

Contribution of the Republic of Armenia to the consultations on the intentional destruction of cultural heritage as a violation of human rights, in particular cultural rights

a. The right of access to and enjoyment of cultural heritage forms part of international human rights law and this norm can play a crucial role in linking the protection of human rights to the safeguarding of cultural heritage. The right to cultural life and the preservation of cultural goods are recognized by Article 15 of the ICESCR and other human rights conventions. Furthermore, according to the UN Committee on Economic, Social and Cultural Rights (General Comment n. 21.8) it is evident that, in many cases, there can be no exercise of the right of access to and enjoyment of cultural heritage without the preservation of the integrity of cultural heritage itself.

The 1954 Hague Convention assumes tangible heritage sites to be vulnerable subjects of conflict. In this light, it becomes easy to treat heritage as being removed from its political, national, local, ethnic, or religious sources. International conventions often understand the damage to cultural and historical heritage to be just as a result of conflicts and not necessarily the part of the conflict, thus disregarding the strategic value of the heritage itself. Efforts should be made to prevent the loss of a cultural knowledge, cultural expression and memory.

There is a form of violence, perpetrated both by state or non-state actors, such as terrorists and other criminal groups, that sees the very existence of cultural and historical sites of other peoples' faiths or traditions as a challenge. For such actors the heritage destruction is a part of their own national state-building efforts or national identity aimed at erasing the traces of others from the regional context and history.

UNSC Resolution 2199 (2015), UNGA Resolution A/RES/69/281 (2015) and UNESCO Executive Board Decision 196 EX/29 (2015) considered the protection of culture and cultural heritage in conflict areas as a humanitarian and security issue.

The sustained attacks on the tangible or intangible representations of specific cultural histories or traditions can potentially rise to the level of "cultural atrocities" and "cultural genocide". All acts and measures undertaken by state or non-state actors, such as terrorists and other criminal groups, with the intention to destroy the tangible or intangible cultural heritage of any nation or ethnic group should be regarded as an act of a "cultural genocide". The term "Genocide" refers also to ethnic and religious group's national, spiritual and cultural destruction. However, the concept of a cultural genocide has not been incorporated in the 1948 Convention for the Prevention and Punishment of the Crime of Genocide.

Currently, the right of access to and enjoyment of cultural heritage has been increasingly recognized by States' practice. In fact, some national constitutions include the State's obligation to recognize the right of people to access to culture or cultural heritage. The respective rights are guaranteed by the Constitution of Armenia (Articles 11, 40, 41).

Armenia's cultural policy priorities include:

- the improvement of the legislative framework (with decentralization, 1,586 cultural organizations are now under jurisdiction of local-self-government bodies);
- the adoption of strategies for cultural development.

UNESCO International Conference "Cultural Policy, Policy for Culture: the Role of Culture in Post-2015 Development Agenda", held in Armenia in 2015, adopted a Declaration, which in the strongest terms condemned cultural cleansing, barbaric destruction, violence, looting and other crimes committed against humanity's cultural heritage and called upon the international community to prevent cultural genocide.

b. The monuments of Armenian historical and cultural heritage have been a subject of intentional destruction throughout centuries during armed conflicts, as well as in time of peace.

Historically, the Ottoman Empire, and in our days the Republic of Turkey and the Republic of Azerbaijan have carried out policy of intentional destruction of the monuments of the Armenian heritage.

Many historic facts of massacres and deportations of Armenians are also proof of the Young Turk government premeditated and planned policy of systematic destruction of the material testimonies of the Armenian civilization¹. The policy of destruction adopted by the Young Turks with regard to Armenian historical and cultural heritage was continued in the Republican Turkey.

Throughout this period the Army of the Republic of Turkey has played a crucial role in the intentional destruction of the monuments of the Armenian heritage. A large number of monastic ensembles dating to the V-XV centuries have been looted, burnt and destroyed, sometimes with the use of explosives. Armenian medieval church in Semal (Sassoun) was totally destroyed recently, in 1996, despite the protest of local Kurdish community.

Sometimes the Armenian monuments have been used as a target during the military training exercises, and were destroyed as a result of that. Afterwards the stones of those monuments are usually appropriated either by local communities, or by the Army itself during the construction of military barracks.

In some rural places, Armenian monasteries and churches serve as stables, stores, clubs and even a jail. In many cases the Turkish government converted Armenian churches into mosques. The undamaged stones, *inter alia*, polished stones of the facade, as well as carved or inscribed ones, of old Armenian monuments have been used as materials for the construction of mosques and private or non-governmental buildings since 1940s².

In 1974 UNESCO stated that after 1923, out of 913 monuments of Armenian heritage in Eastern Turkey, 464 have vanished completely, 252 are in ruins, and 197 are in need of restoration.

With regards to the shift in the policy of the Republic of Turkey in the recent years “aimed at preservation of the monuments of Armenian heritage”, e.g. the restoration of the Cathedral of the Holy Cross (Akhtamar) is a demonstrative effort to conceal the earlier traces of centuries’ old vandalism.

The monuments of Armenian heritage throughout the whole territory³ of the Republic of Azerbaijan have been either alienated (when falsely presented as “related to Caucasian Albania/Arran/Aghvank”) or destroyed.

In time of peace the authorities of Azerbaijan have carried out the intentional destruction of all the 218 monasteries, churches, cemeteries with tens of thousands of cross-stones and

¹ See the witness account of Arab writer Fayez el Husseyn, “Massacres in Armenia” (1916), “Martyred Armenia” (1917).

² See “Research on Armenian Architecture” NGO, “Another genocide after the genocide”, Yerevan, 2015:
http://www.raa-am.com/EE_heto_Girq/EE_Girq_poqr.pdf

See “The Armenian Architecture a Cultural Genocide”, Armenian National Committee of Canada, Montreal, 2005.

³ See publications of “Research on Armenian Architecture” NGO:

“Northern Artsakh”, Yerevan, 2007:

http://www.raa-am.com/BOOK_6/hs.%20arc.-E.pdf-poqr.pdf

“The state of Armenian historical monuments in Azerbaijan and Artsakh”, Yerevan, 2005:

http://www.raa-am.com/AGN/AGN_varzq_3_poqr.pdf

gravestones, including the historic cemetery of Old Jugha⁴ in Nakhijevan with nearly 3,000 medieval cross-stones, the territory of which is turned into a military shooting range. ICOMOS GA Resolution of 2008 is the vivid expression of international community's concern of on the issue⁵.

As opposed to the policy of Azerbaijan, the Muslim monuments in Armenia and Nagorno-Karabakh are under Government protection, well preserved and restored⁶ and are never used for any other purposes.

Destruction and distortion of cultural masterpieces, usually followed after ethnic cleansings, is an attempt to erase the memory of other people, destroy millennia old cultures and civilizations. Thus, Saint Martyrs Armenian Church in Deir ez-Zor, Syria⁷ was destroyed and vandalized by terrorist groups in September 2014.

Other vandalized monuments of Armenian heritage in Syria and Iraq, in particular, include: Armenian Church of St. Kevork, Aleppo, Syria, 2012⁸; Holy Trinity Armenian Evangelical church, Kessab, 2014⁹; Church of the Armenian Martyrs, Raqqa, Syria, 2013/2014¹⁰; St. Rita Armenian Catholic Cathedral, Aleppo, 2015; Armenian Church in Mosul, Iraq, 2015¹¹.

c. In a sharp contrast to Turkey and Azerbaijan, Iran has made great efforts to preserve and protect the Armenian cultural heritage. Three Armenian Monastic Ensembles of Iran: St. Thaddeus and St. Stepanos and the Chapel of Dzordzor, the oldest of which dates back to the VII century, were inscribed on the World Heritage List by the Iranian Government. It would have been desirable to see Georgia as well adopting a similar stance towards the Armenian cultural heritage within its territory.

The tangible heritage, both movable and immovable, and intangible heritage of Armenia is registered: official inventories are created and approved by the Government. The registration of

⁴ See Annex 1: "The Destruction of the Armenian Cemetery in Djulfa, Nakhichevan (Azerbaijan)", Armenian National Committee of America, 2005.

See more: "Research on Armenian Architecture" NGO, "Julfa: The annihilation of the Armenian cemetery by Nakhijevan's Azerbaijani authorities", Beirut, 2006:

<http://www.raa-am.com/Juga/Jugha.pdf>

Documentary by "Research on Armenian Architecture" NGO: <https://www.youtube.com/watch?v=t4OHVFNePaI>
ICOMOS World Report on Monuments and Sites in Danger, 2006-2007, pp. 37-38:

http://www.icomos.org/risk/world_report/2006-2007/pdf/H@R_2006-2007_09_National_Report_Azerbaijan.pdf

Report by Switzerland-Armenia Association:

http://www2.ohchr.org/english/bodies/cescr/docs/ngos/SAA_AzerbaijanWG49.pdf

⁵ See Annex 2: 16th General Assembly of ICOMOS, 2008 Resolution.

⁶ Recent comment by the NKR MFA Press Service as of May 30, 2016:

<http://nkr.am/en/news/2016-05-30/847/>

⁷ Statement of the Spokesperson for the UN High Commissioner for Human Rights:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15135&LangID=E>

⁸ The article in The Atlantic:

<http://www.theatlantic.com/photo/2012/11/syria-in-ruins/100402/>

⁹ The article in The Telegraph:

<http://www.telegraph.co.uk/news/worldnews/middleeast/syria/11323109/Dispatch-Syria-rebels-burned-down-churches-and-destroyed-Christian-graves.html>

¹⁰ The article in BBC News:

<http://www.bbc.com/news/world-24926584>

¹¹ The article in BasNews news agency:

<https://web.archive.org/web/20150703024552/http://www.basnews.com/en/news/2015/01/27/islamic-state-torches-armenian-church-in-mosul/>

immovable monuments and their further preservation is carried out in accordance with the Governmental Decree N 438. The Agency of the Protection of Cultural Property of the Ministry of Culture has created a database of cultural properties.

The cultural heritage of national minorities in the Republic of Armenia is protected and preserved in accordance with appropriate legislation in force. According to the Constitution the citizens of Armenia who belong to national minorities have the right to preserve and develop their own customs, language, culture and religious liberties. These rights are reflected in a number of laws, which are being strengthened.

The Civil, Criminal and Administrative Codes of the Republic of Armenia also include respective articles concerning the issues of cultural and natural heritage protection. The Draft Criminal Code of Armenia has foreseen criminal responsibility for the destruction and theft of cultural property and for breaching the Rules for the Protection of Cultural Property in time of peace or in the event of armed conflict (Articles 155 and 156).

The restoration of cultural heritage is implemented by means of financial resources allocated from the State Budget and from public-private partnerships. These resources are equally used to provide the restoration of both Armenian cultural heritage properties and ones belonging to national minorities.

The particular examples are:

The Blue Mosque (Yerevan)

Armenia has reconstructed the XVIII century Persian Blue Mosque with the assistance of the Iranian specialists. Initial work is carried out for the submission of the nomination of The Blue Mosque to be inscribed on the World Heritage List. The Government of Armenia by its Decision has granted Iran the right to use the Blue Mosque and the adjoining land for 99 years. The building of this mosque is used as a cultural center.

The Jewish Cemetery of Yeghegis (Vayots Dzor Province)

This cemetery belonged to the Jewish community of Yeghegis in the XIII-XIV cc. About 70 tombstones were found in and around the cemetery. 10 tombstones bear inscriptions in Hebrew or Aramaic. It was examined by an Armenian-Israeli team in 2000-2003, headed by Prof. Michael E. Stone and Dr. David Amit. The evaluation of the cemetery and its restoration was initiated by Bishop Abraham, Primate of Diocese of Syunik of the Armenian Apostolic Church and with the support and patronage of the Ministry of Culture of the Republic of Armenia.

The Mausoleum of Turkmen emirs (Ararat Province)

Mausoleum of Turkmen or Kara Koyunlu Emirs (*Emir Pir-Hussein Mausoleum*) was erected in 1413. Mausoleum was partially destroyed by the earthquake in the XVII century. Repair and restoration works were carried out in 1990s.

Armenian and Turkmen specialists have been involved in restoration activities of the mausoleum. Armenian-Turkmen joint scientific expedition carried out excavations. In 2013 the specialists from the Ministry of Culture of Turkmenistan studied and documented the Mausoleum and provided a draft restoration project.

Non-Armenian historical and cultural Monuments in Syunik

The non-Armenian historical and cultural monuments in Syunik Province of Armenia are located near the towns of Kapan, Meghri, Sisian, including Muslim (6 sites) cemeteries, mausoleums, mosques and Orthodox church (1 site). The “Historical Environment and Historical-

Cultural Museum Preserves Protection Service” NCSO of the Ministry of Culture of Armenia is taking care of the maintenance of the monuments which are regarded as state property.

These monuments, in particular, include:

- The Muslim cemetery with an octahedral-shaped mausoleum, XVIII-XX cc. (near Lehvaz village, Meghri). It is registered as state property since 2006;
- The Baba-Hajji holy place (Shvanidzor village, Meghri, the national belonging of this holy place is not defined);
- The building in Kapan’s Achanan village with an inscription in Persian, built in VII century;
- The Greek Church of Bashkend in Kapan, built in 1865.

The Military Manual of the Armed Forces of the Republic of Armenia includes provisions, which prohibit using cultural property and its adjacent territories for military purposes and undertaking hostile actions of any kind against them. Destroying cultural properties, historical monuments, places of worship and other objects of the cultural or spiritual heritage of peoples, as well as their usage for the purpose of achieving military success is a prohibited method of conducting combat operations.

All commanders and chiefs at service in the Armed Forces enforce the application of the norms of IHL enshrined in the Geneva and Hague Conventions and their additional protocols. Two educational manuals on the “Law of Armed Conflict” and “International Humanitarian Law” were approved and put into usage within the Armed Forces in July 2002, according to the Decrees No. 555, No. 573 of the Minister of Defense.

For the purpose of raising public awareness, the legal acts related to the preservation and protection of historical and cultural monuments have been disseminated and circulated to the attention of public at large, as well as of public servants and municipal authorities.