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COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 92 54 • FAX: +41 22 917 9006 • E-MAIL: sculturalrights@ohchr.org

The Office of the United Nations High Commissioner for Human Rights has the honour to transmit a letter from the Special Rapporteur in the field of cultural rights, Ms. Karima Bennoune. The Special Rapporteur hereby invites all civil society organizations, relevant United Nations agencies, funds and programmes, other international organizations, national human rights institutions and cultural rights defenders to contribute to a consultation aimed at taking stock of the impact of the work of the cultural rights mandate since its creation and at identifying issues relating to cultural rights, which stakeholders consider to be priorities for the mandate's work in the coming years.

The Special Rapporteur will devote her next thematic report to the Human Rights Council to the above-mentioned issues.

This consultation will provide an opportunity for all interested stakeholders to share their views and experiences with the Special Rapporteur.

The Special Rapporteur would be grateful if the submissions could be sent electronically to sculturalrights@ohchr.org no later than **26 October 2018**. Kindly limit your responses to 2,500 words and attach annexes where necessary. Please also indicate if you have any objections with regard to your reply being posted on the OHCHR website.

25 September 2018

Mandate of the Special Rapporteur in the field of cultural rights

25 September 2018

Dear Madame/Sir,

I have the honour to address you in my capacity as the United Nations Special Rapporteur in the field of cultural rights, pursuant to Human Rights Council resolution 37/12.

2019 will mark the 10 year anniversary of the creation of the mandate in the field of cultural rights. Over this period, 16 thematic studies have been conducted by my predecessor and myself that have developed the understanding of the nature and scope of cultural rights and of their relationship with other human rights, as well as considered the enabling conditions for their protection and full realisation, and have explored a range of issues relating to the right to take part in cultural life without discrimination.¹

The 10th anniversary is an important opportunity to take stock of what has been achieved through this work to advance cultural rights, and also the manner in which the development of these rights has changed the debate on the relationship between universality and cultural diversity. It is also a critical juncture to highlight the various ways in which the fuller realization of cultural rights can further contribute to strengthening, enhancing and defending the human rights system as a whole. It represents an opportunity to identify areas relating to the field of cultural rights, including the right to freedom of artistic expression and scientific freedom that may not have yet received the full attention they deserve and could benefit from more analysis.

I would like to initiate a constructive dialogue with States, United Nations agencies, academics, experts, artists, scientists, cultural workers and practitioners, and civil society organizations in order to assess where we currently stand in developments in the field and how the mandate has impacted this standing, the ongoing challenges faced by relevant stakeholders in implementing cultural rights and how the mandate can assist in addressing these, and the future areas that should be considered by the mandate. It would also be helpful to have accounts of the impact of actions taken by the mandate and suggestions about where its future attention is needed. I have accordingly prepared a call for contributions, which I am hereby sending. I would like to invite you to complete it and, where possible, provide electronic and other references pointing towards significant

¹ These include work on the right to access and enjoy cultural heritage, the right to benefit from scientific progress and its application, the right to artistic freedom and creation and the contribution of artistic and cultural initiatives to right-respecting societies, on the teaching of history and memorialisation practices, as well as on the impacts of advertising and marketing practices, intellectual property regimes and all forms of fundamentalism and extremism on cultural rights. All previous thematic reports are available on the website of the mandate at this page:

www.ohchr.org/EN/Issues/CulturalRights/Pages/AnnualReports.aspx. A document summarizing all thematic studies as well as dedicated pages for each theme can be accessed in the section “Issues in focus” on the mandate’s webpage.

progress, good practices or areas of outstanding challenge. The information collected will enable me to provide an overview of positive developments as well as remaining obstacles to the promotion and protection of cultural rights at the local, national, regional and international levels and will enrich my next thematic report to the Human Rights Council.

Submissions should be sent electronically no later than **26 October 2018** to srculturalrights@ohchr.org, using the email title: "Submission: 10th anniversary of cultural rights mandate". Please feel free to answer only the questions relevant to your work. Kindly limit your responses to 2,500 words and attach annexes where necessary. To facilitate their consideration, it would be preferable if responses could be sent in the working languages of the OHCHR, English, French or Spanish.

I wish to thank you in advance for your cooperation and I hope to continue a constructive dialogue on issues related to my mandate.

Please accept Madame/Sir the assurances of my highest consideration.

A handwritten signature in blue ink, appearing to read 'K. Bennoune', is centered on the page.

Karima Bennoune
Special Rapporteur in the field of cultural rights

QUESTIONNAIRE ON THE IMPLEMENTATION OF CULTURAL RIGHTS AND SUSTAINED OR EMERGING ISSUES

Please note that the aim of this questionnaire is to focus on the follow up to the reports produced by the mandate and implementation of the recommendations made by the mandate holders, rather than to provide a detailed review of each substantive issue listed below. Kindly keep this in mind while providing your answers.

I. The general recognition of cultural rights in national legal and policy frameworks (all report, and in particular A/HRC/14/36 and A/67/287)

1. What steps have been taken to implement the recommendations made by the Special Rapporteur, including in country and thematic reports, and to follow up on those reports? What mechanisms are utilized to investigate cases raised by the Special Rapporteur through the communications procedure and to ensure that they are resolved in accordance with the concerns that she has highlighted and with relevant international standards? What has been the outcome of any such cases?

The Special Rapporteur has provided two reports particularly relevant to cultural rights in Bahrain. Report [A/HRC/17/38](#) of 2011 highlighted the importance of access and enjoyment of cultural heritage, and notes that States “have the duty not to destroy, damage or alter cultural heritage, at least not without the free, prior and informed consent of concerned communities,” and that States should protect the free development of cultural heritage. Bahrain has repeatedly failed to meet these recommendations with its continued marginalization of the Shia community and its destruction of the Pearl Roundabout.

The mandate released report [A/71/317](#) in 2016 concerning the destruction of cultural heritage sites. It recommended that States respect tangible and intangible aspects of culture, tackle discriminatory attitudes and sectarianism that may lead to cultural cleansing, and take appropriate legislative measures to prevent cultural heritage site destruction. This report did not specifically address Bahrain, but is directly relevant to Bahrain’s destruction of the Pearl Roundabout and to the dozens of Shia mosques demolished in Bahrain. Despite the report’s recommendations, Bahrain continued denaturalizing many native Bahraini Shia, beginning a demographic shift with disregard for the cultural ties of the Bahraini Shia to their home. The mandate has visited a handful of countries to ensure that they abide by international human rights law and take a human rights approach to cultural rights, but the mandate has not conducted a site visit to Bahrain, despite its blatant disregard for cultural rights. Any attempts at communication between the mandate and the state have not resulted in a significant change in cultural rights abuses.

The mandate has been part of two joint communications sent to the Government of Bahrain ([BHR 9/2014](#) and [BHR 6/2015](#)). The first, sent in 2014, addressed concerns

surrounding the destruction of the Pearl Roundabout and the destruction of cultural heritage sites – a communication to which the Bahraini government did not reply. In 2015, BHR 6/2015 was sent regarding concerns on the systematic discrimination of the Bahraini Shia, highlighting the systematic exclusion of the Shia community, and more specifically the Baharna and Ajam communities, from employment sectors, as well as the Bahraini educational system and the State historical narrative. The communication underscored concerns surrounding violence directed towards the Shia community by the state and the destruction of tangible cultural symbols like Shia mosques. Bahrain responded to this communication by requesting an extension to respond. Bahrain replied within the extension's deadline, but [denied](#) all allegations and instead questioned the Special Procedures' sources and fact-checking processes. Meanwhile, discrimination and marginalization of the Shia community have persisted and, to ADHRB's knowledge, have not been subject to other mechanisms for investigation.

2. Please elaborate on any development, since 2009, in the legal definition and protection of cultural rights in country relevant to your work, and on whether or not the country is considering development of existing legal and institutional protection in the near future, and if so whether and how the mandate's work has been or will be incorporated in any such development.

Bahrain is party to numerous international and regional human rights treaties. It has been party to the [ICESR](#) since 2006 and is party to the [Arab Charter on Human Rights](#) (ACHR). While neither of these are new developments since the mandate was first established in 2009, Bahrain's lack of action in support of cultural rights under these laws is cause for concern. The ACHR refers to UN definitions of cultural rights, and Article 37 states that minority populations maintain the right to exercise culture and religious beliefs, but does not specify conditions for the unique case of discrimination against the majority population that occurs in Bahrain. Additionally, Bahrain instituted a public relations campaign in 2017 focusing on peaceful co-existence. That year, in Los Angeles, Sheikh Nasser bin Hamad al Khalifa signed the [Bahrain Declaration on Religious Tolerance](#) – a royal declaration underscoring the “responsibility of governments to respect and protect equally, both religious minorities and majorities.” Institutionally, Bahrain announced a new Ambassador-at-Large for Religious Freedom in July 2018 at the United States Department of State's Ministerial to Advance Religious Freedom. Despite all this, Bahrain has ultimately failed in its commitments to protect cultural rights and demonstrated little inclination to implement meaningful institutional change and protections in the near future. It is unclear whether the mandate's work has impacted these developments and it is important to note that, historically, the mandate's efforts to engage Bahrain have been largely left unresolved.

3. Please provide information regarding developments in relevant local and national legal, administrative and policy frameworks to improve the exercise of cultural rights as defined by the mandate. You might consider for example policies or measures taken:
 - i. to strengthen the protection of the principles of equality and non-discrimination in the exercise of these rights and ensure the enjoyment of these rights for all on an equal basis, including women and persons with disabilities;
 - ii. to increase access to cultural life and the diversity of cultural resources and spaces for cultural interactions;
 - iii. foster participatory approaches and a wide array of cultural initiatives;

- iv. strengthen the conditions, including in public institutions, for people to contribute to cultural life;
- v. enable participation of all concerned in decision making processes that have an impact on cultural rights.

Nationally, Bahrain has taken nominal policy measures addressing cultural rights, though they have had lesser or no impact at home. The 2017 signing of the [Bahrain Declaration](#) coincided with the launch of the new King Hamad Centre for Tolerance and Peaceful Co-existence. These efforts were followed by the July 2018 [announcement of](#) a new Ambassador-at-Large for Religious Freedom. At the [most recent](#) session of the UN General Assembly (GA), Bahrain reiterated the Bahrain Declaration at a high-level ceremony hosted by the King Hamad Centre and the group This is Bahrain – [noted](#) for promoting Bahrain’s “national success story in the area of co-existence” internationally. The event followed a [seminar](#) hosted by the Bahraini delegation on its history of religious tolerance. Bahrain’s international gestures to preserve its intangible aspects of cultural rights have, however, not been upheld. These initiatives have been taken while the Shia community continues to see the damage and destruction of Shia landmarks, exclusion from economic sectors, targeting of holy days and clerics, and erasure from history.

4. Please indicate any change or development in the monitoring of human rights obligations relating to cultural rights, for example in the interaction with UN Treaty bodies, the Universal Periodic Review, regional human rights mechanisms or any relevant national mechanisms, and what role, if any, the mandate’s work may have played in this regard.

Nationally, Bahrain’s National Institution on Human Rights (NIHR) declares itself to be an independent body tasked with monitoring the overall human rights situation in Bahrain, though it maintains close ties with the government and has [endorsed](#) human rights abuses by the state in its 2017 report. Both the [European Parliament](#) and Bahrain’s recent [ICCPR review](#) cited the NIHR as unreliable and not independent. [The Bahrain Independent Commission of Inquiry \(BICI\)](#) was established after 2011 to investigate human rights abuses during the period and issued recommendations for broader human rights issues in the state, but none were ever fully implemented, and two that were partially implemented were later walked back, with the reinstatement of arrest powers to the National Security Agency and the amendment allowing for military trial of civilians, both in 2017.

In May 2017, Bahrain underwent its [third-cycle](#) Universal Periodic Review (UPR). In its recent cycle, Bahrain accepted fewer recommendations than in previous cycles and submitted a misleading National Report. ADHRB’s submission to the third-cycle UPR noted that conditions for cultural rights were deteriorating. Bahrain only partially implemented accepted recommendation 115.145 concerning the reconstruction of Shia mosques, including 53 reported damaged and 28 reported destroyed after 2011. While Bahrain accepted this recommendation and repaired some mosques, many of those repairs were community-led rather than State-led. The State had at times been reported as interrupting with reconstruction efforts, according to the United States Commission on International Religious Freedom. The state also reconstructed some mosques away from their historic grounds.

Bahrain failed to implement recommendations concerning the State’s efforts to meet the aspirations of groups that have fallen victim to discrimination, preventing violence

against ethnic and religious communities, and creating a more diverse, inclusive police force to reflect the society it represents. Though Bahrain accepted these recommendations, it disregarded its obligations and continued to suppress intangible cultural rights of the Bahraini Shia. It continued distributing hyper-sectarian materials and nearly totally excluding Shia from its security forces. It has targeted Shia religious leaders like [Sheikh Isa Qassim](#) and others. The state allowed only intermittent Friday prayer services for the Shia community in Diraz and detained individuals who attempted to organize one in 2016, according to opposition news. Denaturalization, used in the case of Sheikh Isa Qassim, is a common method of disenfranchisement. Bahrain has additionally ratified the ICCPR and the ICESCR. Its [first ICCPR review](#) in 2018 reflected poor compliance with the UN body and expressed concern over restrictions to worship that the Shia community faces. Suggested steps to remedy this included further balanced Shia representation in political and public spaces and the elimination of discriminatory practices that inhibit the right to freedom of belief. Bahrain has not yet submitted its report for ICESCR review, which was due in 2009. It is unclear if the mandate's work impacted either of these mechanisms.

II. Specific Issues Highlighted by the Mandate's Work

1. Please indicate any developments in regard to the legal, administrative and policy measures in the concerned country and in the work and activities of your organization, and any examples of good practice that integrate a cultural rights approach or that implement recommendations made by the Special Rapporteur. In this regard, what has been done to ensure:

Bahrain has taken only nominal attempts to integrate cultural rights into national policy. It has set a public pretext of maintaining a safe space for religious minorities, but this reality has not manifested itself at home as both tangible and intangible aspects of cultural heritage – as [defined by the Special Rapporteur](#) – are not met. Bahrain's campaign to promote peaceful co-existence in the kingdom emphasizes religious freedom. However, Bahrain has ultimately failed in protecting cultural rights and has little inclination to develop meaningful institutional protections in the near future, especially where this declaration is concerned. While the Special Rapporteur has made recommendations to States on the protection of cultural heritage in report HRC/17/38, Bahrain has disregarded them.

Bahrain has previously disregarded a joint communication including the mandate concerning the Pearl Roundabout. In March 2011, the government [demolished](#) the Roundabout monument and removed its likeness from the public eye. The 500 fils coin that was engraved with an image of the Pearl Roundabout was taken out of circulation. Postcards that pictured the monument were removed, as were all photos of it from government websites. Bahrain even [requested](#) that the UN return a painting of the monument that the government donated to the Council before 2011 – a request that the UN rejected.

The government did not respond to the UN communication and instead [reopened](#) the site with new roads paved over where protestors once gathered and renamed it “Al-Farooq Junction,” in honour of a caliph unaccepted and disliked by the Shia community. Bahrain's foreign minister even stated that the Pearl Roundabout had been demolished due to political motivations, describing the monument as “a bad memory,” further overwriting the cultural significance for protestors and the Bahraini Shia.

Meanwhile, holy commemorations like Ashura [continue to be repressed](#) by the government while religious clerics are targeted, arrested and denaturalized despite UN communications on religious rights abuses. In security forces, the Bahrain Defence Force (BDF) distributes the [Nur al-Sunna](#) – a pamphlet denouncing multiple non-Sunnis sects of Islam as heretical, including Shiism, and labels certain Shia practices as “forms of heresy.” Institutionalized attacks on cultural heritage and the intentional spread of cultural misinformation persisted as the government [bulldozed](#) historic Shia mosques, destroying cultural and religious sites. Meanwhile, the Bahrain National Museum intentionally excludes an entire era of Shia influence. These various institutional and policy efforts by the government indicate a disregard for both the mandate’s concerns and the cultural rights of the Bahraini Shia.

- i. The right to **access and enjoy cultural heritage** (thematic reports A/HRC/17/38 and A/71/317). This may include for example the procedure to access, identify and nominate heritage resources, the mechanisms to ensure stakeholders’ participation in its interpretation, or any legal, financial, social, educational or institutional measures to ensure its preservation, conservation and transmission in all its diversity, as well as any development aiming at avoiding, preventing and protecting heritage resources from intentional destruction.
- ii. The full enjoyment by all of **the right to benefit from scientific progress and its applications** (thematic report A/HRC/20/26). Elaborate in particular on measures providing incentives to ensure broad access of persons from marginalized groups to information and applications and to eliminate barriers to scientific communication and collaboration.
- iii. The **right to freedom of artistic expression and creation** (thematic report A/HRC/23/34). Please indicate if your organization or the concerned country has recently adopted any specific policy, including restrictions regarding form, content and spaces of display where relevant, relating to the arts and artistic freedoms, or if it has changed its support to foster more freedom of artistic expression for all in accordance with the recommendations of the mandate.
- iv. That **women equally enjoy cultural rights** (thematic report A/67/287). Please elaborate on measures taken to strengthen and protect the right of women to have access to, participate in and contribute to all aspects of cultural life, as well as any particular effort to increase their ability to actively engage in debates and decisions concerning the identification and interpretation of cultural heritage and the cultural traditions, values or practices that are to be kept, reoriented, modified or discarded.
- v. That the **writing and teaching of history and memorialization processes** of the events of the past (thematic reports A/68/296 and A/HRC/25/49) contribute to the promotion of mutual respect and understanding, the development of inclusive societies conscious of their diversity and to sustainable peace.
- vi. That **commercial advertising and marketing practices do not affect negatively on the enjoyment of cultural rights** (thematic report A/69/286). Please indicate if your organization or the concerned country has recently adopted specific approach or regulations on advertising and marketing methods aimed at protecting human rights, online and offline, in public spaces and in educational settings.

- vii. That **intellectual property regimes**, in particular copyrights and patent policies, are in line with both the right of everyone to benefit from the protection of the moral and material interests resulting from scientific, literary and artistic production of which he or she is the author and the right of everyone to access and enjoy cultural heritage and the benefits of science and its applications (thematic reports A/HRC/28/57 and A/70/279). Please elaborate on any development aimed at reviewing the application of these regimes to take into consideration the recommendations of the mandate.
 - viii. That various **forms of fundamentalism and extremism do not infringe on the enjoyment of cultural rights** (thematic reports A/HRC/34/56 and A/72/155). Please elaborate on any efforts to mitigate the negative impact of such ideologies and the movements which espouse them, and ensure respect, protection and realisation of human rights in general, and of cultural rights in particular, for all, and indicate if any specific attention has been dedicated to the impact on the cultural rights of women.
 - ix. That **artistic and cultural initiatives which contribute to creating, developing and maintaining societies that respect human rights** are supported and not hindered (thematic report A/HRC/38/55). Please indicate any recent changes aiming at supporting, promoting and facilitating these initiatives, the free exercise by artists and cultural workers of their cultural rights and their access to public space.
 - x. The full implementation of the universality of human rights, including cultural rights, and the promotion of cultural diversity in accordance with international standards, including by making a clear distinction between cultural rights and cultural relativism and promoting the message that cultural rights are not a justification for violence or discrimination but rather to be enjoyed in the context of the universal human rights framework (thematic report A/73/227).
2. In light of your experience, please indicate the main difficulties or obstacles preventing the respect, protection and realisation of cultural rights in the areas listed above as well as the impact the mandate may have had in addressing these. Kindly make any relevant suggestions for how the mandate can further address these going forward.

The main obstacles that remain for cultural rights in Bahrain lie in the institutionalized, systematic discrimination of the Bahraini Shia and the government's co-opting of important sites for the pro-democracy movement, like the Pearl Roundabout (see response I.1).

Repression of tangible aspects of cultural heritage persist in the government's continued marginalization of the Shia community, as Bahrain has destroyed other aspects of cultural heritage. The historic [al-Barbaghi](#) mosque, predating the al-Khalifa ruling, was destroyed by the government. In 2011, the government [destroyed 38 historic Shia mosques in two months](#). Cultural marginalization against the Bahraini Shia has permeated the education system, where state textbooks often omit the history of the Shia in Bahrain and their role before the al-Khalifas. One high school textbook omits discussion of Bahraini history prior to the al-Khalifa arrival, while the government also refuses Shia religious education in schools. In other state-sponsored histories, the indigenous Shia Baharna are often excluded.

The BDF's *Nur al-Sunna* disseminates misinformation on Shia culture (see II.1 above). Despite a clear attack on cultural heritage and refusal to engage with the mandate, [UNESCO held](#) its 42nd session of the World Heritage Committee in Manama in 2018 – a deeply concerning decision, as multiple mandates have expressed grave concern over cultural rights in Bahrain. The mandate may consider an official visit to assess the current situation of cultural rights in Bahrain, focusing on the systematic discrimination and targeting of Shia and the overwriting of the history of the Pearl Roundabout. The mandate may also consider addressing UNESCO in its failure to hold Bahrain accountable for its cultural rights abuses.

III. Lessons learned and the way forward

1. Has your institution or the concerned country undertaken any assessment of the implementation of law, policies, plans, activities and/or programmes that address the exercise of cultural rights and if so, does your institution or the concerned country have examples of good practices and lessons learned? How has the work of the mandate affected any such processes and measures?

ADHRB compiled [a report](#) for the third-cycle UPR of Bahrain, as well as having engaged with the Human Rights Council (HRC) on ongoing human rights abuses in the state. Bahrain, at present, concluded its third-cycle of the UPR in 2017. The ADHRB submission focused on all aspects of Bahrain's execution of its second-cycle recommendations, including its compliance with its accepted recommendations on cultural rights. ADHRB noted that second-cycle UPR recommendation 115.145 was partially implemented, but many Shia mosques remain to be restored by the government that destroyed them. Meanwhile, recommendations 115.70, 115.93, or 115.103 were not implemented, and Bahrain proceeded to deepen sectarian discrimination and even increased violence against and arbitrary detention of the Shia community. ADHRB has submitted complaints to numerous government and rights agencies within Bahrain, particularly the NIHR and the Ministry of Interior Ombudsman, with little receptivity. The work of the mandate has also sought to enforce recommendations in a similar vein, but Bahrain has still failed to act accordingly and in compliance to its international human rights obligations.

2. Please indicate how your institution cooperates with other stakeholders to increase the implementation of cultural rights at the local, sub-national and national levels, as well as at the regional and international levels.

ADHRB is a non-profit organization based in Washington, DC focusing on human rights in Bahrain and the Arab Gulf states. We have worked with human rights defenders on the ground in Bahrain and in the region to reiterate accounts of human rights abuses to the appropriate human rights institutions and other bodies within the Bahraini government. Based in the United States, we have engaged with offices in both houses of the US Congress, informing senators and representatives of the human rights situation in Bahrain and encouraging them to advocate on the behalf of prisoners of conscience. We have engaged in written correspondence with officials of the current US administration, in foreign Ministries of Foreign Affairs, governments, members of parliament, and more to achieve the goal of ending human rights violations and promoting accountability in the Arab Gulf and in Bahrain.

Internationally, ADHRB participates in each HRC session to bring the Council's attention to human rights abuses in the region. We have partnered with Bahraini human rights defender Nabeel Rajab's organization Bahrain Centre for Human Rights (BCHR), Amnesty International, Freedom House, and more to engage the Bahraini government and international officials. At the HRC, ADHRB has engaged with the UPR reporting on Bahrain (for more info, see III.2). ADHRB also engages with the Treaty Monitoring Bodies, recently submitting a report concerning Bahrain's obligations under the ICCPR. Similar submissions are made to other Treaty Bodies, including the Committee Against Torture.

3. What could the Special Rapporteur do to enhance follow up, implementation and effectiveness?

The mandate should continue requesting visits to countries like Bahrain. It should request a site visit to investigate the erasure of the Pearl Roundabout, the destruction of Shia mosques, and the infringement on Shia rights to cultural practices. The mandate should also consider issuing further joint communications with Bahrain, considering the lack of engagement in previous communications or execution of declarations such as the Bahrain Declaration on Religious Tolerance. Site visits are fundamental to ensure compliance with international law, especially when Bahrain refuses to engage with the mandate when cited with such abuses.