when their cases and work receive international attention. In 2015, the Special Rapporteur on the situation of human rights defenders identified those working to defend economic, social and cultural rights as one of the most at-risk groups of defenders (A/68/262, paras. 15, 24, 40 and 53–55).

51. Many human rights defenders face pressure due to their work and take great risks to carry it out. However, there may be specific difficulties and challenges, and particular root causes of violence and repression against cultural rights defenders, and some specific kinds of human rights abuses they may suffer, many of which are on the rise.<sup>35</sup> These need to be addressed.

52. The work of cultural rights defenders often touches upon issues deemed sensitive, which makes them especially vulnerable to persecution. Writers and artists may be targeted precisely because they represent the liberating gift of the human imagination and give voice to thoughts, ideas, debate and critique, disseminated to a wide audience.<sup>36</sup> Cultural rights defenders may be seen as challenging dominant cultural or religious arguments or symbols when those are used as instruments of domination or discrimination, including by authoritarian Governments, fundamentalists and extremists, and both States and non-State actors. In the report on the right to freedom of artistic expression and creativity, the mandate holder noted that in most cases, restrictions on artistic freedoms reflect a desire to promote a world vision or narrative while simultaneously blocking all others (A/HRC/23/34, paras. 36 and 89 (d)). Being perceived as challenging cultural or religious arguments or symbols may create strong and emotional reactions from authorities and other actors. Similarly, when cultural rights defenders challenge cultural norms or attitudes about sexuality and reproduction, or narrow conceptions of “family” or “tradition”, they and their work have been subjected to various forms of regulation.<sup>37</sup> All this leads to threats and violence against cultural rights defenders, and may lead to their exclusion, and to their being dubbed as outside of or an enemy of their culture, religion, or national or ethnic group, as being “other,” “alien” or “foreign.” Such portrayal may be emotionally devastating both for the defender and their family and colleagues, and also facilitates other abuses.

53. Cultural rights defenders may experience the paradoxical phenomenon of the very rights they defend being co-opted to undermine them. For example, culture, cultural diversity or cultural rights may be misused, in violation of international standards, to seek to justify violations, and undercut those who advocate precisely for the cultural rights of women or minorities or those excluded on the basis of caste or facing discrimination due to their sexual orientation or gender identity. Discrimination in the exercise of cultural rights is then claimed to be justified in the name of respect for cultural diversity or culture. This is unacceptable (see A/73/227).

<sup>35</sup> See, e.g., Freemuse, *The State of Artistic Freedom 2019: Whose Narratives Count?* (2019).

<sup>36</sup> [www.icorn.org/about-icorn](http://www.icorn.org/about-icorn).

<sup>37</sup> United Nations, “Increasingly under attack, women human rights defenders need better back up”, 28 November 2018; and United Nations, OHCHR, “Women human rights defenders”, Information Series on Sexual and Reproductive Health and Rights, fact sheet.

54. Proliferating cultural relativism and cultural excuses for human rights violations, and the manipulation of culture to deny rights, sometimes even articulated during Council debates,<sup>38</sup> pose a real threat to the work of cultural rights defenders, including by seeming to justify violations and increasing the likelihood of impunity, and shaping the popular view of such violations and making them harder to challenge, and also by making some other human rights defenders wary of cultural rights altogether (A/HRC/40/53, para. 4). Meanwhile, in recent years, respect for cultural diversity has also been threatened by those who seek to impose monolithic identities and ways of being, by those who advocate various forms of supremacy and discrimination.

55. The erasure of particular aspects of culture, cultural heritage, history and identities – which may be essential for cultural rights defenders, or what they are seeking to protect and defend – poses particular risks to such defenders and their work. For example, the criminalization of sexual orientation in many countries renders invisible cultural and artistic expression related to “gayness”, thereby suppressing the cultural content itself and regulating those who create or defend it. The deliberate disappearing of the contributions, heritage and histories of religious and ethnic minorities, and frequent narration of history from certain majoritarian perspectives, increases the difficulties and dangers facing those seeking to protect such minority cultures and their traces.<sup>39</sup>

56. Discourses of exclusion, targeting migrants, minorities, non-religious persons, refugees, indigenous persons, women and others, and sometimes even propounded by world leaders, including on social media, and about which the Special Rapporteur has raised concerns since the beginning of her term, exacerbate the problems facing those seeking to defend the cultural rights of such persons and cultural diversity in accordance with international norms (A/HRC/31/59, para. 19). The “othering” of our fellow human beings, the opposite of the cultural rights focus on inclusion and of the promise of equality and dignity contained in the Universal Declaration of Human Rights, is an increasingly grave threat that renders the work of cultural rights defenders more fraught and tears at the fabric of “the human family” itself.

57. There is a range of other particular challenges faced by cultural rights defenders. Many human rights constituencies fail to include cultural rights and the culture sectors in their work, while many cultural actors neglect to incorporate human rights and cultural rights issues in theirs. This often leaves a gap of protection, in particular in certain areas. For example, many cultural rights actors have not incorporated a gender perspective into their work, while many women’s rights advocates have not considered cultural rights issues (A/HRC/40/53, para. 61). Moreover, cultural rights defenders often encounter a lack of recognition of their work as human rights work, and there is often a lack of data or information-gathering about it.

58. The spaces for enjoying cultural rights and for cultural expressions are being increasingly limited. Public spaces, which are essential for cultural rights, are being privatized and are not fully accessible (A/74/255). The increasing homogenization and commodification of culture and cultural spaces generally represents an additional set of obstacles. Lack of adequate funding for culture, and its misperception as a luxury item, increase the difficulty of the work of cultural rights defenders and also affect their own economic rights.

59. The impulse to censor thrives. For example, although the Special Rapporteur saluted the 2019 “Women, Wine and Words Festival”, she regrets that its organizers were reportedly required to submit scripts and films for official scrutiny prior to the festival.

60. Gender discrimination persists across cultural sectors and in cultural institutions. This remains a major challenge for women cultural rights defenders, who face particular risks and challenges given the complex relationship of gender and culture.<sup>40</sup>

<sup>38</sup> See, e.g., Elizabeth O’Casey, “‘Cultural practices and religious specificities’ and the shame of some States at the Human Rights Council”, *Humanist International*, blog post, 7 July 2015.

<sup>39</sup> See, e.g., A/71/317, para. 38, and A/68/296, para. 31.

<sup>40</sup> See, e.g., [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25074&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25074&LangID=E).

61. The Special Rapporteur was sorry to learn that some of those who systematically raise such issues as discrimination against persons with disabilities inside cultural institutions – even in countries with legal commitments to disability rights, such as the United States – find they are putting their jobs at risk by doing so. This is unacceptable. Addressing accessibility of arts and culture, and discrimination in the culture sector, is a core component of cultural work. Cultural institutions that are not considering these issues are not fulfilling their mandates.

62. As noted by the Special Representative of the Secretary-General on human rights defenders, the national legal framework regulating the enjoyment of economic, social and cultural rights generally is often weak. In particular, there is regularly a lack of redress mechanisms available to cultural rights defenders and to ensure the effective protection and justiciability of cultural rights (A/HRC/4/37, paras. 80 and 81).

63. In specific contexts, challenges may arise owing to general repression of cultural rights by State and/or non-State actors, including: by enshrining overly restrictive regulations of expression; by undermining the separation of religion and State that is essential for enjoyment of cultural rights by all;<sup>41</sup> through the intentional destruction of cultural heritage; or as a result of enforced erasure of cultural identity. Fundamentalist and extremist ideologies, especially how they attempt to stamp out diversity and dissent, have particular effects on the cultural rights of women, minorities and lesbian, gay, bisexual, transgender and intersex persons (A/HRC/40/53, para. 29), and non-religious persons. Both terrorism targeting cultural sectors and spaces and the misuse of anti-terrorism legislation pose significant threats.<sup>42</sup>

64. Cultural rights defenders may be prohibited from continuing their cultural work as retribution for their defence of cultural rights, or their work may be attacked or destroyed. Prohibitions on exhibiting one's work or performing, and denial of access to cultural spaces for doing so, are sometimes used as retaliation. For example, in 2017, the publishing house of Lithuanian writer Ruta Vanagaite terminated relations with her, removed remaining copies of her books from circulation and threatened to destroy them because of her criticism of a Lithuanian nationalist widely perceived as a hero. Ms. Vanagaite touched on sensitive historical issues in her most recent book, *Mūsiškiai* (Our People), published in 2016, which discusses the role of Lithuanian nationalists in the persecution of Jewish Lithuanians during World War II.<sup>43</sup> In 2018, many concerts of IC3PEAK, a young Moscow experimental electronic band, were cancelled or disrupted in cities in the Russian Federation as a result of the actions of city administrations, firefighters and police. The group's songs touch on the topics of protests and arbitrary arrests.<sup>44</sup>

65. The threat of catastrophic climate change is today one of the greatest threats to culture, cultural rights and the work of cultural rights defenders (A/HRC/40/53). Climate change is not only a threat to the physical survival of many, but a threat to cultural survival. For this reason, it will be the topic of the Special Rapporteur's report to the General Assembly in 2020. All too often, the impacts on culture and cultural rights and the importance of culture, cultural heritage and traditional knowledge,<sup>45</sup> and the role of cultural rights defenders in responding to climate change and developing resilience, are minimized or overlooked.

66. As with other human rights defenders, the risks and challenges faced by cultural rights defenders vary depending on the context, whether they are: at home, able to do their work and function ordinarily; at home but facing risks or persecution from State and/or non-State actors; fleeing persecution and on the move; seeking asylum; or in exile,

<sup>41</sup> A/72/155, para. 11; A/HRC/34/56, paras. 38 and 97 (p).

<sup>42</sup> Freemuse, *The State of Artistic Freedom 2019: Whose Narratives Count?* (2019).

<sup>43</sup> PEN America, "Lithuanian writer Ruta Vanagaite's publisher set to pulp more than 27,000 of her books", press release, 5 December 2017.

<sup>44</sup> Meduza, "'No reactive measures were taken': Russian prosecutors blame mass cancellations of pop and rap concerts on concert organizers themselves", 8 April 2019.

<sup>45</sup> International Council on Monuments and Sites, *The Future of Our Pasts: Engaging Cultural Heritage in Climate Action* (Paris, 2019).

including with refugee status. Moreover, the nature of the risks may also be affected by situations of repression, emergencies, violence, armed conflict and post-conflict. The risks cultural rights defenders face are contextual, and may also be affected by their minority or majority status, their gender or class background and other aspects of identity. States, civil society and international organizations must assess the possibilities and risks in each type of situation and develop effective and appropriate response mechanisms.

67. Cultural rights defenders in certain circumstances face similar human rights violations as other human rights defenders. These may include stigmatization; discrimination; bullying; loss of employment; threats; acts of violence; threats and violence against colleagues and family; arbitrary arrest and detention; unfair trials; spurious court cases, including for defamation; torture or ill-treatment; sexual violence; corporal punishment; enforced disappearances; and summary, arbitrary or extrajudicial killings. These may be carried out by State and/or non-State actors. When cultural rights defenders are forced to flee, they may face further abuses in exile, both from actors in their countries of origin and in receiving countries. Impunity for all such abuses is rampant in many contexts.

68. Emerging concerns regarding digital security, including online harassment, surveillance and repression are also relevant. The rights of cultural rights defenders must also be ensured online.

69. A few examples illustrate some of the repercussions faced by cultural rights defenders. Owing to her work as a journalist, Masih Alinejad, from the Islamic Republic of Iran, went into exile and found creative ways to champion women's cultural rights. She launched a campaign called "My Stealthy Freedom" in which women in the Islamic Republic of Iran shared photographs with her that had been taken without the mandatory hijab. The hijab had been imposed upon them under threat of harsh punishments;<sup>46</sup> hence they did not view it as a cultural expression, but as the expression of an officially imposed ideology (A/72/155, paras. 73–80). The videos and images were distributed on the Internet, allowing women a venue to express their cultural rights concerns and dissent. As a result, contact with Ms. Alinejad is now understood as a criminal act and the head of the Tehran Revolutionary Court declared in July 2019 that anyone sending her such a video could face a 10-year sentence.<sup>47</sup> Multiple women have subsequently received lengthy sentences for removing their hijabs. Ms. Alinejad's brother was also arrested as a means of punishing her for this work.<sup>48</sup>

70. Around the world, many cultural rights defenders are arbitrarily detained.<sup>49</sup> For example, award-winning Uighur intellectual Ilham Tohti, who ran a website "to provide Uighurs and Hans with a platform for discussion and exchange", and to offer a forum for discussion of Uighur social and cultural issues, is serving a life sentence in China.<sup>50</sup> All such cases are of grave concern for the Special Rapporteur, who calls for the immediate release of anyone detained for their work as a cultural rights defender.

71. The work of other human rights defenders to defend cultural rights defenders has played a crucial role in positive outcomes. The Special Rapporteur was delighted that blogger Cheick Mohamed Mkhaitir<sup>51</sup> was released from prison in 2019. Mr. Mkhaitir campaigned against the use of religious justifications for caste discrimination in Mauritania and was condemned to death for blasphemy. He served more than five years in prison and was the subject of numerous communications and statements by the cultural rights mandate,

<sup>46</sup> United Nations, OHCHR, "Iran: release women jailed for protesting against compulsory wearing of veil, say UN rights experts", news release, 16 August 2019.

<sup>47</sup> [www.isna.ir/news/98050703481](http://www.isna.ir/news/98050703481) (in Farsi).

<sup>48</sup> Amnesty International, "Iran: family of women's rights activist arrested in despicable attempt to intimidate her into silence", 25 September 2019.

<sup>49</sup> Freemuse documented 157 cases of artists being detained in 2018. Freemuse, *The State of Artistic Freedom 2019: Whose Narratives Count?* (2019).

<sup>50</sup> See Working Group on Arbitrary Detention, communication No. 3/2014 (China), 6 February 2014; and Human Rights Watch, "Timeline of Ilham Tohti's case", 15 September 2014.

<sup>51</sup> [www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=24705&LangID=F](http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=24705&LangID=F).

and other special procedures. Mr. Mkhaitir stressed the important role played by national and international lawyers who represented him despite significant risks associated with doing so. He also suggested that it was vital for the United Nations system to speak out publicly and rapidly in cases such as his, both to obtain justice and combat isolation. The outcome in his case is a reminder that concerted efforts by national and international human rights defenders, including cultural rights defenders, the United Nations system, non-governmental organizations and Governments, can produce positive results. The resilience and inspiring commitment of cultural rights defenders is epitomized by Mr. Mkhaitir who, though he has now been forced into exile and still receives threats, is determined to continue his cultural rights and other human rights work.

## V. Conclusions and recommendations

### A. Conclusions

72. We owe cultural rights defenders a significant debt of gratitude for the work they do to defend human rights and ensure beauty, colour, dignity, expression, celebration, thought, meaning and memory in our world; for the way they challenge us to think and re-think by striving for cultural rights. One night in October 2019, as a curfew blanketed the city of Santiago, opera singer Ayleen Jovita Romero peacefully protested by singing from her window to her neighbours.<sup>52</sup> She sang *El Derecho de Vivir en Paz* (The right to live in peace), a song made famous by singer Victor Jara before he was murdered following the 1973 military coup. Cultural rights defenders promote access to culture and creative responses in the face of human rights violations and strife, and can bring hope to others in our challenging times.

73. We should remember all those who have fallen in defence of cultural rights. However, let us not wait until we are mourning the deaths of cultural rights defenders before we determine how to support them. Let us honour those who have fallen by supporting and protecting those who continue their work.

74. This must be done by recognizing and popularizing the work of cultural rights defenders, human rights defenders who defend cultural rights in accordance with international standards, and all of their many contributions to ensuring the right of all to take part in cultural life without discrimination, including the right to access and enjoy heritage, and artistic and scientific freedoms. This must be done by acknowledging the inherent importance of culture and cultural rights, and work to defend them in accordance with international standards, and by recognizing their centrality for implementing other human rights, achieving sustainable development and responding effectively and in a human rights-compliant manner to the climate emergency.

75. Such efforts must also include full implementation of standards on the protection of cultural rights and relevant international standards on human rights defenders, including the Declaration on Human Rights Defenders, which applies fully to cultural rights defenders, and the enforcement of national laws in compliance with those standards. In addition, those efforts require full recognition of the specific risks and challenges that cultural rights defenders face and their particular needs in context; full consultation of and participation by cultural rights defenders in the development of programmes to benefit them; the adoption of gender and disability perspectives, and an inclusive perspective generally reflecting the needs of the diverse ecosystem of cultural rights defenders; and the speedy actualization of the recommendations of all relevant United Nations mechanisms, including the Special Rapporteur in the field of cultural rights.

76. Cultural rights will not realize themselves. The work of cultural rights defenders to protect and promote these rights is urgently needed in today's fraught world, as is our collective work to support them in doing so.

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<sup>52</sup> *20 Minutos*, "Una soprano canta a viva voz como protesta contra el toque de queda en Chile y desata una ovación en el barrio", 8 November 2019.



## **B. Recommendations**

77. States should:

- (a) Respect, protect, ensure and fulfil cultural rights for all without discrimination, in accordance with international standards;
- (b) Respect and ensure the rights of all cultural rights defenders;
- (c) Fully implement the provisions of the Declaration on Human Rights Defenders and other relevant standards, including General Assembly resolution 68/181 on protecting women human rights defenders;
- (d) Raise awareness about the Declaration on Human Rights Defenders, including by translating it into local languages and making it available in accessible formats;
- (e) Ensure that all national legislation related to human rights defenders, including cultural rights defenders, is in accordance with international human rights standards, and abrogate or reform without delay any legislation not in compliance with international standards or that inhibits the work of cultural rights defenders, or puts them at risk, such as criminalization of sexual orientation, blasphemy laws or laws that discriminate against women and minorities;
- (f) Adopt cultural rights-based cultural policies that include the work of cultural rights defenders, and protections for them, including strategies and mechanisms for responding to violations, and amend existing cultural policies to ensure these issues are fully covered;
- (g) Respect the autonomy of the cultural sectors and cultural institutions and their directors and staffs;
- (h) Ensure adequate funding across the cultural sectors, with the UNESCO-recommended standard of 1 per cent of expenditures for culture as a minimum; Ensure that adequate funds are available for the work of cultural rights defenders;
- (i) Identify and remove any obstacles for cultural rights defenders in securing adequate funding for their work, including from foreign sources, in accordance with international standards;
- (j) Conduct national assessments, in conjunction with civil society, national human rights institutions, cultural rights defenders and experts, of the enjoyment of cultural rights, and the ability of cultural rights defenders to do their work freely, identifying obstacles and recommending necessary remedies;
- (k) Systematically review all recommendations by the Special Rapporteur in the field of cultural rights, and other relevant recommendations by special procedures mandate holders and treaty bodies, related to human rights defenders, including cultural rights defenders, and ensure their implementation;
- (l) Respond adequately to all communications sent by special procedures mandate holders concerning cultural rights defenders; review all cases raised, and where violations are found, urgently provide remedies;
- (m) Conduct awareness-raising about cultural rights and the importance and positive nature of the work of cultural rights defenders in implementing these rights;
- (n) Recognize and support the positive role of dissent through cultural and creative expressions, and ensure that cultural dissenters are protected and not depicted as alien to society or cultures;
- (o) Express support for cultural rights defenders and their work, and encourage non-State actors to do so;
- (p) Immediately release all cultural rights defenders arbitrarily detained owing to their cultural rights work, cease legal proceedings against cultural rights defenders for their work in accordance with international norms, ensure protection

and support of all those facing threats, abuses, coercion and stigmatization for their work as cultural rights defenders, investigate all cases of reprisals and violations of the rights of cultural rights defenders and ensure that perpetrators are brought to justice in accordance with international law;

(q) Develop heightened protection mechanisms for cultural rights defenders in conflict and post-conflict situations, and whenever they face increased risks, including through urgent action plans;

(r) Ensure that any diplomatic programmes to monitor the situation of human rights defenders include cultural rights defenders, artists and cultural practitioners who are at risk;

(s) Grant asylum to at-risk cultural rights defenders and ensure they are able to continue their work and enjoy their human rights in exile;

(t) Memorialize fallen cultural rights defenders.

78. States, international organizations and civil society should:

(a) Make sure that cultural rights defenders are included in all programmes and measures for human rights defenders;

(b) Fully integrate the particular needs and challenges of cultural rights defenders, and gender and disability perspectives, into holistic efforts to create safe and enabling environments for human rights defenders;

(c) Raise the profile of cultural rights defenders and give this concept and the work of these defenders greater visibility;

(d) Raise awareness, including through human rights education, of the inherent importance of culture, cultural rights and the work of cultural rights defenders, and their role in realizing other human rights;

(e) Fully consult diverse cultural rights defenders about all programmes developed to support and protect them;

(f) Make sure that cultural rights dimensions of human rights violations and of the work of relevant human rights defenders is highlighted and that data regarding cultural rights defenders are disaggregated to assess specific challenges;

(g) Provide information to cultural rights defenders, including artists and cultural practitioners, about their rights and the availability of protection measures;

(h) Promote accessibility and non-discrimination across the field of culture;

(i) Increase international cooperation to enhance the work and protection of cultural rights defenders;

(j) Ensure that the Beijing+25 process and ongoing implementation of the Beijing Platform for Action give full consideration to women cultural rights defenders, and the equal rights of women to participate in cultural life, taking into account the work of the cultural rights mandate;

(k) Recognize, study and publicize the significant contributions of culture, cultural rights and cultural rights defenders to the implementation of the Sustainable Development Goals,<sup>53</sup> and involve cultural rights defenders in policy processes related to implementation of the 2030 Agenda for Sustainable Development;

(l) Recognize the important role to be played by cultural rights defenders, including women cultural rights defenders and indigenous human rights defenders, in all processes related to climate policy.

79. The United Nations should:

<sup>53</sup> en.unesco.org/courier/april-june-2017/culture-heart-sdgs.

(a) Ensure that all human rights bodies and mechanisms, including those addressing protection of culture, cultural rights and human rights defenders, fully address and mainstream relevant concerns related to the situation of cultural rights defenders, recognizing the cultural rights dimension of their work;(b) Regularly invite cultural rights defenders, and especially those who are at risk, to speak, exhibit and perform on United Nations premises, and showcase their work and cases on the Internet and in media outlets.

80. UNESCO should consider:

(a) Developing a specific body of work on the protection and support of cultural rights defenders, including by publicizing their work;

(b) Engaging in increased global monitoring of attacks against artists, cultural practitioners, cultural heritage defenders and all cultural rights defenders, analogous to its monitoring of attacks against journalists and action for their safety;

(c) Adopting a decision on the safety and support of cultural rights defenders through the UNESCO Executive Board;

(d) Allocating the necessary resources for the implementation of these recommendations.

81. National human rights institutions should:

(a) Develop capacity to address violations of cultural rights and of the rights of cultural rights defenders, in accordance with Committee on Economic, Social and Cultural Rights general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights;

(b) Popularize the importance of cultural rights and the work of cultural rights defenders;

(c) Create hotlines or other independent warning systems for at-risk cultural rights defenders.

82. Civil society should:

(a) Submit more shadow reports related to the implementation of cultural rights and cases concerning cultural rights defenders to the Committee on Economic, Social and Cultural Rights, and to other relevant United Nations and regional bodies, and to special procedures mandate holders and treaty bodies, including the Special Rapporteur in the field of cultural rights;

(b) Prepare educational materials and events for the culture sectors regarding the protections for cultural rights defenders, and raise awareness of cultural rights and cultural rights defenders among other human rights defenders;

(c) Work to ensure the provision of free legal assistance to cultural rights defenders facing legal proceedings for their work;

(d) Work to increase and support networks between cultural practitioners, including artists, and human rights defenders, and between cultural rights defenders and other human rights defenders.

83. Cultural institutions should:

(a) Engage in capacity-building about cultural rights and about the concept of and protections for cultural rights defenders and the culture sector;

(b) Ensure that they adopt cultural rights-based approaches to their subject matter, including the principles of non-discrimination, accessibility, consultation and participation;

(c) Respect the rights of members of their staffs who defend cultural rights within the institution;

(d) Cooperate locally, regionally and internationally to support cultural institutions and cultural rights defenders at risk;

(e) Whenever possible, directly support cultural rights defenders at risk, including through programmes such as fellowships and residencies;

(f) Develop capacity to respond to threats to cultural rights defenders, internationally and locally, including by developing urgent action plans in consultation with affected cultural rights defenders and considering issues such as accessing visas in emergency situations;

(g) Raise the profile of cultural rights defenders through mechanisms such as prizes and publications;

(h) Speak up and respond individually and collectively whenever cultural institutions are threatened and when cultural rights defenders face violations of their human rights, recognizing that defence of cultural rights is essential for the enjoyment of culture everywhere and can be a core part of cultural work.

**84. Funders should:**

(a) Ensure that cultural rights defenders are eligible for any funding programmes available to human rights defenders, and ensure they are adequately represented among recipients;

(b) Consider systemic interventions that support the long-term work and care of cultural rights defenders.

**85. Cultural rights defenders should:**

(a) Explore further avenues for working together collaboratively and comprehensively across regions and sectors, bringing together, inter alia, those working on many aspects of the right to take part in cultural life, cultural heritage-related rights, language rights, artistic and scientific freedoms and cultural rights of diverse groups;

(b) Consider distributing, translating and popularizing, including through cultural expressions, the present report, and other reports by the cultural rights mandate;

(c) Consider ways to raise awareness of the concept of cultural rights defenders and the necessity of protecting their rights and supporting their work;

(d) Give further consideration to creating an international coalition for cultural rights, including at the United Nations, to ensure the voices of cultural rights defenders are heard at the global level.<sup>54</sup>

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<sup>54</sup> A/HRC/40/53, para. 45.