

Keynote Speech by Ms. Karima Bennoune,

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Intersessional Meeting on Cultural Rights and the Protection of Cultural Heritage

Monday June 14, Opening Session

Excellencies, colleagues, good morning, good afternoon. I would like to thank the organizers of this meeting at OHCHR, and the members of the core group on cultural heritage. The task given to us at this meeting by the UN Human Rights Council is to develop appropriate tools for the dissemination of an approach to the protection, restoration and preservation of cultural heritage that promotes universal respect for cultural rights by all. So, while we must be principled and focus on the importance of the rights at stake, we must also be practical and identify specific follow up measures to be undertaken to protect them. That is the best way to make this meeting meaningful.

I will briefly review the human rights approach to cultural heritage¹ based on my reports as UN Special Rapporteur in the field of cultural rights to both the UN Human Rights Council and General Assembly in 2016², reports which are among the tools we already have and must find further ways to employ. Let us make sure to inventory the tools already at our disposal and devise better ways of using them. The human rights approach outlined in my

¹ [OHCHR | A cultural rights approach to heritage.](#)

² [A/71/317 - E - A/71/317 -Desktop \(undocs.org\); A/HRC/31/59 - E - A/HRC/31/59 -Desktop \(undocs.org\).](#)

reports may be very familiar to *some* of you, and perhaps new to others. (You can find the relevant reports on the mandate home page). Then I will also focus on four particular aspects we need to consider as we develop specific tools to take this work forward, and further use tools we already have. These include: 1) the need to address the impact of the pandemic, 2) the need to mainstream the human rights approach, 3) the need for a holistic approach and 4) the importance of not using heritage selectively as a weapon.

As I begin, I pay tribute to all those cultural rights defenders around the world who work to protect cultural heritage, sometimes at the risk of their lives. We will speak in detail tomorrow about how to better support their work which is one of the most important ways we can promote cultural rights in these areas.

I was appointed Special Rapporteur in November 2015 immediately after the highly publicized destructions at Palmyra in Syria and so out of those tragedies there was a moment of opportunity to address these issues at the UN and this became the focus of my first year in post. I sought to encourage development of a human rights approach to the question of cultural heritage protection, a human-centered framework which can greatly enhance the long-term effectiveness of all initiatives in this area, which should shape our methodology, and which will assist the public, that we need to support this endeavor, in understanding why it is crucial. As I prepare to conclude my two terms as Special Rapporteur on Nov. 1 of this year, I hope that the higher profile now given to such an approach within the UN system will be something that endures. And I hope that members of the Human Rights Council will ensure that the person chosen to succeed me has the relevant commitment and expertise to continue the human rights work on cultural heritage; and that the mandate is much better resourced in terms of funding and staffing to be able to do so. That has been a huge challenge.

Let me quickly review some key aspects of the human rights approach, which I addressed in more detail in my remarks at the 2017 inter-sessional meeting. The right to access and enjoy cultural heritage forms part of international human rights law, finding its legal basis, *inter alia* in the right to take part in cultural life as has been made clear by the UN Committee on Economic, Social and Cultural Rights in its General Comment No. 21. It must be understood that cultural heritage is a fundamental resource for other human rights also, in particular, the rights to freedom of expression, freedom of religion, and to education, 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. Intentional destruction of cultural heritage is a violation of these human rights.

Given this importance of cultural heritage for human rights, I welcomed the fact that, in its Sept. 2016 Resolution 33/20 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 also encouraged States to consider implementing the recommendations that I made on these issues. More recently, in its resolution 75/258 – adopted Jan. 21, 2021, on protection of religious sites, the General Assembly condemned attacks on cultural heritage in this category and specifically referenced that this violates international human rights law.

Human rights law is the underlying standard that applies at all times. However, a special protection regime enhances heritage protection in times of conflict. The core standards include the 1954 Hague Convention and the protocols thereto. At the last inter-sessional meeting, I called for all of the permanent members of the Security Council to ratify the Second Protocol which strengthens protection by further limiting the military necessity exception. So far only France and the UK have done so. There are still only 84 parties to this

Protocol, and I would again call on all states to ratify, and especially the rest of the P5 nations.

In any case, there have been worrying reports of violations of these provisions on many sides in recent conflicts and I have endeavoured to raise these urgently with governments through the communications procedure, subject to resource constraints. All military decisions resulting in the destruction of or damage to cultural heritage should be subject to close public scrutiny. Accountability of state and non-state perpetrators is essential.

Some grave violations have received deserved international attention in recent years. However, I also noted many ongoing acts of destruction of cultural heritage in many regions which have gone unnoticed by the international community sometimes outside of conflict situations, targeting, in particular, indigenous peoples with long-lasting effects on their human rights. 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.

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.³ In this sense, the

³ See discussion in Karima Bennoune, Special Rapporteur in the field of cultural rights, Brief for the International Criminal Court (ICC), as Expert Appointed by the ICC in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (reparations phase) (concerning destruction of cultural heritage sites in Mali), 27 April 2017, public redacted version: ICC-01/12-01/15-214-AnXI-Red3, 14-08-2017, available at https://www.icc-cpi.int/RelatedRecords/CR2017_05022.pdf (cited by Trial Chamber VIII of the Court as “First Expert Report”

human rights approach is itself a tool. This brings me to a quick review of some of the priority tasks before us now.

1)The first is my belated reply to an important question put to me by the representative of Cyprus at the interactive dialogue about my report on COVID19 and cultural rights in March.⁴ The representative inquired about the impact of the pandemic on heritage protection. As I noted in my report, there have been some important innovations in sharing heritage with the public digitally in these pandemic times, but also significant impediments to accessing it in person, and I heard from experts about concerns about inability to do maintenance and cleaning during the pandemic. We need an inventory, nationally and internationally, of the impact on heritage protection of COVID19 and a strategy for ensuring the full recovery of this sector and those who work in it.

2) It is also now time to mainstream the human rights approach to cultural heritage. As I noted in my report for the 10th anniversary of the cultural rights mandate in 2019⁵, we have seen this language taken up by the Human Rights Council and General Assembly, by civil society and UNESCO, and by some governments. All of this progress is very heartening. But we still need this approach to be *actually implemented* both by international and national bodies, including armed forces, and systematically given meaning outside of meeting rooms in Geneva or New York – in the field. All states should systematically assess the progress that they have made in this regard, and we need to develop the tools to enable them to do so. We need to ensure this approach is used by the Security Council and is

in Reparations Order ICC-01/12-01/15, 17 August 2017, in the case of The Prosecutor v. Ahmad Al Faqi Al Mahdi, https://www.icc-cpi.int/CourtRecords/CR2017_05117.PDF).

⁴ [A/HRC/46/34 - E - A/HRC/46/34 -Desktop \(undocs.org\)](#)

⁵ [A/HRC/40/53 - E - A/HRC/40/53 -Desktop \(undocs.org\)](#)

included in the mandates of peacekeeping missions. We need to make sure that human rights informs the way we actually do the work in this area and is not just a pretty vocabulary for speeches at international meetings. And we need to work hard to ensure that there is no backsliding in this regard in the UN, at UNESCO or at the national level, eroding progress that has been made because there may be less international attention to this issue now than in 2016.

3) We also need tools that ensure a holistic human rights approach to heritage – an approach that addresses tangible *and* intangible heritage, that views heritage comprehensively rather than only a subset of it chosen by government or outside experts, that is concerned with both heritage protection in conflict *and* in non-conflict situations, that recognizes a diversity of threats to heritage whether from extremists *or* the climate emergency as I addressed in my 2020 report to the General Assembly⁶, that takes into consideration the heritage of all, including minorities – not just of some, that recognizes and preserves the hybridity and multi-layered nature of heritage that may be syncretic and represent what we share. Moreover, we need to ensure that we apply a human rights approach also to the question of how to respond in rights-respecting ways to historic heritage that may reflect histories of oppression and abuse (heritage is after all not static), and that we always employ a human rights approach which is participatory and consultative. A holistic approach means that we include everyone in the heritage discussion and pay careful attention to who may be left out. For example, I have encouraged 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

⁶ [A/75/298 - E - A/75/298 -Desktop \(undocs.org\)](#)

experts, and combating the particular challenges faced by women in accessing cultural heritage without discrimination.

4) We also need to stop using heritage as a tool to beat up our enemies, rather than expressing universal concern about its destruction. Our tools must facilitate universal approaches. I regularly receive selective reports about heritage destruction on only one side of a conflict when it may be happening or have happened in multiple directions. I long to hear states speaking about the destruction they may have engaged in in the past and what measures they are taking now to address that, or to express understanding of the suffering of others for the destruction of heritage precious to them. I learned on my missions about the power of joint approaches to heritage such as that of the bicomunal technical committee on cultural heritage in Cyprus which brings together Greek Cypriots and Turkish Cypriots to restore the heritage of everyone; or a civil society initiative in a divided post-conflict city I visited in Serbia and Kosovo which sought to bring diverse people together to visit and value everyone's sites. Such examples offer models for tools we can use. I greatly appreciate those from all backgrounds with whom I met who echoed such universalist views as "Culture can never be divided". For any tools to work, we have to be clear that cultural heritage is not a political football. There is an absolute need for mutual recognition of the cultural heritage of all, and of its importance and meaning for the human rights of various people.

I want to end with a quick story. In 2011, before I became Special Rapporteur, I was conducting academic research in North Africa. I will never forget the night when I visited a mausoleum outside Tunis in Sidi Bou Said with some local residents. We found that some elderly women were sleeping on the floor in the mausoleum because they were trying to protect it after it had been damaged by extremists. These women refused to leave and let that site be vulnerable. Let us show as much determination and ingenuity as those stalwart

women did – today, tomorrow and in our work together going forward - to protect all our cultural heritage, and the human rights it helps to guarantee. Thank you.