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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

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

## Intersessional workshop on cultural rights and the protection of cultural heritage

### Report of the United Nations High Commissioner for Human Rights\*

#### *Summary*

The present report, submitted pursuant to Human Rights Council resolution 37/17, presents the summary of discussions at the intersessional workshop on cultural rights and the protection of cultural heritage, which took place online on 14 and 15 June 2021. The workshop was focused on: (a) mainstreaming a human rights-based approach to cultural heritage, including tools; (b) cultural heritage in crisis; and (c) supporting the work of cultural rights defenders working on cultural heritage protection. Recommendations were formulated, including with respect to the review, identification and sharing of best practices and appropriate tools for the dissemination of the rights-based approach to the protection, restoration and preservation of cultural heritage.

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\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



## I. Introduction

1. In its resolution 37/17, the Human Rights Council requested the United Nations High Commissioner for Human Rights to convene, before the forty-fourth session of the Council, and in collaboration with the Special Rapporteur in the field of cultural rights, relevant agencies and other stakeholders, a two-day workshop in Geneva with the participation of experts from all regions of the world to develop appropriate tools for the dissemination of an approach to the protection, restoration and preservation of cultural heritage that promoted universal respect for cultural rights by all, and to submit a report thereon to the Council at its forty-sixth session. The Council further decided, in its decision 45/113, to postpone the workshop to before the forty-seventh session, and that the related report would be submitted at the forty-eighth session, owing to the liquidity crisis affecting the United Nations Secretariat and the restrictions imposed due to the coronavirus disease (COVID-19) pandemic.

2. Pursuant to that decision, on 14 and 15 June 2021, the Office of the United Nations High Commissioner for Human Rights (OHCHR) convened the intersessional workshop on cultural rights and the protection of cultural heritage. The workshop was structured in three sessions. Session one comprised a panel discussion on mainstreaming a human rights-based approach to cultural heritage, including tools. The panel was chaired by the Permanent Representative of Cyprus to the United Nations Office and other international organizations in Geneva, George Kasoulides. Opening statements were made by the United Nations Deputy High Commissioner for Human Rights, Nada Al-Nashif; the Permanent Representative of Iraq to the United Nations Office and other international organizations in Geneva, Abdul-Karim Hashim Mostafa; Assistant Director-General for Culture at the United Nations Educational, Scientific and Cultural Organization (UNESCO), Ernesto Ottone Ramírez; and the Special Rapporteur in the field of cultural rights, Karima Bennoune. The session included a video performance by Angolan musicians Nelson Ebo and Paulo Flores. The panellists were Corine Wegener, Smithsonian Cultural Rescue Initiative; Kristen Carpenter, University of Colorado Law School; Mikel Mancisidor, Committee on Economic, Social and Cultural Rights; Kaori Kawakami, UNESCO; Trudy Huskamp Peterson, certified archivist; and Rosette Muzigo-Morrison, Office of the Prosecutor, International Criminal Court.

3. The panel discussion in session two, on cultural heritage in crisis, was moderated by Rio Hada, OHCHR. Brigadier General El Hadji Babacar Faye, Department of Peace Operations, spoke in a pre-recorded video message. The panellists were Ioannis Kasoulides, former Minister of Foreign Affairs of Cyprus; Peter Bille Larsen, University of Geneva; Maja Kominko, International Alliance for the Protection of Heritage in Conflict Areas; Joanne Farchakh Bajjaly, an archaeologist and journalist; Asmahan al-Alas, Aden University; El Boukhari Ben Essayouti, Malian Association for Human Rights; and Sophie Ravier, United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

4. The panel discussion during session three, on supporting the work of cultural rights defenders working on cultural heritage protection, was moderated by Mr. Mancisidor. Ras Takura, a Jamaican poet, recited a poem. The panellists were Ms. Bennoune; Mónica Redondo Álvarez, Culture and Cultural Heritage Division, Council of Europe; Mamuka Longurashvili, Criminal Law Co-operation Unit, Council of Europe; Eleni Polymenopoulou, Hamad Bin Khalifa University; Omar Mohammed, Iraqi historian and journalist; Lucrecia Cardoso, Ministry of Culture, Argentina; and Todd Howland, OHCHR.

5. The present summary was prepared by OHCHR pursuant to Human Rights Council resolution 37/17 and decision 45/113.

## II. Opening statements

6. In her opening statement, the United Nations Deputy High Commissioner for Human Rights noted that the full implementation of cultural rights and the protection of cultural heritage contributed to the realization of all other human rights by giving a rights-based framework to preserve individual and collective identities and by fostering peaceful dialogue between generations and societies. A human rights-based approach must promote an enabling

environment for all to access, participate in and dynamically contribute to their cultural heritage, including during conflict. The COVID-19 pandemic had been hitting artists, cultural practitioners and museum workers hard. It was urgent to give cultural rights and cultural heritage the attention they deserved. Cultural rights defenders were especially vulnerable to persecution. Artists must be free to express themselves, without facing censorship or having to resort to self-censorship to be safe.

7. Mr. Mostafa spoke on behalf of the core group of States that had sponsored Human Rights Council resolution 37/17. He thanked the Special Rapporteur in the field of cultural rights for her work throughout her tenure. Noting the impact that COVID-19 had had on the right to partake in cultural rights and enjoy cultural heritage, he recalled the purpose of the workshop: to develop appropriate tools for the dissemination of an approach to the protection, restoration and preservation of cultural heritage that promoted universal respect for cultural rights by all.

8. Mr. Ottone Ramírez noted that mainstreaming a rights-based approach to the safeguarding of cultural heritage was the shared goal of UNESCO, OHCHR and the Special Rapporteur in the field of cultural rights. UNESCO conventions codified cultural rights and highlighted their vital importance for the safeguarding of culture in all its forms. As culture is a foundation for sustainable peace and respect for human rights, protecting cultural rights contributes to such peace and respect by supporting dialogue and facilitating access to cultural life in all its diversity. UNESCO supported the integration of culture into peacebuilding, security and humanitarian policies and practices, and the prevention of the intentional destruction of cultural heritage, by promoting respect for diversity and intercultural dialogue. Mr. Ottone Ramírez called for culture to be included in national COVID-19 recovery plans so as to respond to the devastating impact of the pandemic on cultural rights. Indigenous and living heritage practices had been disrupted. Many artists and cultural professionals had lost their livelihoods. Strengthening cooperation with OHCHR, the Special Rapporteur, Member States, experts, cultural rights defenders, and humanitarian, security and peacebuilding actors was crucial.

9. Ms. Bennoune outlined the elements of the human rights approach to cultural heritage. The right to access and enjoy cultural heritage was anchored in the right to take part in cultural life. Cultural heritage was a fundamental resource for other human rights: the rights to freedom of expression, to religion and to education; the economic rights of the people who made their living through tourism related to such heritage; and the right to development. The intentional destruction of cultural heritage violated those rights. The Human Rights Council, in its resolution 33/20 on cultural rights and the protection of cultural heritage, noted that the destruction of or damage to cultural heritage could have a detrimental and irreversible impact on the enjoyment of cultural rights. The General Assembly, in its resolution 75/258 on promoting a culture of peace and tolerance to safeguard religious sites, condemned attacks on cultural heritage as violating international human rights law.

10. In addition, a special protection regime applied in times of conflict. Core standards included the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the protocols thereto. Among the permanent members of the Security Council, only France and the United Kingdom of Great Britain and Northern Ireland had ratified the second protocol to the Convention, which strengthened protection by limiting the military necessity exception. Accountability of State and non-State perpetrators was essential. Many acts of destruction of cultural heritage went unnoticed, targeting, particularly, indigenous peoples, with long-lasting effects on their human rights. Acts of deliberate destruction should be addressed in the context of holistic strategies for the promotion and protection of human rights. Viewing cultural heritage as a human right emphasized the impact such destruction had on human beings. Ms. Bennoune recommended the development of national and international inventories of the impacts of COVID-19 on heritage, and strategies to ensure the recovery of that sector and its workers.

11. Ms. Bennoune stressed the urgency to mainstream a human rights-based approach to cultural heritage and ensure its implementation by international and national bodies, including armed forces in the field. States should assess their progress in that regard. It was necessary to develop tools for that purpose. The Security Council should include the rights-based approach in United Nations mandates, including those of peacekeeping missions. The

rights-based approach must be comprehensive; must protect tangible and intangible heritage, in conflict and in peace, recognizing a diversity of threats coming from, for example, extremists or the climate emergency; and must be participatory and consultative, and gender-sensitive, promoting the inclusion of women cultural heritage experts, and combating specific challenges faced by women in gaining access to heritage without discrimination. Rights-based tools should facilitate universal approaches and mutual recognition of the cultural heritage of all, including minorities, such as the bicomunal technical committee on cultural heritage that brought together Greek and Turkish Cypriots to restore everyone's heritage.

### **III. Mainstreaming a human rights-based approach to cultural heritage, including tools**

12. The session began with a video performance of Mr. Ebo and Mr. Flores singing the Angolan traditional song "Monami". The artists drew attention to the need to protect cultural actors who produced cultural heritage to be passed on to descendants.

#### **A. Statements by panellists**

13. Ms. Wegener noted that cultural workers and defenders protecting heritage in armed conflicts and disasters needed recognition and resources from States, humanitarian organizations and international bodies. Cultural rights should be mainstreamed in disaster preparedness and response. The Sendai Framework for Disaster Risk Reduction 2015–2030 provided a framework protecting persons and their property, health, livelihoods and cultural and environmental assets, while promoting and protecting human rights, including the right to development. Other tools included the UNESCO cultural conventions. However, cultural heritage was not adequately integrated into disaster risk management around the world. Governments should take legislative measures to integrate cultural heritage into national and local disaster plans, and allocate necessary resources. The Office for the Coordination of Humanitarian Affairs should add a culture cluster to existing clusters for disaster response, or integrate cultural heritage into the responsibilities of the early recovery cluster. Cultural workers and institutions should be integrated into disaster planning, disaster exercises and training alongside first responders (such as civil defence, firefighters and the military).

14. Ms. Carpenter recalled that indigenous peoples were threatened by development, climate change, racial discrimination and violence. She emphasized the linkages between cultural rights and the rights to health, to family, to live free from violence, and to life. Worldwide, one indigenous language died out every two weeks, affecting individual rights to expression and thought and collective rights to identity and culture. The climate crisis had exacerbated indigenous peoples' forced displacement, especially where States had failed to protect their land rights, threatening their enjoyment of the right to culture; their economic activities, religious practices, health and medicine, music, art and textiles were tied to land. Structural inequities left indigenous peoples particularly vulnerable to COVID-19. Lack of access to health care in one's own language made it difficult for indigenous peoples to receive accurate information, treatment and vaccines.

15. The United Nations Declaration on the Rights of Indigenous Peoples recognized the individual rights of indigenous peoples, but also their collective rights, as distinct peoples, to self-determination, land, language, religion and culture. Indigenous peoples had the right to recover the spiritual, religious and cultural objects that had been taken from them and held in museums or by collectors. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property should be viewed in the light of the United Nations Declaration on the Rights of Indigenous Peoples. Opportunities to advance the protection of indigenous peoples' intangible cultural properties also existed with the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore, of the World Intellectual Property Organization. Ms. Carpenter encouraged the United Nations to promote the International Decade of Indigenous Languages (2022–2032) and to mainstream the rights of indigenous peoples to use and revitalize their languages and transmit them to future generations.

16. Mr. Mancisidor stated that the international humanitarian law approach in protecting cultural heritage in situations of armed conflict was necessary but insufficient, and raised dilemmas, as efforts made to protect heritage in armed conflict could interfere with other priorities, such as saving lives. The human rights-based approach recognized tangible and intangible heritage as a human right essential to everyone's identity and dignity, and implied the active engagement of rights holders in creating, sharing, transforming and developing their heritage, for the benefit of individuals and communities. It also helped to build back better in post-conflict situations; the participatory management of heritage was a key tool for reconstruction and reconciliation.

17. Ms. Kawakami recalled that UNESCO contributed to the protection of culture and cultural pluralism through the six UNESCO culture conventions. During conflict, culture was affected by collateral damage, intentional destruction, looting and smuggling, religion-based persecution, and the loss of intangible heritage and cultural diversity due to displacement and the exodus of artists and artisans. In turn, culture had a role in conflict prevention, peacebuilding, rehabilitation and reconciliation, and development, in the form of the offering of livelihood opportunities in cultural tourism and creative industries, the provision of psychosocial healing and the promotion of dialogue.

18. To mainstream culture in humanitarian operations, UNESCO offered policy advice to States and developed inter-institutional synergies. UNESCO had contributed to the adoption of Security Council resolution 2347 (2017), in which the Council had affirmed that directing unlawful attacks against sites and buildings dedicated to religion, education, art, science or charitable purposes, or historic monuments, could constitute a war crime. UNESCO had also developed tools and training courses for humanitarian actors, military and security forces, search and rescue teams and peace mediators, and had researched the linkages between cultural rights, cultural diversity and cultural heritage in the context of humanitarian action, natural disasters and peacebuilding operations, to develop a manual for the application of a cultural rights-based approach to those operations and a human rights-based approach to heritage conservation.

19. Ms. Huskamp Peterson recalled that archives were essential for protecting rights. In accordance with the Basic Principles on the Role of Archivists and Records Managers in Support of Human Rights, published by the International Council on Archives, States should ensure the preservation of archives concerning violations of human rights and humanitarian law, including those of temporary bodies established to assist in transitional justice. Archives needed to be included in international policy statements on human rights issues, such as the Policy on Cultural Heritage published by the Office of the Prosecutor of the International Criminal Court. In accordance with the corporate responsibility to protect human rights, as stipulated in the Guiding Principles on Business and Human Rights, businesses, particularly multinationals, must preserve and make available content that had an impact on human rights. The Committee on Economic, Social and Cultural Rights should reflect in its forthcoming general comment on land and economic, social and cultural rights that land titling and registration should be fair, that records of title should be securely preserved in professionally managed archives, and that access to the records of land ownership should be freely available for all. OHCHR should promote the Guiding Principles for Safe Havens for Archives at Risk, published by the International Council on Archives, and protect endangered archives and archivists through its field presences.

20. At the national level, all institutions holding archives should publicly acknowledge their existence and have clear policies for accessing them. Governments must enact and enforce penalties for concealing and destroying records. Governments must ensure that everyone has a legal identity, including birth registration, and that such archives remain inviolable. All institutions holding archives, such as governments, businesses, faith institutions and non-governmental organizations (NGOs), must ensure funding and resources for the professional management of those archives.

21. Ms. Muzigo-Morrison noted that the war crimes listed in article 8 of the Rome Statute of the International Criminal Court included intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes and historic monuments, provided they were not military objectives. The Office of the Prosecutor of the International Criminal Court addressed crimes against tangible and intangible cultural heritage during

preliminary examination, investigation and prosecution, and, when so invited, at the reparations stage. For instance, in 2015, the Office had brought charges against Ahmad Al Faqi Al Mahdi for attacking religious and historical buildings in Timbuktu, Mali. The Office provided support for national proceedings to hold violators accountable. It sought to strengthen cooperation with national and international institutions responsible for preventing and combating the destruction and illicit trafficking of cultural heritage, and with members of academia and NGOs to raise awareness and strengthen capacities at the national level.

## **B. Summary of discussions and inputs received**

22. During the interactive discussion, representatives of Armenia, Serbia and Slovenia, and the Institute for NGO Research, took the floor. Armenia emphasized that attempts to destroy or misappropriate cultural and religious heritage were human rights violations. Deliberate attacks on cultural or religious property violated the Convention for the Protection of Cultural Property in the Event of Armed Conflict, and must be prosecuted as war crimes.

23. Serbia stated that the workshop proved that the Human Rights Council recognized the important role of cultural rights within human rights as a whole, and expressed strong support for the mandate of the Special Rapporteur in the field of cultural rights.

24. Slovenia stated that, in its role as the next President of the European Union Council, which it would assume on 1 July 2021, it would organize an international conference on the right to heritage as a catalyst for sustainable development, in Ljubljana on 10 and 11 September 2021.

25. The Institute for NGO Research urged the adoption of policies and guidelines to ensure that cultural heritage would not be used selectively to privilege the narrative of one party while erasing the cultural heritage of other parties.

## **IV. Cultural heritage in crisis**

26. Brigadier-General Faye introduced the session, presenting the story of Captain Mbaye Diagne, a United Nations peacekeeper from Senegal who had lost his life after rescuing up to 1,000 people during the 1994 genocide in Rwanda, noting that those actions had become part of the cultural heritage of humankind, including through the creation by the Security Council of the Captain Mbaye Diagne Medal for Exceptional Courage.

### **A. Statements by panellists**

27. Mr. Kasoulides recalled that in 2016, Cyprus, with the support of other States, had coordinated the adoption of Human Rights Council resolution 33/20 on cultural rights and the protection of cultural heritage, positioning cultural heritage on the human rights agenda. The destruction of the world heritage site of Palmyra, in the Syrian Arab Republic, by Da'esh in 2015 had prompted international action, including Security Council resolutions 2199 (2015) and 2347 (2017), leading to the development of the Council of Europe Convention on Offences relating to Cultural Property (Nicosia Convention), the first international legal text incorporating a criminal code and imposing criminal sanctions for perpetrators who destroyed, stole or unlawfully excavated or traded cultural heritage. Following the recent ratifications by Greece and Latvia, one more ratification was necessary for the Convention's entry into force, and to allow States that were not members of the Council of Europe and that had not participated in the drafting of the Convention to accede to the instrument, which was designed to become universal.

28. Governments, civil society and other stakeholders should lobby for more ratifications and implementation of the Nicosia Convention and the UNESCO conventions through national legislation and policies. Bilateral agreements with countries with significant art markets on the repatriation of stolen cultural property to the respective countries of origin also helped create direct channels of communication between the cultural heritage and customs authorities of the parties for the sharing of information in cases of stolen cultural

property. The workshop offered an opportunity to recommit to the protection of cultural heritage and cultural rights during the COVID-19 pandemic, to mitigate the risk of a global “cultural catastrophe”. Governments should retain adequate funding for the protection of cultural heritage.

29. Mr. Larsen noted the growing media and policy attention paid to heritage in situations of conflict. However, focus was often placed on tangible heritage, whereas the dynamics of intangible cultural heritage, cultural identity issues and cultural rights, which were key dimensions in conflicts, humanitarian crises and peacebuilding, remained unaddressed. Cultural rights should be linked to the protection of heritage and integrated into responses to conflict and humanitarian emergencies, drawing inspiration from best practices in peace accords, peacekeeping and humanitarian operations.

30. Ms. Kominko noted that the integration of cultural heritage into development efforts was often treated not as a value in itself, but as a means of achieving certain economic or social goals. Resources for conservation might be prioritized for certain monuments over others due to economic or political considerations. The International Alliance for the Protection of Heritage in Conflict Areas supported the conservation of the Arch of Ctesiphon, near Baghdad. It had potential for tourism development, but due to the pandemic and insecurity, the investment would outweigh the direct economic benefits for some time. However, the preservation of heritage could not be reduced to a cost-benefit equation.

31. The question of cultural identity and ownership was also particularly complex in countries recovering from conflicts that happened along ethnic or religious fault lines. Efforts to identify and engage “the community” to which the heritage belonged could be problematic. The overemphasis of a single religious and cultural identity to the detriment of others could favour religious and political radicalization. Legal frameworks for religious monuments rarely accommodated historical connections between communities. Another issue was defining who could speak on behalf of “the community”. When not all voices were taken into consideration, it could lead to tension between the need for cultural sensitivity and respect for local norms, and the need for inclusiveness and equity. It was necessary to recognize local people, experts and institutions as the custodians of heritage, embedding cultural heritage protection in development work.

32. Ms. Farchakh Bajjaly presented the lessons learned in Lebanon after the blast on 4 August 2020 that had destroyed part of Beirut, including its historic heritage. Lebanese civil society had strongly called for rescue and recovery of the old city. Damage to heritage had not been a priority concern during the 1975–1990 civil war, when it was considered as a casualty of war. The looting of the National Museum of Iraq in Baghdad and the destruction of Mosul and Aleppo had shown that the destruction of cultural heritage was no longer a casualty of war; rather, such heritage was targeted, for ideological or financial reasons. Heritage professionals, campaigners and history lovers had rejected the real estate agents who had tried to buy destroyed traditional houses. Their voices were heard by the international donor community when safeguarding the city’s history was set as a priority and as a condition for accepting funding.

33. Ms. Al-Alas stated that since 2014, in Aden, historic monuments had been targeted. Fighting took place in old buildings, mosques, schools, places of worship, cemeteries, libraries, museums and places where archives were stored. The old town of Sana’a, a UNESCO world heritage site, had also been targeted. National authorities and all parties to the conflict had violated international humanitarian law and failed to ensure the safeguarding of cultural heritage, even after fighting ceased in Aden in 2015. Civil society and humanitarian organizations had been unable to properly handle that crisis because, focusing on political and economic rights, they had been unprepared to deal with the protection of cultural rights and cultural heritage. The international community must exert pressure on Yemen to uphold international human rights and humanitarian law for the protection of cultural heritage. Civil society organizations must be supported to play a front-line role in protecting cultural heritage, the destruction of which was a collective trauma that could trigger a national identity crisis and a development loss.

34. Mr. Ben Essayouti stated that in addition to national and international rules on the protection of heritage, the Islamic tradition, the prime source of law in Mali, contained

customary provisions protecting monuments and religious buildings. However, in 2012 jihadists had seized power from Malian authorities, bulldozed mausoleums in Timbuktu, destroyed Dogon temples, looted mosques and imposed Wahhabism, until French forces had liberated the region. The destruction of cultural heritage had affected Malians' cultural identity, strengthened communitarianism and weakened the acceptance of cultural diversity and dialogue between groups, reinforcing tribalism and fuelling new violence, where parts of the cultural heritage were targeted because they belonged to other groups. It had also caused great economic losses in the handicraft, tourism and hospitality sectors.

35. On the positive side, a rehabilitation programme had been implemented with UNESCO, with the support of non-Muslim actors, allowing local communities to understand the importance of their heritage for humankind, beyond its links to specific religious or ethnic groups. By prosecuting and sentencing jihadists who had intentionally directed attacks against historic and religious buildings, the International Criminal Court had shown that targeting heritage was a crime and that it would be punished. Mr. Ben Essayouti recommended that the mandate of MINUSMA be strengthened to protect cultural heritage within the broader framework of cultural rights. Beyond the simple physical preservation of the manuscripts of Timbuktu, their content could be used to deconstruct cultural manipulations, and to rediscover the humanistic ideas of the Middle Ages. Military contingents of international forces should be trained to protect heritage sites.

36. Ms. Ravier presented the role of MINUSMA in protecting the heritage of Mali. The Security Council, in its resolution 2100 (2013), included cultural preservation in the mandate of MINUSMA as a key tool for national reconciliation and social cohesion. Previous to that resolution, the only guidance document referencing cultural heritage in peacekeeping had been the 2009 Department of Peace Operations/Department of Field Support environmental policy for United Nations field missions, focused on reducing the United Nations environmental footprint. Since 2013, MINUSMA had cooperated with UNESCO to train personnel on cultural heritage and cultural awareness, and to integrate them in a code of conduct. MINUSMA had deployed experts to rebuild the Timbuktu mausoleums, had engaged local communities and had supported projects, which also covered forms of intangible heritage. It had also hired a United Nations police officer to focus on the illicit traffic of cultural objects, and had trained defence and security forces of Mali.

37. After 2018, there was no reference to culture in the MINUSMA mandate, but the 2017 environment strategy issued by the Department of Field Support required field missions to report annually to the General Assembly on their environmental scorecard, including on culture (training and behaviours). Prevention remained essential: peacekeeping operations were set up only after the damage was done. The cultural heritage protection mandate required adequate resources and should be mainstreamed in the broader human rights mandate of the mission and in the mandates of other components.

## **B. Summary of discussions and inputs received**

38. During the interactive discussion, representatives of Armenia, Azerbaijan, and Italy, the European Union and the Maat for Peace, Development and Human Rights Association made substantive contributions.

39. Armenia emphasized that impunity for war crimes against cultural heritage led to new cycles of intercommunity violence. It was imperative to investigate and prosecute war crimes against cultural heritage and hold perpetrators accountable.

40. Azerbaijan recalled that the deliberate destruction of cultural heritage was a violation of international law and a crime against humanity. The representative of Azerbaijan made a point of order regarding the presence of a non-registered participant at the session.

41. Italy emphasized that the protection of cultural heritage has been a priority for its mandate in the Human Rights Council and as next Chair of the Committee of Ministers of the Council of Europe. With UNESCO, Italy had conducted multiple recovery interventions at sites and had supported training for professionals in cultural heritage conservation in



countries in the Mediterranean area, Africa and South-East Asia. Italy was a candidate to be a representative on the World Heritage Committee for the 2021–2025 term.

42. The European Union noted that it had allocated 27 million euros to finance cultural heritage preservation projects in Afghanistan, Iraq, Iran (Islamic Republic of) and Yemen, and Central Asia, and had focused on banning illegal trade in cultural and archaeological artefacts from countries affected by conflict.

43. The Maat for Peace, Development and Human Rights Association recommended that during war, the United Nations should compile and issue no-strike lists of heritage sites that States and armed non-State actors should respect. States must: adopt national preparedness plans for the protection of cultural heritage from armed conflicts, disasters and public emergencies; recognize cultural heritage in post-conflict recovery; and incorporate the protection of cultural heritage in national plans and in the universal periodic review process.

## **V. Supporting the work of cultural rights defenders working on cultural heritage protection**

44. Mr. Takura recited “Heirloom Seeds Exchange”, a poem about the African tradition of seed exchange. He noted that seed exchange could maintain plant diversity, which was linked to cultural heritage, as opposed to the market-driven imposition of genetically modified seeds that had lost their ability to reproduce, obliging farmers to purchase seeds every time they needed them.

### **A. Statements by panellists**

45. Ms. Bennoune defined cultural rights defenders as human rights defenders who defended cultural rights in accordance with international human rights standards. That definition was aimed at raising the profile of such human rights defenders, who often operated in hazardous and challenging conditions, as their work was essential for the implementation of cultural rights. Consistent with 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) and Human Rights Council resolution 31/32, States should recognize the work of such defenders, address the threats against them and guarantee them a safe, enabling environment.

46. Local cultural rights defenders working to protect cultural heritage received insufficient support. Their physical protection was also at stake. States and international organizations should engage with museum curators, archaeologists and archivists. The standards guaranteeing their rights and recognizing the work of such actors should be implemented without delay. However, specific standards for cultural rights defenders should be created. International attention and accountability were key for their protection, but there was no comprehensive record of the threats and human rights abuses against cultural rights defenders. The international community should provide support to those on the front lines, to avoid mourning yet more deaths.

47. Mr. Longurashvili spoke on the Nicosia Convention, the most recent universal legal instrument criminalizing offences relating to cultural property, including destruction and trafficking. Its purpose was to enhance the capacity of States parties to prosecute certain acts; to help prevent crime and strengthen criminal justice responses; and to promote national and international cooperation in combating criminal offences relating to cultural property. Ratified by four States, one more ratification was required for its entry into force, at which point accession to the Convention would be open to all countries in the world.

48. Ms. Redondo Álvarez described the innovations in the Nicosia Convention. As the struggle against trafficking in cultural property had moved onto social media and the deep web, each party to the Convention was to consider taking measures to encourage Internet service providers, platforms and web-based sellers to cooperate in preventing the trafficking of cultural property. States parties were also to prevent free ports from being used for the

purpose of the trafficking of cultural property. Offences were punishable when committed intentionally and where the offender knew of the unlawful provenance of the cultural property. The role of art and antiquities dealers, auction houses and others involved in the trade in cultural property was also referred to. Under the Convention, States parties were to consider adopting measures to apply against persons who should have been aware of unlawful provenance of cultural property but failed to exercise due care and attention.

49. Ms. Polymenopoulou described accountability mechanisms for violations of cultural rights. They included the opportunity offered by international criminal law to engage the individual criminal responsibility of perpetrators for offences against cultural heritage; the collaboration between States, UNESCO and the International Criminal Police Organization (INTERPOL); and local laws, including those set up under international and regional legal instruments, for example the Nicosia Convention, that requested parties to legislate in the sphere of criminal law. The human rights framework, including the Declaration on Human Rights Defenders, was applicable to the violations of the rights of cultural rights defenders. States must facilitate the work of cultural rights defenders. Attacks against their rights were violations of the entire community's rights to have access to their culture and to cultural rights.

50. States must conduct effective investigations and establish systems of protection and early warning mechanisms, in accordance with Human Rights Council resolution 37/17, emphasizing the need to document cultural property, implement educational programmes on the importance of cultural heritage and cultural rights, and train military forces and humanitarian actors in relevant rules concerning the protection of cultural heritage.

51. Accountability mechanisms included human rights mechanisms: treaty bodies; Human Rights Council mechanisms, especially the universal periodic review; and regional bodies. Accountability for violations of the rights of cultural rights defenders, musicians, performers and artists extended beyond article 15 of the International Covenant on Economic, Social and Cultural Rights. For instance, violations of the rights of cultural rights defenders who fought to ensure access to cultural heritage sites by persons with disabilities could be addressed by the Committee on the Rights of Persons with Disabilities. In armed conflict, human rights continued to apply, and were supplemented by rules of international humanitarian law on the protection of the lives and property of civilians. Military and occupying forces must refrain from unlawful acts, and ensure that cultural rights defenders are not attacked, threatened or inhibited. Monitoring, compliance and accountability processes should be inclusive, and not limited to the International Criminal Court or the Security Council. Human rights bodies could play an important role in ending impunity for violations of the rights of cultural rights defenders.

52. Mr. Mohammed pointed to the links between the destruction of heritage and the violation of human rights under the ISIS occupation of Mosul. The revival of the heritage of Mosul offered an opportunity to rebuild cultural pluralism as the key to peaceful coexistence between communities. The protection and promotion of that heritage in contemporary culture would create safe spaces of communication between diverse groups. Many young people had explored the history of their city for the first time, thanks to initiatives such as Revive the Spirit of Mosul, launched by UNESCO, which was aimed at building cooperation directly with the various communities, especially young people.

53. Ms. Cardoso presented the efforts made by Argentina to promote cultural rights, creativity and diversity, and to support the cultural economy through specific national programmes and international cooperation. Cultural and creative industries were key for the dissemination of the country's multicultural heritage. They were a key driver for development and for the reduction of inequalities. It was necessary to develop new capacities, to embrace the digital world and to update regulatory frameworks in order to guarantee the digital offer of multicultural contents representative of a diverse national heritage.

54. Argentina was providing further impetus for the market for the cultural industry through a virtual platform where different sectors of the industry could showcase their work. The project involved a network of ministries, the country's agency for export and international trade, banks and chambers of commerce, in dialogue with local authorities and

civil society, which were working to support the cultural economy, increase international exposure and raise awareness about the value of heritage.

## **B. Summary of discussions and inputs received**

55. During the interactive discussion, representatives of Armenia, Azerbaijan, Greece, Nepal and Peru, and the Blue Shield and the Maat for Peace, Development and Human Rights Association, took the floor.

56. Armenia recalled that in 2020, Azerbaijan had committed war crimes by deliberately targeting Armenian cultural and religious monuments in Nagorno-Karabakh, including the Cathedral of Shushi. The President of Azerbaijan had promised to investigate the attack, but there had been no information on the outcome of the investigation.

57. Azerbaijan recalled the destruction of cultural, religious and historic pieces of its heritage during the occupation of certain regions by Armenia and stated that it was key to engage the responsibility of perpetrators.

58. Greece emphasized that cultural rights were critical to the human rights framework, and welcomed the Policy on Cultural Heritage published by the Office of the Prosecutor of the International Criminal Court. Greece expressed regret regarding the decision to repurpose Hagia Sophia in Istanbul as a mosque and called for the international community to counter actions that undermined access to cultural heritage sites and interfaith dialogue and understanding.

59. Nepal was a party to the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the national constitution guaranteed the right of every community to preserve and promote its language, culture and heritage. During the pandemic Nepal had continued the reconstruction of cultural heritage damaged by the 2015 earthquake, in consultation with cultural rights defenders, indigenous peoples and communities, facilitating the observance of cultural practices while applying safety and protection standards.

60. Peru had recently approved its national policy on culture, which was aimed at strengthening culture by ensuring the sustainable development of the arts and of creative and cultural activities, increasing the value placed on cultural heritage and its safeguards, and guaranteeing the sustainability of cultural governance with the participation of civil society.

61. The Blue Shield recalled that in recent conflicts the heritage of particular communities had been specifically targeted alongside attacks on civilians to eradicate, with the population, the very evidence of the existence of that heritage. It was necessary to build partnerships with the uniformed services and humanitarian sectors. The Blue Shield had signed a memorandum of understanding with the International Committee of the Red Cross in 2020 to integrate cultural property protection into humanitarian policy and practice.

62. The Maat for Peace, Development and Human Rights Association called for the inclusion of cultural rights defenders in the preparation of national preparedness plans for cultural heritage preservation. United Nations human rights mechanisms should also protect such defenders and ensure that national authorities protect them against violations of their rights. The Special Rapporteur in the field of cultural rights, in her report on cultural rights defenders, had recommended that States grant asylum to at-risk cultural rights defenders while ensuring that they were able to continue their work in exile.<sup>1</sup>

## **VI. Concluding remarks**

63. In her concluding remarks, Ms. Bennoune acknowledged the progress made since the previous intersessional meeting, held in 2017. By consensus, cultural heritage was currently being seen as part of human rights and cultural rights. New strategies for holding perpetrators accountable were emerging, and cultural rights defenders had become part of the lexicon. The participants at the present workshop had focused on the implementation of the legal

<sup>1</sup> A/HRC/43/50, para. 77 (s).

framework, on accountability for violations of the right to access and enjoy cultural heritage and for violations of the rights of cultural rights defenders, on the support owed to local cultural rights defenders, and on engaging key constituencies. They had illustrated the links between the protection of cultural heritage and cultural diversity, cultural rights and human rights in general. They had also provided reminders of the ways populations and cultural rights defenders had pushed back, of how culture was resilient, and how it was key to engage the youth in cultural initiatives.

64. Ms. Bennoune asked States to conduct internal assessments of the progress made in implementing the human rights approach to cultural heritage protection, identifying available tools and gaps, and, in accordance with article 15 (4) of the International Covenant on Economic, Social and Cultural Rights, assessing the international cooperation they had undertaken to implement that approach and to assist other States with fewer resources in doing so. She recommended that States: (a) put in place mechanisms to ensure systematic follow-up to the Special Rapporteur's country missions and review progress in implementing recommendations; (b) review past communications and ensure they have investigated allegations and held perpetrators accountable; (c) ensure effective remedies for violations of cultural rights and the justiciability of those rights, make reparation to victims and bring perpetrators to justice in accordance with international standards; (d) respect and ensure the rights of cultural rights defenders and support civil society working in the cultural sector; (e) ensure that respect for cultural rights is taught throughout educational systems and to the general public; and (f) increase funding for the cultural sector to meet the UNESCO minimum target of 1 per cent of total government expenditures.

65. Mr. Howland presented his closing remarks, thanking participants for their contributions. He recalled that the goal of the workshop was to develop appropriate tools for the dissemination of an approach to the protection of cultural heritage that promoted universal respect for cultural rights by all. It was time to implement the human rights framework, focus on common values, increase resources to support culture and the work of cultural rights defenders, and ensure their protection.

66. Mr. Howland noted the progress made by human rights mechanisms and judicial bodies in fostering accountability for violations of cultural rights. Human rights must be realized by ensuring that society and communities were part of the decisions on their own cultural heritage and culture. Tools to implement the human rights framework included the review of laws, practices and progress made related not only to the protection of cultural heritage, but also to inclusion, accessibility and support for culture and cultural heritage, protection for human rights defenders, and enhanced accountability.

67. Mr. Howland supported the Special Rapporteur's recommendation to carry out human rights assessments, in particular those relative to State actions (including the action of the military), and to look at how those had an impact on human rights, including cultural rights and cultural heritage.

## **VII. Conclusions and recommendations for implementing the human rights-based approach to cultural heritage**

### **A. Conclusions**

68. **The discussions focused on the implementation of the human rights framework and on the development of appropriate tools for the dissemination of a human rights-based approach to the protection, restoration and preservation of cultural heritage. Participants at the workshop recognized that many more efforts were needed by States, United Nations field presences and other stakeholders to integrate a human rights-based approach to cultural heritage into legal and institutional frameworks and into strategies and programmes.**

69. **Discussions highlighted the direct link between the enjoyment of cultural rights and a range of other civil, economic, political and social rights. The violation of human rights in conflicts is accompanied by the intentional, selective destruction of the cultural**

heritage of other parties to the conflict or of persecuted minorities. Culture and cultural rights are a tool for preventing and responding to crises, ensuring respect for human rights and fostering resilience, dialogue, respect for diversity, and recovery through the participatory management of heritage.

70. Speakers underscored several key aspects of a human rights-based approach to the protection of cultural heritage. Ensuring the accountability of State and non-State perpetrators is essential, as is a recognition that the intentional destruction of cultural heritage constitutes a war crime. The Office of the Prosecutor of the International Criminal Court has prosecuted perpetrators of offences against cultural heritage and has adopted the Policy on Cultural Heritage. States should accelerate the ratification of the Nicosia Convention, as one more ratification is needed for its entry into force. The human rights law framework, including the Declaration on Human Rights Defenders, is applicable to the violations of the rights of cultural rights defenders. However, cultural rights defenders need specific recognition, effective protection and adequate support. It is necessary to raise awareness and build capacities to promote societal and youth engagement for the protection of cultural rights and cultural heritage.

71. The COVID-19 pandemic has had devastating impacts on the cultural sector and on cultural rights. Many artists and cultural professionals have lost their livelihoods. Indigenous and living heritage practices have been disrupted. Their languages, religions, art, ways of life and traditions are additionally threatened by multiple and intersecting forms of discrimination.

72. Participants identified several key tools for the development and implementation of legal and policy frameworks that adopt a human rights-based approach to the protection, restoration and preservation of cultural heritage, as well as capacity-building tools. A list of tools identified during the workshop is attached as an annex to the present report.

## **B. Recommendations for implementing the human rights-based approach to cultural heritage**

73. The following recommendations were made by the participants in the workshop. They focus particularly on the measures required for the promotion and implementation of a human rights-based approach to the protection of cultural heritage. Participants also emphasized that recommendations contained in the relevant reports of the Special Rapporteur in the field of cultural rights,<sup>2</sup> Human Rights Council resolutions 33/20 and 37/17 and Security Council resolutions 2199 (2015) and 2347 (2017) and the recommendations that emerged from the intersessional seminar on cultural rights and cultural heritage<sup>3</sup> should be implemented in full.

### **Recommendations addressed to States**

74. States should:

(a) Ratify the Council of Europe Convention on Offences relating to Cultural Property, UNESCO cultural heritage conventions and protocols and other relevant standards, as recommended in the report of the intersessional seminar on cultural rights and the protection of cultural heritage;

(b) Enact domestic legislation that enables full implementation of those conventions and recommendations;

(c) Carry out self-assessments and impact assessments of the national integration of the international legal framework for the protection of cultural rights and cultural heritage;

<sup>2</sup> A/71/317, A/73/227, A/75/298, A/HRC/17/38, A/HRC/31/59 and Corr.1, A/HRC/43/50 and A/HRC/46/34.

<sup>3</sup> A/HRC/37/29.

(d) Measure progress made in mainstreaming the human rights-based approach in disaster preparedness and relief, recovery and development policies and plans, in funding and implementing them, and in monitoring and reporting to human rights mechanisms (particularly the universal periodic review and treaty bodies), identifying gaps, best practices and effective tools, including international cooperation undertaken to implement this approach;

(e) Take steps to mainstream the human rights-based approach in the national framework and ensure its implementation. In particular, States should:

(i) Adopt national and local preparedness plans for the creation of inventories of cultural heritage and the protection of cultural heritage from armed conflicts, disasters and public emergencies, using the Sendai Framework for Disaster Risk Reduction 2015–2030 to mainstream the rights-based approach, establishing systems of protection and early warning mechanisms and providing adequate funding;

(ii) Maintain inventories for the protection of cultural property and increase funding for the cultural sector to meet the minimum target of 1 per cent of total government expenditures, as set by UNESCO;

(iii) Promote cooperation with national and international institutions responsible for the protection of cultural rights and cultural heritage, academics and non-governmental organizations;

(iv) Integrate cultural rights and the protection of cultural heritage into education programmes, strengthen civil society capacity and raise public awareness, especially among young people, to promote societal engagement for the promotion of cultural rights and the protection of cultural heritage, with the participation of the cultural sector;

(v) Conclude bilateral agreements with relevant countries on the repatriation of stolen cultural property to their countries of origin, as appropriate;

(vi) Ensure effective remedies for violations of cultural rights and the justiciability of those rights, making reparation to victims and bringing perpetrators to justice in accordance with international standards;

(vii) Respect and protect the rights of cultural rights defenders, and support and facilitate their work;

(viii) Ensure the inclusion of culture rights defenders in preparing national preparedness plans for cultural heritage preservation, and in exercises and training for disaster response, alongside first responders;

(ix) Establish mechanisms to ensure systematic follow-up to the Special Rapporteur's country missions and review progress in implementing recommendations and communications;

(x) Provide adequate resources to the mandate of the Special Rapporteur, and to OHCHR, for the development of an implementation toolkit and for the implementation of the other recommendations made to OHCHR.

(f) Carry out national and international inventories of the impacts of the COVID-19 pandemic on cultural rights and heritage protection, and design strategies to ensure the full recovery of this sector and its workers, taking into account the recommendations of the Special Rapporteur in this regard;

(g) Ensure the preservation of archives concerning violations of human rights and humanitarian law, including archives of temporary bodies established to assist in transitional justice;

(h) Enact and enforce penalties for concealing and destroying records related to human rights violations. All institutions holding archives should publicly acknowledge their existence and define policies for accessing them;

- (i) Ensure that businesses, particularly multinationals, preserve and make available the content of their archives that relate to human rights violations;
- (j) Ensure that all persons have a legal identity, including birth registration, and that archives of identity remain inviolable;
- (k) Ensure sufficient funding and resources for the professional management of archives.

#### **Recommendations addressed to the United Nations system**

75. OHCHR and UNESCO, in collaboration with the Special Rapporteur in the field of cultural rights, should:

- (a) Review and disseminate good practices of protection of heritage in the context of, and the integration of cultural rights into, responses to conflict and humanitarian emergencies, peacebuilding agreements, peace accords and peacekeeping and humanitarian operations;
- (b) Develop tools that enable States to conduct self-assessments and impact assessments, and mainstream cultural rights in training courses for State officials, military and security forces, United Nations country teams and peacekeeping and humanitarian operation teams, including the forthcoming manual for the application of the cultural rights-based approach to humanitarian operations, as well as a human rights-based approach to heritage conservation;
- (c) Widely disseminate manuals on and tools for the human rights-based approach to the protection of cultural heritage among national and international stakeholders and the general public, including through creative awareness campaigns;
- (d) Ensure, in collaboration with Member States, that cultural rights defenders fully benefit from protection frameworks and mechanisms, and develop additional specific standards as necessary, building on the Declaration on Human Rights Defenders;
- (e) Support the Committee on Economic, Social and Cultural Rights in drafting its forthcoming general comment on land and economic, social and cultural rights, to reflect that land titling and registration should be fair; that the records of title should be securely preserved in professionally managed archives; and that access to the records of land ownership should be freely available for all.

76. UNESCO should compile and issue no-strike lists of heritage sites that States and armed non-State actors should respect.

77. The Department of Peace Operations should:

- (a) Mainstream a human rights-based approach to the protection of cultural heritage in the mandates of peacekeeping missions, and provide adequate resources for such protection;
- (b) Train humanitarian actors and military forces, including contingents of international forces, to protect heritage sites.

78. The Office for the Coordination of Humanitarian Affairs should add a culture cluster to existing clusters for the coordination of disaster responses, or integrate cultural rights into the early recovery cluster.

79. The United Nations Secretariat, specialized agencies, funds and programmes should support the International Decade of Indigenous Languages (2022–2032), coordinated by UNESCO.

## Annex

### List of tools

- United Nations Educational, Scientific and Cultural Organization (UNESCO) conventions:
  - Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto
  - Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property
  - Convention for the Protection of the World Cultural and Natural Heritage
  - Convention on the Protection of the Underwater Cultural Heritage
  - Convention for the Safeguarding of the Intangible Cultural Heritage
  - Convention on the Protection and Promotion of the Diversity of Cultural Expressions
- Council of Europe Convention on Offences relating to Cultural Property
- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects
- Bilateral agreements on the repatriation of stolen cultural property to countries of origin
- Rome Statute of the International Criminal Court and the Policy on Cultural Heritage of the Office of the Prosecutor of the International Criminal Court
- United Nations human rights instruments, including:
  - International Covenant on Economic, Social and Cultural Rights
  - 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)
  - United Nations Declaration on the Rights of Indigenous Peoples
- Human Rights Council resolution 31/32 on protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights
- 2016 reports of the Special Rapporteur in the field of cultural rights to the Human Rights Council<sup>1</sup> and to the General Assembly<sup>2</sup>
- Abu Dhabi Declaration on heritage at risk in the context of armed conflicts
- Sendai Framework for Disaster Risk Reduction 2015–2030 and related guidelines
- UNESCO capacity-building tools:
  - *First Aid to Cultural Heritage in Times of Crisis – Handbook* (2018)
  - *Protection of Cultural Property: Military Manual* (2016)
- Other UNESCO tools under development:
  - Guide for urban search and rescue at heritage sites (with the Office for the Coordination of Humanitarian Affairs and the International Centre for the Study of the Preservation and Restoration of Cultural Property)

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<sup>1</sup> A/HRC/31/59 and Corr.1.

<sup>2</sup> A/71/317.



- Massive open online course training for peace mediators on cultural property protection
  - Manual for the application of a cultural rights-based approach to humanitarian action, disaster relief and peacebuilding operations and a human rights-based approach to heritage conservation (with the Office of the United Nations High Commissioner for Human Rights)
  - Basic Principles on the Role of Archivists and Records Managers in Support of Human Rights
  - Guiding Principles for Safe Havens for Archives at Risk
  - Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore
-