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***Cultural rights and the protection of cultural heritage***

**Inter-sessional seminar organized by
the Office of the United Nations High Commissioner for Human Rights**

**7 July 2017**

**Palais des Nations, room XIX,
Geneva, Switzerland**



**Objectives of the seminar**

As mandated in resolution 33/20, the seminar aims at addressing 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 at identifying best practices in this regard.

To achieve this, the seminar is designed to build on the recommendations already available in 3 reports by the Special Rapporteur in the field of cultural rights and her predecessor (A/HRC/17/38, A/HRC/31/59 and A/71/317), the relevant study of the Expert Mechanism on the Rights of Indigenous Peoples (A/HRC/30/53), Human Rights Council resolution 33/20 of 27 September 2016 and Security Council resolution 2347 of 24 March 2017, and to discuss practical and concrete actions that should be taken towards their full and timely implementation. Participants are encouraged to read or review all of these documents ahead of time so as to maximize the output of the discussion.

Over the last few years, a number of reports, international conferences, expert meetings and initiatives have focused on cultural heritage, many of them as a response to high profile incidents of its intentional destruction. This seminar will aim to avoid repeating such discussions, and instead to focus on drawing together lessons learned from all of them, identifying gaps and priorities for implementation.

The program will focus on the human rights approach to cultural heritage, as elaborated in the reports of the Special Rapporteur in the field of cultural rights. It will adopt a holistic approach, including consideration of different models and patterns of intentional destruction of cultural heritage, tangible and intangible, in time of armed conflict as well as in time of peace, by State and non-state actors. In doing so, it will also consider the cultural heritage of *inter alia* indigenous peoples, minorities, women and other non-dominant groups. Specific challenges related to participation in cultural heritage, the relationships between cultural heritage destruction and displacement, questions of accountability and transitional justice will also be raised.

The seminar will be complemented by an expert meeting, to be held in Geneva on 6 July 2017, which will prepare the discussion of the seminar and identify key actions and concrete implementation strategies to be considered by all stakeholders the following day.

**Format**

The seminar will be an open meeting. It will be structured in three thematic sessions with panellists, one in the morning and two in the afternoon, with a time for preliminary conclusions respectively at the end of the morning and of the afternoon.

For each thematic session, 2 to 3 expert panellists will make a short presentation in their field of expertise and suggest concrete implementation strategies, taking into consideration the issues proposed for consideration. The remainder of the session will be dedicated to interaction between all participants (limited to 2 minutes per intervention), concluded by 15 minutes for comments and replies by the panellists.

At the end of the morning and of the afternoon, time will be devoted to compiling possible conclusions and recommendations to be included in the summary report of the seminar, which will be prepared by the Office of the High Commissioner for Human Rights and presented at the 37th session of the HRC. Participants will also be invited to share their ideas on possible follow-up steps that could be taken to implement the Special Rapporteur’s and other relevant reports, as well as to follow up from the seminar.

*Participation*

States, relevant United Nations agencies, funds and programmes, other international organizations, civil society organisations, national human rights institutions, cultural rights defenders and all relevant stakeholders from different parts of the world who are involved in the protection of cultural heritage are welcome to participate actively. Information regarding registration can be found on page: [www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx](https://www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx)

Participants are encouraged to intervene in an interactive way, through questions, comments and sharing of experiences, good practices and challenges as well as suggested recommendations on the way forward, with a view to stimulating constructive debate. States, national human rights institutions, non-governmental organizations and other stakeholders are also encouraged to include in their respective delegations relevant cultural heritage professionals or other actors involved in protection of cultural heritage.

People who will not be able to attend the seminar have the possibility of submitting a written contribution of max 2’000 words, mentioning the issue for discussion from the agenda they are addressing

**Agenda of the Seminar**

**7 July 2017, 10:00-18:00**

**Palais des Nations, room XIX**

**Morning**

**10:00 – 11:00 : Opening**

* Welcoming remarks **Ms. Peggy Hicks**

Director, Thematic Engagement, Special Procedures and Right to Development, OHCHR

* Short presentation of the program by the moderator

**Ms. Sneška Quaedvlieg - Mihailovic**

Secretary General of Europa Nostra

* Opening statements Representative from the core group of States

Sponsors of HRC resolution 33/20

 **Ms. Karima Bennoune**

Special Rapporteur in the field of cultural rights

**SESSION I: Cultural Heritage Protection**

Overview of advances in the last few years, including Human Rights Council Resolution 33/20 and the Special Rapporteur in the field of cultural rights’ reports, Security Council Resolution 2347, UNESCO’s Unite 4Heritage and other strategies, the verdict in Prosecutor v. Al Mahdi at the International Criminal Court and the first ratification of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict by a permanent member of the Security Council, and other international, regional and national developments, with a view to identifying the added value of a human rights approach to the field and the obstacles to its mainstreaming.

*It is critical to recognize cultural heritage as living and in an organic relationship with human beings. This encourages its preservation and discourages its destruction. […]
 Much of what we consider heritage is the result of continuous recreation throughout history, with each layer adding to its meaning and value.*Special Rapporteur in the field of cultural rights, A/71/317, para. 6 and 13

*Experience has shown the positive role of culture-driven initiatives to foster mutual recognition and dialogue during and in the aftermath of conflict, and the critical role of culture and heritage as drivers and enablers of sustainable development.*UNESCO, 2015 strategy, 38 C/49

**11:00 – 12:30: Existing protection mechanisms and recent developments**

*Introductory presentations by:*

* Mr. Giovanni Boccardi, Emergency Preparedness and Response Unit, Culture Sector, UNESCO
* Ms. Patty Gerstenblith, De Paul University College of Law
* Ms. Christiane Johannot-Gradis, Traditions pour demain
* Ms. Shamila Batohi, International Criminal Court

*Issues to be discussed include, inter alia:*

* How have recent advances impacted the protection of cultural heritage on the ground? The work of people and organization involved in it, including cultural heritage defenders?
* What is the added value of the human rights approach? What will it changed if integrated in the work accomplished so far and how far have we progressed in mainstreaming that approach, which is incorporated into HRC Resolution 33/20 but absent from SC Res. 2347? What are the obstacles to mainstreaming that approach?
* What are the outstanding gaps or limitations? How do we ensure that “forgotten” patterns of cultural heritage destruction are also part of the international discussion and agendas, and that there will be an inclusive approach, as well as follow up, rather than short term focus on certain high profile incidents?

**12:30- 13:00: Implementation priorities for a human rights approach to cultural heritage**

Identification of top priority areas to focus on in regards to implementation, including in the areas of prevention and accountability.

**13:00 – 15:00: Lunch**

**Afternoon**

**Respecting, protecting and fulfilling cultural rights in the field of cultural heritage**

 Consideration of the cultural rights of all persons and groups in regards to cultural heritage protection, including cultural rights defenders and the challenges they face, the most appropriate conditions to ensure meaningful engagement of persons and groups in the identification, interpretation and stewardship of cultural heritage, as well as participation in decision-making concerning its restoration, reconstruction and eventual destruction. Identification as well of emerging or exiting human rights challenges in the field of cultural heritage that have received too little attention and could be addressed through a human rights and cultural rights approach.

**SESSION II**

**15:00 – 16:30: The conditions for meaningful engagement of right-holders**

*Although States have the obligation to respect and protect cultural heritage in all its forms, the challenge is not so much to preserve cultural goods and practices as they are, which may be inappropriate in certain circumstances, but preserve the conditions which have enabled these goods and practices to be created and developed.*Special Rapporteur in the field of cultural rights, A/HRC/14/36, para. 30

*Introductory presentations by:*

* Mr. Mikel Mancisidor, Committee on Economic, Social and Cultural Rights
* Kristen Carpenter, Expert Mechanisms on the rights of indigenous people
* Mr. Omara Khan Masoudi, Former Director of the National Museum of Afghanistan, UNESCO Consultant, Kabul, Afghanistan *(by video message)*
* Mr. Peter Stone, UK Committee of the Blue Shield

*Issues to be discussed include, inter alia:*

* Challenges facing cultural rights defenders in the field of cultural heritage protection and measures to minimize the risks and ensure their safety and security: What are the biggest risks to and challenges facing cultural rights defenders in the field of cultural heritage protection? What needs to be done internationally, using the standards, initiatives and approaches developed in recent years, to help minimize these risks and overcome the challenges? What particular challenges are there in the specific areas of visas, travel restrictions, and access to asylum when relevant?
* The implication of different stakeholders in the areas of prevention, accountability, reparation and reconstruction, including cultural heritage professionals, local and displaced populations (memorialization initiatives): Do international initiatives, sufficiently involve and consult local cultural heritage experts and defenders, and relevant populations? If not, what more can be done to ensure this takes place?
* Recognition of the cultural heritage of those who are not in position of power: What connections need to be made regarding women’s, minority and indigenous rights and the rights of displaced persons to participate in cultural heritage and be empowered by it?
* Specific challenges connected with intolerance and non-respect of cultural diversity, including questions relating to fundamentalism and extremism
* General awareness and education to cultural heritage, as well as specific training needs: What particular challenges are there in the areas of capacity building and training? When and where should general awareness and education to cultural heritage take place?
* International cooperation for cultural heritage protection that is compatible with human rights: what connections need to be further developed with/ between agencies and stakeholders? Is international funding reaching those who need it most and could have the most impact?

**SESSION III**

**16:30 – 17:30: Issues needing further attention**

Discussions on the manner that the proposed cultural rights approach to the field of cultural heritage and the existing framework and recommendations can be used to better address issues that have not been sufficiently considered yet.

*Fulfilling these obligations constitutes an enormous challenge, especially in societies where people feel that their common cultural heritage is under threat, due, in particular, to the dynamism or dominance of other cultures, globalization and development processes and/or the dominant position of corporate actors in the field of culture and leisure.*Special Rapporteur in the field of cultural rights, A/HRC/14/36, para. 31

*Introductory presentations by:*

* Ms. Rita Izsak-Ndiaye, Special Rapporteur on minority issues
* Ms. Tui Shortland, Te Kopu, Pacific Indigenous & Local Knowledge Centre of Distinction
* Mr. Daouda Keita, Université des Sciences Sociales et de Gestion de Bamako, Mali

*Issues to be discussed include, inter alia:*

* What connections need to be made to broader contexts in which cultural heritage needs protection, and to other threats to cultural heritage such as from economic developments and natural disasters?
* What are the best means to implement a participatory approach to identifying and defining the meaning of cultural heritage that should be protected and safeguarded, before and during threats? How can we better protect the cultural heritage chosen and cherished by those who are not in position of power?
* The relationship between safe havens for cultural goods in times of conflicts and the people from the same region, who have living relationships with that heritage: Where safe heavens for cultural goods are open in times of conflicts, what should the implications be regarding displaced peoples, refugees, and migrants from the same countries, who have living relationships with that heritage? How can the groups and victims be involved in decision making processes regarding how to handle damaged and destroyed cultural heritage, including reconstruction, restauration and memorialization initiatives?
* Which policies and regulations are most adequate to strengthen due diligence regarding illegally removed cultural heritage goods?
* Where cultural heritage, and especially intangible heritage, has been lost, what measures, policies and processes are necessary to support to create favorable conditions for the development of new and shared meanings, values and practices involving all relevant individuals and groups?
* How can transitional justice efforts and strategies ensure that a variety of narratives on specific events are taken into account and given appropriate space?

**17:30 – 18:00: Recommendations and possible follow-up**

General discussion about the focus and possible follow-up initiatives to the seminar, including suggestions of actions for States, international organizations, national human rights institutions, non-governmental organizations, cultural heritage professionals, human rights and cultural rights defenders and other relevant stakeholders.

* Concluding remarks **Ms. Karima Bennoune**

Special Rapporteur in the field of cultural rights