



THE PERMANENT MISSION
OF THE
UNITED STATES OF AMERICA
TO THE
UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA

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OHCHR REGISTRY

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Recipients : ... *SPB*
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Ms. Karima Bennoune
Special Rapporteur in the field of cultural rights
Office of the United Nations High Commissioner for Human Rights
United Nations Office
Geneva, Switzerland

Dear Ms. Bennoune:

Thank you for your inquiry of May 10, 2016, which invites Member States to contribute to consultations on important topics concerning cultural heritage. We wish to provide the following information in response to your request for examples of good practices.¹

Safeguarding our common heritage both from unlawful deliberate destruction and from organized looting and theft is a prime interest of the United States. We are taking steps to safeguard and preserve the world's common heritage.

- We are rigorously implementing newly-available mechanisms to limit the importation of cultural property from Syria into the United States.** For example, mindful of UN Security Council Resolution 2199 and recently-enacted U.S. legislation – the Protect and Preserve International Cultural Property Act – the United States will soon impose emergency import restrictions on Syrian cultural property. This builds on previous experience, including in blocking the illegal importation of archaeological and ethnological material from Iraq into the United States pursuant to the Emergency Protection for Iraqi Cultural Antiquities Act of 2004.

The U.S. Department of State's Cultural Antiquities Task Force was established with the objective of coordinating efforts across U.S. Government departments and agencies and, in particular, of supporting law enforcement efforts to fight theft, looting, and trafficking of historically and culturally significant objects originating in other countries. The Task Force supports training programs that increase the capacity of U.S. Customs and Border Protection officers to identify and interdict looted and stolen antiquities and the capacity of Immigration and Customs Enforcement (ICE) to investigate and prosecute cultural property crime through the application of U.S. laws and international agreements. The Task Force has also supported workshops for international law enforcement agents and provided

¹ We note at the outset of this contribution that the mandate of the Special Rapporteur in the field of cultural rights, as established in Human Rights Council resolution 28/9, does not include references to international humanitarian law. Although certain provisions of human rights treaties may apply in armed conflicts, international humanitarian law is the *lex specialis* with respect to situations of armed conflict. We urge the Special Rapporteur to consider this and her mandate in conducting this consultation and developing her report.

assistance for the investigation and prosecution of the looting and theft of antiquities on every continent and in countries at every level of social and economic development.

Among our most effective tools are Memoranda of Understanding (MOUs) entered into pursuant to Article 9 of the 1970 United Nations Educational, Scientific, and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and U.S. implementing legislation. Import restrictions imposed pursuant to these MOUs reduce the incentive for looting and trafficking of cultural property in other countries by preventing illicit material from entering the United States. Each of these MOUs provides for a framework of goals and activities that signatory countries agree to pursue in protecting and preserving heritage. We have concluded 15 such "cultural property agreements," and we regularly encourage other States Parties to the 1970 UNESCO Convention to request from the United States this same type of protection for their cultural patrimony.

- 2. We are continuing to raise awareness about cultural heritage around the globe that is under threat of destruction, and we are engaging in and urging common action.** To this end, we are advocating "best practices" in international fora, among governments, and in partnership with universities, non-governmental organizations (NGOs), and museums, as well as among responsible market participants. Lack of access can hinder our ability to curb the supply of looted cultural property coming from areas in crisis; therefore, international multi-stakeholder coordination to reduce demand is critical.

We work closely with international organizations and other entities including UNESCO; the United Nations Office on Drugs and Crime (UNODC); the International Criminal Police Organization (INTERPOL); and the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), to draw the world's attention to the importance of protecting cultural patrimony.

Through the Cultural Antiquities Task Force, the Department of State also supports the publication of Red Lists of Cultural Objects at Risk produced by the International Council of Museums (ICOM).

Through the State Department's Ambassadors Fund for Cultural Preservation, now entering its seventeenth year, we have invested \$67 million in over 900 projects to preserve and safeguard cultural heritage, including the heritages of underserved or marginalized cultural communities and ethnic groups.

- 3. We are promoting greater international law enforcement cooperation in fighting the trafficking of antiquities.**

Last September, the State Department announced a new Rewards for Justice program offering up to \$5 million for information leading to the significant disruption of the sale or trade of oil and antiquities by, for, on behalf of, or to benefit the Islamic State of Iraq and the Levant (ISIL).

We have also supported training workshops for international law enforcement partners to enhance investigatory capacities and promote international cooperation on cases involving stolen cultural property.

4. We will hold accountable whenever we can the perpetrators of unlawful deliberate cultural heritage destruction and those who engage in illicit trade of cultural property.

To hold accountable those who unlawfully destroy cultural heritage, we look to documentation such as that produced by the American Schools of Oriental Research (ASOR). For nearly two years, ASOR's Cultural Heritage Initiative has been systematically documenting and analyzing the barbaric acts being perpetrated in Iraq and Syria.

Concerning illegal trade in cultural property more generally, we have dedicated law enforcement resources, including the Federal Bureau of Investigation's (FBI) Art Crime Team, ICE's Cultural Property, Art and Antiquities Program, and the Department of Justice Criminal Division's Human Rights and Special Prosecutions Section, that support the investigation and prosecution of violations of U.S. laws related to cultural property trafficking. In 2012, special agents with ICE seized millions of dollars' worth of looted and stolen cultural property from New York-based art dealer Subhash Kapoor's Art of the Past Gallery. The gallery manager subsequently pled guilty to six criminal charges related to arranging for the shipment into and out of the United States of antiquities stolen from several countries including, but not limited to, India, Afghanistan, Pakistan, and Cambodia, having the antiquities shipped through intermediaries in order to create documentation to help launder the pieces, and arranging for the manufacturing of false provenances for illicit cultural property. On June 6, 2016, U.S. Attorney General Loretta E. Lynch returned several of these artifacts to the Government of India during a repatriation ceremony with Prime Minister of India Narendra Modi.

It is important to note that although many of our responses are keyed directly to urgent challenges, the United States invests in longer-term preventative measures and capacity-building as well. In Libya, for example, sustained support from the United States since 2005 for the preservation and protection of museum collections and ancient archaeological sites, including training in site surveying and monitoring, has assisted Libya's Department of Antiquities. In Iraq, we have also been able to assist in building capacity over time. Since 2008 when it was established by the Department of State, we have provided support for the Iraqi Institute for the Conservation of Antiquities and Heritage in Erbil, which has created a forum where professionals from across Iraq and across all gender and ethnic groups come

together to develop technical skills that enable them to address the future of heritage conservation in Iraq.

There are no “one-size-fits-all” strategies for cultural heritage preservation. Increasingly complex situations around the world demand a variety of responses, and often require action before a crisis even begins. The United States looks forward to strengthened international cooperation, and finding new channels of cooperation for the protection and preservation of cultural heritage, in order to preserve this priceless inheritance today and for future generations.

We thank you for this opportunity to address some of the issues you raised in your May 2016 communication.

References:

1. <https://eca.state.gov/cultural-heritage-center>
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3. <https://www.whitehouse.gov/the-press-office/2016/05/09/statement-press-secretary-hr-1493-and-hr-2908>
4. <https://www.fbi.gov/news/stories/2015/august/isil-and-antiquities-trafficking>
5. https://www.fbi.gov/about-us/investigate/vc_majorthefts/arttheft
6. <https://www.ice.gov/cultural-art-investigations>
7. <https://www.dhs.gov/news/2016/06/06/dhs-and-doj-return-valuable-ancient-artifacts-india>

Sincerely,



Keith M. Harper
Ambassador
U.S. Representative to the UN Human Rights Council