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Why cultural rights matter?

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Good evening. Guten Abend. God kveld.

It is a honor to be here at the Frankfurt Book Fair. I thank the organizers for inviting me, and I thank the Norwegian government for its generous support of the UN cultural rights mandate.

To start, let me tell you a little bit about myself, and why this event is particularly meaningful to me, that may not be apparent from my accent. I am the daughter of an Algerian father and a mother from the United States. My father Mahfoud was born in a peasant village in the mountains of northeastern Algeria. He went on to join the nationalist movement and spent 4 ½ years as a prisoner of war held by colonial forces, survived torture, and losing his father in the war of independence. Afterwards, though scars remained, he rebuilt his life by pursuing an education, specifically in anthropology, as a student of cultures. He wrote a piece in 1985 entitled “What Does It Mean to be a Third World Anthropologist?” that reflects what he taught me: that it is important to try to understand and respect cultures, but also to recognize the appropriateness of regarding any of them from a critical perspective and with a commitment to freedom. He believed in an anthropology with transformative, liberating potential. This is the intellectual tradition within which I was raised and it shapes my views until today.

The question I have been asked to address here is: why do cultural rights matter in 2019? Developments in today’s world make this a timely inquiry. Embattled humanity, living in a world of extremists of all kinds, of proliferating cultural relativism and cultural excuses for human rights violations, a world threatened by catastrophic climate change which threatens human civilization, but whose existence is denied by some world leaders even while it unfolds in front of us, a world where hate is being normalized, inequalities are growing, public space is being increasingly

privatized and where the impulse to censor thrives, desperately needs full implementation of its cultural rights and other universal human rights.

At the same time, there are many positive advances which must not be overlooked, including local initiatives aimed at increasing understanding and tolerance, creative efforts by cultural rights defenders to improve compliance, new possibilities for global cooperation in the promotion of cultural rights, multiplying challenges to sexual harassment in the fields of art and culture, the ongoing exercise of human creativity despite the obstacles, and growing recognition of areas of cultural rights, such as those of persons with disabilities, peasants, and lesbian, gay, bisexual, transgender and intersex persons. We must magnify the positive developments while revisiting the strategies needed to confront the negative ones.

Before I go any further, however, a quick technical point about what exactly a UN Special Rapporteur is and does. Special Rapporteurs are appointed by the UN Human Rights Council, the highest UN political organ in the area of human rights, and report to the council. However, the rapporteurs do not work for the UN and are independent experts. So, in my day job, I am a law professor at the University of California, Davis in the United States.

As a law professor, I always like to remind audiences of the legal basis of cultural rights. The basis of legal obligation is both symbolically and practically important, though of course creative endeavor goes far beyond law. These are most importantly:

- The Universal Declaration of Human Rights (UDHR), Art. 27, which states that “Everyone has **the right freely to participate in the cultural life of the community**, to enjoy the arts and to share in scientific advancement and its benefits.
- The International Covenant on Economic, Social and Cultural Right (ICESCR), Art. 15, a binding treaty which has 170 State Parties, including both Germany and Norway. Article 15 states, among other rights,
 - o the right of everyone to take part in cultural life (which is clearly shaped by the non-discrimination provision of article 2 (2) of the Covenant);
 - o the need for States Parties to respect the freedom indispensable for scientific research and creative activity.

Some people still think of culture and cultural rights as luxury items. We must continue demonstrating that cultural rights are core to the human experience in and of themselves, but also key to the overall implementation of universal human rights and a crucial part of the responses to many current challenges, from conflict to poverty. Culture is like oxygen for the soul. It sustains us, makes us more resilient.

Some of us take cultural rights for granted. Others, including many human rights defenders around the world who defend cultural rights (cultural rights defenders) must struggle, sometimes at risk of their lives to try to achieve them. In March 2019, I will present a report to the Human Rights Council on the work of cultural rights defenders and what needs to be done to support them. At this festival where we celebrate words and books, I reiterate my call for the immediate release

of Tashi Wangchuk, a Tibetan language rights defender jailed by Chinese authorities. I also renew my appeal for immediate release of Egyptian poet Galal El Behairy, detained since 3 March 2018. My concerns are global, and institutional as well as individual. I also renew my expression of concern for the preservation of Latin Village, a Latin American cultural hub in London, United Kingdom which is threatened by a regeneration project.

This brings me to a list of some of the key challenges I see in the field of cultural rights around the world that may undermine these rights just when we need them the most. There are many others of course, and they may vary depending on context. I do not have time to do justice to any of them, but want to mention them here.

A) Fundamentalism and extremism

The first challenge I wish to mention comprises diverse forms of fundamentalism and extremism, about which the mandate did two reports in 2017 to which I refer you. What is striking is that these political phenomena are increasingly ubiquitous, across all of the world's great religious traditions, and beyond. Some other forms of contemporary extremism that have a particular impact on cultural rights focus on myths of a homogenous nation, claims of ethnic or racial superiority or purity, and populist ultranationalism directed against liberal and pluralistic democracy, and indeed against human rights. What all such fundamentalist and extremist ideologies have in common is an attempt to stamp out cultural diversity and dissent, to advance monolithic world views and claim singular cultures. Arts, education, and culture are among the best ways to fight fundamentalism and extremism.

(For one national example, I consider the recent media reports in the United States suggesting that for too long law enforcement did not pay close attention to the rise of far right extremist groups, including white supremacists and neo-Nazis, and now they do not know how to contend with a phenomenon that has gotten out of control as witnessed by the horrific October 2018 attacks on the Tree of Life synagogue or in August 2019 in El Paso, Texas targeting migrants. The challenge, however, truly is transnational and a significant obstacle to cultural rights.)

B) Discrimination

This brings me to the next theme which I wish to emphasize and which is a cross-cutting priority of the cultural rights mandate, and this is the legal requirement of non-discrimination and equality in the enjoyment of cultural rights. I have been particularly disturbed by recent political discourses of exclusion, sometimes directed at entire religious or other groups. We must promote the enjoyment of cultural rights without any discrimination, including that based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, sexual orientation, gender identity, age, migrant status, disability or poverty. In this

moment, I am particularly concerned about the cultural rights of women as women's rights are facing an alarming backlash in many parts of the world.

C) Cultural relativism and attacks on universality

Cultural rights are a part of the universal human rights framework. Universality means that human beings are endowed with equal human rights simply by virtue of being human, wherever they live and whoever they are, regardless of status or particular characteristics. It is a critical tool for human rights defenders everywhere.

However, universality is currently under sustained attack from many directions, including from those who misuse culture and cultural rights justifications. Cultural rights are a vital component of universality, and universality is essential to defend the foundations of cultural rights: the flourishing of cultural diversity, cultural mixing and openness, and the right of everyone to take part in a dynamic cultural life without discrimination.

Meanwhile, in recent years, respect for cultural diversity has also been threatened by those who seek to impose monolithic identities and ways of being, by those who advocate various forms of supremacy and discrimination. Cultural diversity is still wrongly understood as being in opposition to universality, including by some Governments and other actors who misuse it as an excuse for violations of the very universal human rights within which its enjoyment is explicitly embedded, and by others who oppose the concept altogether. Universality is not a weapon against cultural diversity, nor is cultural diversity a weapon against universality. The two principles are mutually reinforcing and interlocking.

In today's polarized world, we need a sophisticated multi-directional stance. We must simultaneously defend the universality of human rights from those seeking to use culture and cultural claims as a weapon against rights and against others, and at the same time defend cultural rights and respect for cultural diversity, in accordance with international standards, when those principles come under attack.

Ardent defenders of the universality of human rights are found in all regions of the world. Its opponents are likewise geographically diverse. It is a truly global project, not an idea that belongs to or springs from any one country or region. People and Governments in every part of the world are capable of violating or sustaining this idea.

Cultural rights are not tantamount to cultural relativism. They are not an excuse for violations of other human rights. They do not justify discrimination or violence. They are firmly embedded in the universal human rights framework. Cultural relativism has been repudiated by international human rights law as codified and accepted by Governments from every region of the world. Such a stance is often adopted with regard to the rights of others, deemed to have lesser or different rights claims because of the collective to which they are assumed to belong.

Cultural relativism is no mere theoretical construct; the exclusions from rights protection it seeks to create have grave, sometimes lethal, consequences. I would like here to appeal to academia, and especially some in the West, to challenge cultural relativism. There are no relative human beings, there is no second-class category of humanity and there is nothing learned or “critical” or “post-colonial” about attacking universality. When did it become fashionable to think that someone else somewhere else didn’t need the rights you take for granted?

Cultural diversity *is* a necessary condition for and the result of the exercise of cultural rights by all. It includes all human diversity — resulting from gender, age, relationship with nature, social and economic background, geographical origin, migration— as well as the diversity of cultural expressions and resources. This diversity of diversities breaks the myth of homogeneous cultural blocs, questions the authority of any person or institution to impose an interpretation on cultural resources and calls for greater access to cultural goods and practices for all.

We must defend genuine pluralism, not plural mono-culturalism. In all countries, there should be provisions and mechanisms to protect those who decide to step outside given cultural and religious frameworks, such as non-religious persons, from physical attacks, threats and incitement to hatred and violence from any person or group, including members of their family. Cultural rights include the right to cultural dissent and syncretism.

It is essential in 2018 to understand that there is a diversity of cultural diversities in each and every society, and that this is not a threat or an impediment to universal human rights, but a reality and a resource. At the same time, we must not overlook our commonalities and overemphasize our differences, remembering always that we are all equal members of the human family, sharing one fragile planet, endowed with inherent dignity and possessing equal and inalienable rights.

D) Climate change

Last but not least, I wish to mention the existential challenges posed by climate change. As former High Commissioner for Human Rights Navi Pillai has said, “Climate change is one of the most serious challenges [humanity] mankind has ever faced.”¹ It often has the most drastic effect on the human rights of those who have done the least to contribute to the problem in the first place. A 15 year-old Maldivian environmental and cultural heritage activist on Meedhoo, speaking about the potential loss of local cultural sites and erosion of his home island, said to me: “I fear for the survival of my country.” No young person should have to face such fears. The very cultural survival of entire peoples may be at stake as never before, undermining all human rights, including cultural rights. As one Tuvaluan official asked me: ‘If we are not here any more, what will happen to our culture?’ The problem was created transnationally and needs transnational solutions.

¹ “OHCHR analytical study on climate change and human rights is now available,” March 2009.

In this regard, I entirely support the call of my colleague the former UN Special Rapporteur on human rights and the environment John Knox for international recognition, similar to that in regional instruments, of the human right to a healthy environment. As I explained in my report to the General Assembly last fall, “the universality of human rights, including cultural rights, has no meaning today without a livable environment in which they can be enjoyed.” As a result, I will prepare a report about climate change, culture and cultural rights for the General Assembly in October 2020.

Climate change is today amongst the greatest threats to cultural heritage. At the same time, culture in all its forms and cultural rights represent powerful resources to prevent and address the challenges caused by climate change in a human rights respecting manner. In other words, cultural heritage is not only a potential casualty it is also part of the response, part of the solution. For example, traditional knowledge, including that of indigenous peoples, peasants and fisherman, such as traditional fire management and agricultural techniques should be considered in developing adaptation responses. We have to think more broadly about the relationship between culture and addressing climate change. The latter requires marshalling cultural resources and necessitates cultural change, including in our ways of interacting with nature. In other words, cultural rights may be critical to our very survival.

Positive Developments and Opportunities

Alongside these challenges, there have also been many advances around the world in the field of cultural rights, too numerous to mention here. These were recognized in the statement of Secretary General Guterres to the UN Human Rights Council on February 25: He emphasized that, “More people are speaking out about the indispensability of cultural rights for protecting the diversity of beliefs and practices on our planet, recognizing these rights as an essential tool for preserving diversity and our common heritage.”

A number of organizations now refer explicitly to cultural rights, going beyond the request for “access to culture” to demand equal participation in cultural life for all. Artistic freedom is no longer marginalized within the field of freedom of expression. Protection has likewise improved, with a growing number of safe haven cities for artists at risk.

Many civil society organizations are increasingly aware of cultural rights. However, coordinated international advocacy must accelerate. I call for the creation of a civil society coalition for cultural rights at the United Nations. It is time for more actors in the cultural rights sphere to recognize the relevance of the United Nations human rights system for their work and for the United Nations human rights system to pay greater attention to cultural rights. This integration is in all of our interests. Progress on human rights requires cultural change, is a cultural question. And progress on culture requires a human rights approach and is a human rights question.

When I get tired, I think of the determination of those who have laid down their lives in the fight for cultural rights. I remember people like Aida Buturovic, a young librarian, killed by a

shell burst in August 1992 as she returned home after working with others to save rare books and manuscripts in National and University Library of Sarajevo on the day it was shelled. Expert bibliographer András Riedlmayer made the following comment about Aida's legacy: "People sometimes ask me why I am worried about books when so many human beings have died and suffered. My answer is to point to Aida Buturovic, because the two are inseparable." To meet the challenges of the 21st century, we must keep alive Aida's courage and commitment to culture.

That spirit spans the globe. Wole Soyinka, the first African writer to win the Nobel Prize for literature, took part in an event with me last fall during the General Assembly. He stressed the need for everyone to choose whether they stand "on the side of principles which elevate humanity, rather than degrade humanity", and asserted that the rest of the century should be dedicated to enabling the realization of the Universal Declaration of Human Rights. Indeed, 2019 and the new year to come are critical moments to recommit to making the vision of the Declaration's article 27 and its promise of the equal right of all to take part in cultural life a lived reality around the world.

Let us do this with a sense of urgency. I think of the end of the story the Lorax by the children's author Dr. Seuss. A small creature called the Lorax who is meant to protect trees that are being wiped out has finally given up on doing so in the face of their thoughtless destruction by a greedy entrepreneur. He leaves through a hole in the smog in the sky, leaving behind one last seed in a circle of stones that bears a one word message for children. That word is unless. Unless.

Thank you.