

**Statement by Ms. Karima Bennoune**

**SPECIAL RAPPORTEUR IN THE FIELD OF CULTURAL RIGHTS**

Inter-sessional seminar on cultural rights and protection of cultural heritage

organized by the Office of the High Commissioner for Human Rights

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Distinguished delegates and Madam chair, Your excellencies, Ladies and gentlemen, Dear Colleagues,

 Good Morning.

Thank you all for attending this important meeting, and a particular thanks to those who had to travel from far away to be here. Sincere thanks also to all at OHCHR who worked on organizing this meeting, and to the Core Group of states for their leadership, as well as to all delegations present for taking part. I warmly greet our visiting experts and greatly look forward to listening to and learning from them. I have been very committed to having experts from some of the most affected countries, from all regions, with us here and any time these issues are discussed at the international level. This does not happen often enough.

I am very sorry that Mr. Omara Khan Masoudi, former director of the Afghan national museum cannot be here today as, given the very difficult application process, he was not able to obtain his visa in time. This is the second time in less than a year that he has been unable to attend a UN forum on cultural heritage for the same reason (the other being for a side event on cultural heritage at the General Assembly in New York). Such logistical exclusion is an example of the difficulties frontline cultural heritage experts face that I mentioned in my report to the General Assembly, and it means that we are deprived of learning from some of those who know the most. This must change. I am pleased that Mr. Masoudi may be able to join us by video message (update?), but going forward we have to do all we can to make sure that the frontline cultural heritage defenders are at the table in these discussions, rather than our speaking for them.

 I had the great honor in my academic work before I became Special Rapporteur to visit Mr. Masoudi at the national museum in Kabul and to learn of the work that he and his colleagues had undertaken to try to protect the institution from a range of armed actors over time, including the warring Mujahedin factions in the 90s and the Taliban in the 2000s. I was also delighted to see the pieces that they had lovingly restored. Statues of Buddha painstakingly reconstructed by Muslim Afghan experts who recognized them as an important part of the heritage of their country, are a powerful and needed symbol of hope and pluralism in today’s world that should not be forgotten. I am sorry that those who destroy often get more attention than those who protect and reconstruct, at the very risk of their lives. We must work together to change that.

The Los Angeles Times reported at the time **of the March 2001 Taliban attack on the Afghan museum** that involved the deliberate destruction of 2750 important pieces that the Afghan curators went from room to room with the Taliban, begging for the lives of the statues as though they were their children. The international community must show as much courage and commitment as these frontline heritage defenders and those in Iraq, Libya Mali, Syria, Yemen, and beyond, as well as those who are peacefully seeking to protect Native American burial sites from the construction of the Dakota Access Pipeline in the United States of America. We must make sure that they have all the things they need – resources, visas, safety – to facilitate their work.

This is not simply a nicety. It is a requirement of international law. 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 thought, conscience and 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. I welcome the fact that, in its **Resolution** 33/20 of September 2016 **on “cultural rights and the protection of cultural heritage,”** the Human Rights Councilagreed that “the destruction of or damage to cultural heritage may have a detrimental and irreversible impact on the enjoyment of cultural rights.” I thank the core group again for its leadership in the passing this resolution and trust that it will continue this leadership in pressing for its full implementation. In Resolution 33/20, the Council also encouraged States to consider implementing the recommendations that I made both to the Human Rights Council and to the General Assembly on these issues in reports A/HRC/31/59 and A/71/317 of August 2016. I am here today again to insist on the need to implement these and other international recommendations, including by UNESCO, the Committee on Economic, Social and Cultural Rights and other UN bodies.

Acts of deliberate destruction are often **accompanied by other grave assaults on human dignity and human rights**. 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.

I have spent a great deal of time, both before and since I became the Special Rapporteur **listening to women and men talk about the pain and suffering, physical and mental**, caused to them and their families, often after already suffering from other abuses, by the destruction of cultural heritage to which they have connections. It is critical to listen to their voices. I have met those who have lost family members who died trying to protect sacred sites or became gravely ill after learning of their destruction. I have had women cry in front of me about how hurt they were by limitations on access to sites. I have visited sites guarded by tanks and seen how deep the connections are that populations living in situations of post-conflict have with them – to space, to place, to site, to practice in that particular site. I recently received a message from an Iraqi archaeologist about the terrible pain caused to the people of Mosul, on top of so much other pain they are suffering, by Daesh’s destruction of the **Hadba Minaret**. She wrote:

Yesterday of all days is where Daesh has committed its worse War Crime. One comment from a friend in Mosul just sent (to) me (is) sufficient for thousands of words:

"This is a very sad sleepless night for all Mosul people, for the first time since 850 years ago, Mosul's skyline (is) without Al Hadba minaret! “

She closed by saying of our meeting here today:

 “The Hadba Minaret will be the symbol of the meeting.” And I want her to know and her

contact in Mosul that we are indeed thinking of this and of them.

 All such encounters have made clear to me that **it is no mere theoretical construct** to say that intentional destruction of cultural heritage is a violation of human rights – it is a lived reality around the world for diverse people. My commitment to the paradigm of viewing cultural heritage as a human rights issue is both a principled one in the sense that it reflects actual human experience around the world and emphasizes critical aspects of the issue within a framework of international human rights law commitments; but my commitment to this paradigm is also a practical one in the sense that given all the atrocities happening in the world, we will only be able to mobilize broadly on this issue if we emphasize the deep impact that it has on human beings, individually and in their collectives.

Many of us who are engaged on the issue of cultural heritage have gone to endless meetings in this post “Palmyra moment.” We are beginning to wonder what impact these meetings are having on improving heritage protection. That is why my vision of this meeting is different – it is that **we focus on the issue of specific commitments related to the *implementation* of the human rights approach** to cultural heritage protection, rather than repeating the same substantive discussions again. Let us make sure this meeting matters, is a beginning not an end (or perhaps I should say a continuation to be taken forward, not an end, taking into consideration all the work that has already been done). I want us to leave here today, with some agreed action items, perhaps an action plan, which may include the commitment to take specific steps to carry out actions plans already in place such as those of UNESCO. If we do not make specific commitments, we will not have fulfilled the task given to us by the council here today in Resolution 33/20 which envisaged the holding of this meeting so as to find “ways to prevent, contain and/or mitigate the detrimental impact of the damage to or destruction of cultural heritage on the enjoyment of human rights, including cultural rights by all, and on best practices in this regard.” With a view to achieving this outcome I would like to outline a number of key themes which were clearly identified under the overarching chapeau of implementation in my discussions with the experts yesterday.

The first is that we must now **mainstream the human rights approach** to cultural heritage. We talk about cultural heritage in human rights terms here in Geneva and are all agreed, but when we get to other cities like New York or Abu Dhabi, the human rights approach magically disappears. For example, neither the words human rights nor the concepts appear in Security Council Resolution 2347 or in the Abu Dhabi declaration, as important as these documents are. This mainstreaming needs to be throughout the UN system, across regional bodies, and across different bodies at the national level, including military forces. Mainstreaming is a familiar concept from the field of human rights which the human rights approach can assist us in developing.

The next priority theme emphasized by myself and the experts is **the need for a holistic approach.** This means many things: an approach encompassing all regions, thoughtfully bringing together tangible and intangible cultural heritage which are interlinked, focused on both prevention and punishment, on education and accountability, and targeting acts committed by both State and non-State actors, in conflict and non-conflict situations. Let me say that however sensitive it may seem we will not make much progress until there is more accountability, an issue about which there was insufficient clarity in Security Council resolution 2347. We cannot be selective or politicized in our approach, and only be galvanized by heritage with which we feel a connection, but take a universal approach to the heritage of all. In fact, the holistic approach is a logical outcome of the foundational human rights principle of universality.

**Many ongoing acts of destruction of cultural heritage in many regions often go unnoticed by the international community, targeting in particular indigenous peoples or in forgotten armed conflicts such as in Yemen**. So, we must not only respond to the Palmyra moment as it were, but use this moment to shine the light on other patterns of past or current heritage destruction, which also constitute human rights violations. For example, in the report, I recall the grievous history of destruction of diverse forms of indigenous cultural heritage in many parts of the world as a systematic part of, inter alia, colonialism or nationalist policies in post-colonial States, and I note that the totality of these acts have had long-lasting effects on the human rights of many indigenous peoples in diverse geographical contexts.

The third priority theme emerging from the experts meeting yesterday, and that is at the heart of the human rights approach, is the critical aspect of **consultation and participation**. Our distinguished chair’s organization Europa Nostra recently held a congress on this issue in Finland, entitled: “**Sharing Heritage - Citizens Participating in Decision Making** and we should learn from the outcome of that meeting. In my work on the topic of cultural heritage, I have always emphasized the need for consultation, with all relevant stakeholders, whether at the local, national, regional or international levels, in regards to the diverse meanings of heritage, its interpretations, uses, and about all aspects of its protection, preservation, reconstruction, re-establishment, memorialization, and even nomination to the UNESCO World Heritage List. I have heard from women and men on the ground about how they have been at times deeply affected when heritage with which they had close connections was reconstructed or used without any consultation with them or the constituencies with which they identify. I have seen the loss and disconnection that this has caused often in situations of conflict or post-conflict, in which this adds to the cumulative weight of other great losses. And, let me be frank, the lack of consultation is all too common.

**Let me recommend a few specific implementation items** to allow us to make progress in regards to the priority themes I have identified. As it would be wrong of me to call on others to make specific commitments and not do this myself, today I personally commit to completing the development of a set of implementation checklists based on my cultural heritage reports, setting out concrete targets for states and civil society in realizing the protection of the human right to access and enjoy cultural heritage, and to protect that heritage from intentional destruction.

# I reiterate my call on all of the **permanent five members of the Security Council** to ratify the Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict. I am pleased that France has done so in March of this year, and the UK is on the way to doing so. I hope all the others will follow, and show international leadership on this critical question.

I also repeat my call from the GA report for states **to allocate sufficient budgetary resources,** at both national and international levels to the protection of cultural heritage – and indeed to the culture sector generally of which it is one part. Cuts in cultural funding send precisely the wrong message. This also includes making the full contributions to UNESCO.

I repeat my call for states to find ways to **expedite visas** to cultural heritage experts who are cultural rights defenders.

And bridging to the theme I am focusing on this year, I call on states to tackle, in accordance with international standards, **extremist and fundamentalist ideologies**, sectarianism, and discriminatory attitudes toward, inter alia, minorities, indigenous peoples and women, which often lead to cultural cleansing in the form of cultural heritage destruction, while ensuring that critical strategies in this regard include humanist education, respect for human rights and promotion of tolerance and pluralism.

I call on states, as does Human Rights Council Resolution 33/20, to adopt a fully **gender-sensitive approach** to the protection of cultural heritage, including by recognizing the work of women defenders of cultural heritage, promoting inclusion of women cultural heritage experts in relevant national and international forums and institutions, and addressing the particular challenges faced by women in accessing cultural heritage without discrimination. I have seen with my own eyes elderly women sleeping in a mausoleum in North Africa to protect it after it was attacked by Salafists. Their rights to enjoy cultural heritage deserve protection too.

Finally, I would like to suggest as a way to carry our work forward together **the creation of a contact group**, bringing together the core group of states, all concerned UN mechanisms, and representatives of civil society and experts, to convene at regular intervals to monitor the implementation process outlined here today.

As I conclude, let me say that there are many reasons for hope if we continue our work together. I see that hope in the commitment of the experts here, including those I have been honored to meet who come from opposite sides of past conflicts, who even have lost family in those conflicts, and yet who work together tirelessly to restore and protect and appreciate each other’s heritage.

Some of you may have heard about a **speech given yesterday in Warsaw** in which we were told that Westerners must isolate themselves to protect Western civilization. That is one worldview. However, I believe all civilizations and their cultures are important, and interconnected. If you look at the world through the lens of cultural rights, the task before us looks rather different. **We must all find ways to come together to protect *human* civilization, its cultures, its traces and histories, its evolving contemporary manifestations, its heritage in all its glorious diversities and pluralities, and in accordance with international standards, and most of all the indispensable ways in which it enables human beings of all kinds to enjoy their internationally guaranteed fundamental human rights.** Our work together to achieve this vision has only just begun. I am counting on you. The peoples of the world, and especially our young people to whom we must pass the torch of heritage and all it can teach us, are counting on us all.

Thank you.