

**Fourth Universal meeting of National IHL Committees
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**Statement by Ms. Karima Bennoune
UN Special Rapporteur in the field of cultural rights**

Honourable Chair, Excellencies, distinguished delegates, ladies, and gentlemen,

I am honoured to take the floor before this important gathering in my capacity as Special Rapporteur in the field of cultural rights. My recent thematic report to the General Assembly concerned the intentional destruction of cultural heritage as a violation of human rights and I am pleased to have the opportunity to share with you some of my key findings.

Cultural heritage is significant in the present, both as a message from the past and as a pathway to the future. **Viewed from a human rights perspective, it is important not only in itself, but also in relation to its human dimension.** While specific aspects of heritage may have particular resonance for and connections to particular human groups, all of humanity has a link to such objects, which represent the “**cultural heritage of all humankind.**” Cultural heritage includes tangible heritage, composed of structures and remains of historical, religious, or cultural value, and also intangible heritage made up of customs, beliefs, languages, artistic expressions and folklore. **Tangible and intangible heritage** are interlinked and attacks on one are usually accompanied by assaults on the other.

The **right of access to and enjoyment of cultural heritage forms part of international human rights law**, finding its legal basis, inter alia in the right to take part in cultural life. Cultural heritage is a fundamental resource for other human rights also, in particular, the rights to freedom of expression, freedom of religion, as well as the economic rights of the many people who earn a living through tourism related to such heritage, and the right to development. The preservation and restoration of cultural heritage is also a critical tool for reconciliation and peace-building.

Given this importance of cultural heritage for human rights, I welcome the fact that, in its recent **Resolution 33/20 (2016) on “cultural rights and the protection of cultural heritage,”** the Human Rights Council agreed that “the destruction of or damage to cultural heritage may have a detrimental and irreversible impact on the enjoyment of cultural rights.” The Council encouraged States to consider implementing the recommendations that I made to the General Assembly on these issues.

A special protection regime governs heritage protection in times of conflict. The core standards include the 1954 Hague Convention and the protocols thereto. The Hague Convention, requires States parties to respect cultural property and to refrain from any act of hostility directed against it or any use of it likely to expose it to such acts, subject only to imperative military necessity (art. 4). The Second Protocol strengthens the rule by further limiting the military necessity exception.

I have heard worrying reports of violations of these provisions in recent conflicts. I call on states to recognize that **any military necessity exception to the ban on targeting cultural property must be interpreted narrowly, taking into consideration the impact on cultural rights.** All military decisions resulting in the destruction of or damage to cultural heritage **should be subject to close public scrutiny.**

I note with concern that **many States have not adhered to the** 1954 Hague Convention and its Protocols, in particular the Second Protocol, which now has 69 parties, since the most recent accession by Norway. I was pleased to learn of the commitment that has been made for the first time by a permanent member of the Security Council, namely, the United Kingdom of Great Britain and Northern Ireland, to ratify the Second Protocol, and I look forward to the achievement of that important step. **I call upon all permanent members of the Security Council to follow suit in the next two years so as to demonstrate collective leadership on this critical issue which is at the heart of meaningful peace and security.**

In addition to tackling the role of States, attention must also be paid to the robust use of international standards such as article 19 of The Hague Convention – and developing other strategies – for holding **non-State actors** to account and preventing their engaging in destruction.

Individual criminal responsibility arises from serious offences against cultural heritage, which can rise to the level of war crimes or to crimes against humanity when carried

out with discriminatory intent, and may also be evidence of intent to destroy a group within the meaning of the genocide convention. A human rights approach emphasizes accountability. I welcomed the decision of the Office of the Prosecutor of the International Criminal Court to charge the destruction of cultural and religious sites as a stand-alone war crime for the first time in the case of Ahmad Al Faqi Al Mahdi which has recently resulted in a guilty verdict and 9-year sentence. I endorse the conclusions in the Al Mahdi judgment that the crime in question aimed at “breaking the soul of the people of Timbuktu” and was of “significant gravity.” I very much hope to see similar prosecutions in future, and to that end I remind States of the vital need to collect and preserve evidence of any such crimes.

In the early twenty-first century, a new wave of deliberate destruction is being recorded and displayed for the world to see, the impact magnified by widespread distribution of the images. Such acts are often openly proclaimed and justified by their perpetrators and represent a form of cultural warfare being used against populations which I condemn in the strongest possible terms. Such attacks represent an urgent challenge to cultural rights that requires rapid and thoughtful international response.

Acts of deliberate destruction are often **accompanied by other grave assaults on human dignity and human rights**, including acts of terrorism. They have to be addressed in the context of holistic strategies for the promotion of human rights, and peacebuilding. Protection of cultural heritage must be included in the mandates of peacekeeping missions. We must care about the destruction of heritage in conjunction with our grave concern for the destruction of the lives of populations.

Acts of intentional destruction harm all, target freethinkers in majority groups and often **disproportionately affect persons belonging to minorities**. They contribute to intolerance and tensions between people, and deprive all humanity of the rich diversity of cultural heritage.

In responding to intentional destruction of cultural heritage today, it is critical to employ a **human rights approach**. Beyond preserving and safeguarding an object or a manifestation in itself, a human rights approach obliges one to take into account the rights of individuals and populations in relation to them. **It is impossible to separate a people’s cultural heritage from the people itself and their rights.**

A critical, related question concerns **the protection of the defenders of cultural heritage** who are at risk and who may even lose their lives in defence of cultural heritage,

such as Samira Saleh al-Naimi, an Iraqi lawyer abducted and killed in September 2014 after denouncing destructions of religious and cultural sites by Daesh in her home city of Mosul, and many others who today continue to labour in obscurity and danger. We must not wait until we are mourning the deaths of at-risk cultural heritage defenders to rally to their cause.

People like them are cultural rights defenders. States must respect their rights and ensure their safety and security, but also provide them, including through international cooperation, with the conditions necessary to complete their work, including all needed material and technical assistance, grant them asylum when necessary and ensure that when displaced they are able to continue their work and to take part in the protection and reconstruction of their country's cultural heritage.

I also encourage the development and adoption of **a fully gender-sensitive approach** to the protection of cultural heritage and to the combating of its destruction, which should include promoting the inclusion of women cultural heritage experts in relevant forums and institutions.

A human rights approach also embraces prevention and the allocation of sufficient budgetary resources both at the national and international levels. **Preventive action** and education, especially for young people, on the importance of cultural heritage and cultural rights for all without discrimination, and the relevant norms of IHL, are vital.

Let me conclude by stressing again how crucial it is to consider that destruction of cultural heritage is a human rights issue, including in times of conflict, when human rights law must be taken seriously as a necessary complement to international humanitarian law. When cultural heritage is destroyed, this bears important consequences for a wide range of human rights for current generations and those to come.

Today, in our collective role as custodians of the past achievements of humanity, we are faced with a stark choice. Will we engage with cultural heritage in its diversity in such a way as to allow cultural rights to flourish and will we protect it, teach youth about it, learn from it and from the history of its destruction, and make use of heritage and its reconstruction to understand ourselves and find solutions to the grave problems that we face? Will we be up to the challenge of protecting the heritage of humanity? If the answer is no, the rights of current generations will be violated, and we will incur the scorn of future generations. Would we not prefer to bequeath a richer legacy? The intentional destruction of cultural heritage is a human rights issue. The approach to stopping it needs to be a holistic one, encompassing all

regions, focused on both prevention and punishment, and targeting acts committed by both State and non-State actors, in conflict and non-conflict situations. We must not only respond urgently, but also take the long view.

Thank you.
