Maat for Peace’ Submission on “Cultural Rights & the Governance of Development”

**Introduction**

Government policies, programs and initiatives are usually centered around political and economic rights while cultural rights are usually not taken as seriously. This report will shed light on some of the efforts committed by two European countries, France and Germany in respecting the cultural heritage of national minorities and non-nationals that exist within their territories while also focusing on several points of concern that are manifested in controversial laws that lead to clear violations of cultural rights and a disregard of the effective participation of these groups in society. The points of concern mentioned in this report revolve around laws banning religious symbols in the form of clothing which is a part of many Muslim women’s cultural heritage, linguistic laws and the lack of monitoring and evaluation mechanism as well as mechanisms to submit complaints and seek reparation in cases of violations. Followed by that will be a set of recommendations and then a section that provides answers to the additional questions posed to civil society organizations by the Special Rapporteur.

**The case of France**

*Positive efforts*

Twenty-six pieces of artifacts that were looted by French colonial soldiers in 1892 were restored to Benin in November 2021, marking a turning point in the continent's long battle to reclaim stolen artifacts[[1]](#footnote-1). The amount of restitution is the most France has ever given to a former colony, but it only covers a small portion of the 5,000 works that Benin is asking for their return and the tens of thousands of seized African works that France currently has[[2]](#footnote-2). France has already restored a number of other items to former African colonies and vows it will do so again[[3]](#footnote-3). The process however has been excessively slow and restricted[[4]](#footnote-4).

It is presently estimated that 90% of Africa's cultural legacy is located in Europe[[5]](#footnote-5). Around 70,000 African artifacts are housed at the Quai Branly museum alone[[6]](#footnote-6). Around 46,000 of them, according to a 2018 analysis commissioned by the French government, should be eligible for repatriation[[7]](#footnote-7). While there are many pieces left to return to their countries of origin, the positive point about the French government’s decision was that it ignited a spark for other nations to follow as Germany and Belgium chose to take similar actions and begin restitutions processes with Nigeria and the Democratic Republic of the Congo.

*Points of Concern*

It is well known that many Arabs and Africans have decided to reside in France over the decades, especially from Arab and African countries that were under French colonialism but were able to gain their independence. And while it is expected that they would be allowed to transmit and express their cultural heritage and to take part in decision making process that affect their cultural life after all the years they have lived in the country and benefitted it in one way or another, many do not get the chance to do due to discriminatory laws that directly affect one’s cultural rights.

Several of France’s recent laws voted on by the French Senate are claimed to be part of Paris’s plans to bolster the country’s secular system but it is quite obvious that such laws purposely single out the minority Muslim population.

The French Senate voted in favour of outlawing hijabs at sporting events in January 2022, citing the need for impartiality on the playing field as justification[[8]](#footnote-8). With 160 votes in favour and 143 votes against, the amendment, which was put forth by the right-wing organisation Les Republicains was approved[[9]](#footnote-9). The amendment's goal of prohibiting "the wearing of the veil in sports competitions" is made crystal clear in the text that senators wrote. They continued by saying that when athletes wear headscarves to practise their sport, it could endanger their safety. Additionally, women have already been prohibited from wearing the hijab during official games and at tournaments that the French Football Federation hosts[[10]](#footnote-10).

It is important to note that the vote took place a year after members of the lower house of the French Parliament approved a bill to tighten regulation of mosques, schools, and sports organizations in an effort to protect France from "radical Islamists" and to encourage "respect for French values"[[11]](#footnote-11). This strongly implies that banning veils during sports competition was not voted on for the safety of the players as the senators claimed, but is a way of depriving Muslim women from expressing their religious beliefs which is a significant part of their cultural heritage.

The suppression of Algerian identity and the silencing of diaspora-based counternarratives are both directly impacted by the current rise in political xenophobia. Additionally, right-wing populists still impose their own version of France's colonial past, frequently highlighting the alleged advantages of colonization. For instance, the Cercle Algérianiste, an organization recognized for bringing together those who are nostalgic for the French colonial empire, organized a sizable event on June 26th, 2022, in Perpignan as a tribute to French Algeria[[12]](#footnote-12). So not only is the French government suppressing certain cultures, but it has allowed a repressive narrative to fester in some parts of the country.

France's linguistic laws have often caused debate. Early in 2021, the French Senate and Assembly approved legislation to support regional languages, which was a positive step towards the acknowledgement of regional identities. On May 21, 2021, the French Constitutional Court ruled that regional languages may not attain the status of "immersive" in public educational institutions[[13]](#footnote-13). Their argument was that the Republic's official language is French, which may be in breach of Article 2 of the French Constitution. However, in reality, a lot of educational institutions and so-called immersion schools promote the use of English alongside French[[14]](#footnote-14), producing the absurd discrimination between national minority languages and a foreign language. France is a a signatory to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. According to Article 4.3, the French government has committed to the right to allow national minorities to be able to learn in their mother tongue. It is in addition a signatory of the Covenant on Civil and Political Rights that guarantees minority rights promotion, including their cultural rights.

*Lack of monitoring and evaluation mechanisms*

When it comes to monitoring or evaluation mechanisms or ones established to be used to submit complaints and seek reparation in cases of violations, it seems that France is lacking. While it has a National Human Rights Institution (NHRI) and the Ombudsman, an independent institution that protects and promotes human rights as well as a functioning legal system, they are all mechanisms that address complaints for all human rights generally but there seems to be no mechanism that is solely dedicated to receiving complaints in case of cultural violations. Even if civil society organizations are active in terms of promoting and protecting cultural rights by providing advice and advocacy for individuals who have experience cultural violations, they cannot offer reparations to victims.

**The Case of Germany**

*Positive Efforts*

Germany has made some positive efforts towards respecting the cultural heritage of Syrians who have been moving to Germany over the last years as a result of the events going on in their own country. The Syrian Heritage Archive Project in Berlin, which compiles images of Syria from both before and after the country's civil conflict, serves as an example of this[[15]](#footnote-15). “The Cultural Landscape of Syria: Preservation and Archiving in Times of War" and "Syria's Cultural Heritage in Germany" are just two of the exhibitions that have taken place as part of this initiative in 2019. These exhibits seek to increase visitors' understanding and respect of Syrian culture, particularly among Germans.

Germany has handed over twenty-one priceless artifacts to Nigeria that were looted by British soldiers from the former west African nation of Benin 125 years ago[[16]](#footnote-16). The British government, which owns the biggest collection of Benin bronzes in the British Museum but whose governments have obstructed restitution talks for more than a century, came under fire as Nigeria welcomed the restoration of its long-lost cultural heritage[[17]](#footnote-17). This step taken by the German government generates hope for political momentum that would compel the UK government to break its century-long quiet on the issue.

*Point of Concern*

Muslim women in Germany face the same problem as Muslim women in France when it comes to wearing the hijab, burqas and niqabs. Germany's position on burqas and niqabs is still divided, with some states forbidding them in public places like schools, while others worry that doing so could impede integration. Germany's constitutional court lifted a prohibition on teachers wearing burqas in 2015 after finding that it violated their right to practise their religion. Nevertheless, eight German states still forbid female instructors from wearing the hijab[[18]](#footnote-18). The western German state of Baden-Wurttemberg outlawed full-face Islamic clothing, often known as the burqa or niqab, in schools in July 2020, claiming that such clothing has no place in a free society[[19]](#footnote-19).

A controversial law prohibiting the wearing of ideological or religious symbols by public employees while working was enacted by the German Senate in 2021[[20]](#footnote-20). This occurred shortly after Swiss voters approved a ban on the burka and niqab. The bill's text was extremely ambiguous, which was likely to result in arbitrary execution by the government and violate the fundamental rights of Muslim women employed in the public sector[[21]](#footnote-21). Furthermore, the government's hasty introduction of the Act without prior consultation with the nation's religious communities was a major criticism of the decision[[22]](#footnote-22).

**Answers to additional questions for civil society actors**

As a civil society actor, Maat seeks to employ the human rights approach and use its different mechanisms and tools to promote the values and practices of social peace, development, democracy and good governance at home, and work through international, regional and local mechanisms and bodies and within the framework of networks and alliances to advocate and gain support to promote peace practices and policies and sustainable development, combat all forms of violence and conflict and the absence of justice and finally follow-up on the application of international humanitarian law.

Through our Sustainable Development Unit, we work closely with marginalized groups through programs that target them directly. We implement awareness and capacity building programs as well as mobilize and advocate on their behalf to improve and develop their conditions. Moreover, we communicate with both the official and unofficial bodies in order to support the rights of marginalized groups and help them overcome the obstacles they face, whether they are political, economic social or cultural. We deal and interact with people of different backgrounds on a daily basis and so our respect for diversity is nurtured and integrated in each and every process that we commit to.

**Recommendations**

Despite some positive efforts, cultural rights of minorities and non-nationals in France and Germany are not always respected thus creating barriers between the different groups living within these countries and ending any notions of cultural diversity. As a result, Maat recommends the following:

When it comes to laws banning Muslim women from wearing the hijab or niqab, Maat calls for these laws to be overturned as they deprive thousands of Muslim women from expressing their religious beliefs which is a significant part of their cultural heritage. These laws do not only represent a hindrance to the enjoyment of religious rights but cultural rights as well. Moreover, if any law related to religion or one that would have an impact on one’s cultural life is to be voted on, it must be drafted with the presence of all the different groups that exist in the country so they can exercise their right to effective participation and consultation. For this process to be representative, representatives from different religious minorities need to be present along with usually marginalized groups such as youth and women.

The same recommendation should be applied when dealing with linguistic laws. The presence of national minorities in the drafting of such laws is of critical importance especially that these laws have a direct impact on their cultural life and their right to enjoy and transmit their language. Governments should also provide financial and technical support to these national minorities to build community schools where their languages will be freely taught and will thus have the right to access and transmit creative expressions and knowledge.

The lack of monitoring and evaluation mechanisms or mechanisms established for people to submit complaints and seep reparation in cases of cultural violations is problematic. It is not enough to have a NHRI that handles violations of all rights as most policies and programs are already focused on political and economic rights and tend to disregard cultural rights. As a result, there must be a mechanism that is dedicated to handling violations specifically related to cultural rights and also responsible for collecting data on any negative patterns or trends and publishing it in easily accessible reports in order to identify the root problems of such violations so governments can act quickly to counter these patterns whether it is through policies, programs or short initiatives.

1. Reuters Staff. “France returns 26 looted artifacts and artworks to Benin.” CNN, 12 November 2021, <https://cnn.it/3mzDQsM>. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. Ibid. [↑](#footnote-ref-5)
6. Ibid. [↑](#footnote-ref-6)
7. Ibid. [↑](#footnote-ref-7)
8. Al Jazeera Staff. “French senators vote to ban hijab in sports competitions.” Al Jazeera, 19 January 2022, <https://bit.ly/3A0TkZO>. [↑](#footnote-ref-8)
9. Ibid. [↑](#footnote-ref-9)
10. Ibid. [↑](#footnote-ref-10)
11. Ibid. [↑](#footnote-ref-11)
12. Cazemier, Mathijs. “Memories are to be shared.” Africa Is a Country, 9 August 2022, <https://bit.ly/3KXixLc>. [↑](#footnote-ref-12)
13. UNPO Staff. “France: UNPO Submits Universal Periodic Review to UN on Treatment of Minorities.” UNPO, 14 October 2022, <https://bit.ly/43vaKeP>. [↑](#footnote-ref-13)
14. Ibid. [↑](#footnote-ref-14)
15. Kufner, Christina. “Syria’s culture lives on – in Berlin.” DW, 28 February 2019, <https://bit.ly/41nlwSm>. [↑](#footnote-ref-15)
16. Oltermann, Philip. “Germany returns 21 Benin bronzes to Nigeria – amid frustration at Britain.” The Guardian, 20 December 2022, <https://bit.ly/3oeHHvX>. [↑](#footnote-ref-16)
17. Ibid. [↑](#footnote-ref-17)
18. Fatima, Sakina. “New German law may prohibit wearing of headscarves for public employees.” The Siasat Daily, 27 May 2021, <https://bit.ly/409uscY>. [↑](#footnote-ref-18)
19. Ibid. [↑](#footnote-ref-19)
20. Ibid. [↑](#footnote-ref-20)
21. Ibid. [↑](#footnote-ref-21)
22. Ibid. [↑](#footnote-ref-22)