**Human Rights Council Session 31**

**Panel: “Destruction of Cultural Heritage: Contextualizing the human rights aspect**

**with a view to prevention or mitigation,”**

**29 February 2016**

**Remarks by Karima Bennoune, Special Rapporteur in the Field of Cultural Rights**

Good afternoon.

I am very honoured to be taking part in this important event and I offer my sincere thanks to the organizers, in particular to the mission of Cyprus which has generously made my participation here today possible. Let me say to the organizing delegations and those involved in the statement how heartened I am by your efforts to address this critical human rights issue. As a child, my parents regularly took me to visit the glorious Roman ruins at Tipaza just outside of Algiers where I in part grew up. They instilled in me a love for these manifestations of heritage for which I remain very grateful. I remember the awed feeling that site gave me of being part of a long human continuum. And so I was especially horrified by an image I saw just last night on the internet of smiling children among those who had been gathered to watch the smashing of artefacts from Palmyra.

In light of recent events like this which have shocked the conscience of the world, I have chosen as the first theme of my work intentional destruction of cultural heritage. I see this as an urgent priority. In future, I also hope to explore other forms of destruction of cultural heritage, such as that in the name of development.

Cultural heritage is significant in the present, both as a message from the past and as a pathway to the future. Viewed from a human rights perspective, it is important not only in itself, but also in relation to its human dimension. While specific aspects of heritage may have particular resonance for and connections to particular human groups, all of humanity has a link to such objects, which represent the “cultural heritage of all [hu]mankind,” to paraphrase the words of the 1954 Hague Convention.

My predecessor as Special Rapporteur, Ms. Farida Shaheed, established how the right of access to and enjoyment of cultural heritage forms part of international human rights law, finding its legal basis, inter alia in the right to take part in cultural life. Cultural heritage is a fundamental resource for other human rights also, in particular the rights to freedom of expression, freedom of thought, conscience and religion, 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.

In its General Comment No. 21, the Committee on Economic, Social and Cultural Rights recalled that article 15 of the International Covenant on Economic, Social and Cultural Rights includes the obligation to respect and protect cultural heritage. Numerous other international instruments including many developed through UNESCO also protect cultural heritage.

Because destruction of heritage often results from armed conflict, whether as so-called collateral damage or due to deliberate targeting, a special regime governs its protection in times of conflict. The core standards include, the 1954 Hague Convention and the protocols thereto. I believe that Dr. Kristen Hausler will address this framework in depth so I will only make a few general remarks about it. I must say that I have heard worrying reports of violations of these provisions in recent and ongoing conflicts which I hope to consider going forward.

I also note with concern that many States, including many members of the Council, have not adhered to these standards, in particular the Second Protocol, which only has 68 parties. Moreover, some experts suggest that even States that have done so may not have enacted adequate implementing legislation or fulfilled their obligations. (For example, I was dismayed to learn from cultural heritage professionals that, there have reportedly not been any *national* prosecutions on the basis of the 1954 Convention.) I hope we will take away from this meeting a commitment to work toward universal ratification and good faith implementation of all the relevant instruments.

 In the UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage adopted in 2003, the international community reaffirmed its commitment to fight against the intentional destruction of cultural heritage in any form so that it may be transmitted to succeeding generations. I stress the importance of the 2003 UNESCO Declaration and I hope we will all work for its full implementation.

In addition to tackling the role of States which is crucial, attention must also be paid to the robust use of international standards such as article 19 of The Hague Convention – and developing other strategies – for holding non-State actors to account and preventing their engaging in destruction. One added value of a human rights approach is the reminder that, in the words of the Universal Declaration of Human Rights, every individual and every organ of society has a duty to promote respect for human rights.

 Individual criminal responsibility arises from serious offences against cultural heritage.While I do not wish to prejudge the outcome, I very much hope that we will see further cases like the one currently proceeding in the ICC in regard to the destruction of 8 mausoleums and a mosque in the area of Timbuktu. Accountability is critical.

In my report I give a few examples of recent acts of destruction. I must stress that these attacks, which deeply affected the local populations, are just a few examples and reports are forthcoming from a number of regions of the world of a similar pattern of attacks by States and non-State actors – I hope to be able to consider much more of this in my next report. Unfortunately, there is a long human history of such acts in all regions of the world, whether in wars, revolutions or waves of repression. However, in the early twenty-first century, a new wave of deliberate destruction is being recorded and displayed for the world to see, the impact magnified by widespread distribution of the images, an aspect which some have called “visual terrorism.” Such acts are often openly proclaimed and justified by their perpetrators. This represents a form of cultural warfare being used against populations, and humanity as a whole, and one which I condemn in the strongest possible terms. It represents an urgent challenge to cultural rights which requires rapid and thoughtful international response, including by the UN human rights system. One challenge before us is to find a way to prevent and punish such destruction which inherently involves publicizing it, while also avoiding the danger of our very reaction making it an even more attractive crime to terrorists who are precisely seeking such publicity. This is a paradox with which we must grapple.

The preamble of the 2003 UNESCO Declaration stresses that “cultural heritage is an important component of cultural identity and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights”. This is certainly the way it is often experienced by local populations. A woman physician originally from Timbuktu, Mali whom I interviewed as part of my prior academic research before becoming Special Rapporteur explained to me that every family in her hometown, including her own, has saints among their ancestors, and those esteemed figures are buried in the cemeteries near their relatives’ graves. Her own father’s tomb was located next to the mausoleum of such a saint. When the saint’s tomb was destroyed by the armed groups, her father’s grave was also desecrated. “We are so powerless. What can we do?,” she asked me. After her father’s final resting place was attacked, her sister cried all day. The sister told me: “It was desolation after the mausoleums were destroyed. Everyone was crying… There are times when I have hope. And sometimes when I speak about this, it makes me sick. Sometimes I lose hope.” Haider Oraibi, the Director of the National Museum of Iraq, was reported to have wept after learning of Daesh destruction of Iraq’s relics, remarking, “They're just statues, [b]ut for us, they're living things. We came from them, we are part of them. That is our culture and our belief.” When extremists attacked Mosul’s museum, he was quoted as saying, “it was like someone wanted to kill you, like a murder.” One can hear in their words how much pain and suffering is caused by such destructions and how, in fact, they represent an assault on human dignity and human rights. Yet, the question is largely not being addressed by the international community as a question of human rights generally, or of cultural rights in particular. This must change. I hope to work with you to contribute toward the development of a human rights approach to the question of the destruction of cultural heritage.

My predecessor noted the added value of a human rights approach: beyond preserving and safeguarding an object or a manifestation in itself, the human rights approach to cultural heritage obliges one to take into account the rights of individuals and populations in relation to such object or manifestation. **It is impossible to separate a people’s cultural heritage from the people itself and their rights.**

A critical, related question concerns the protection of the defenders of cultural heritage who are at risk, such as those who have curated and protected the National Museum of Afghanistan through decades of war and worked tirelessly to reconstruct the damaged pieces that could be saved after some 2,750 pieces were destroyed by the Taliban in 2001. Such defenders include cultural heritage professionals, such as Khaled al-Asaad, the Syrian archaeologist who died defending Palmyra in August 2015 and many others who today continue to labour in obscurity and danger. We must not wait to rally to their cause until we are mourning their deaths. Note that cultural heritage defenders may also include ordinary people like those in Northern Mali who reportedly hid manuscripts beneath the floorboards of their homes to protect them during the 2012 occupation or those who sought to peacefully protest the destruction of Sufi sites in Libya.

A human rights perspective on the protection of cultural heritage must emphasize the human rights of cultural first responders – those on the frontlines in the struggle to protect it. People like them are the guardians of the cultural heritage of local groups, and indeed of all humankind, and thus critical players in the defense of cultural rights. They often put their safety on the line to carry out this work. I am pleased that the issue of defenders of economic, social and cultural rights will be highlighted during this session of the Human Rights Council, and I sincerely hope that cultural heritage and cultural rights defenders will receive attention during these vital discussions. States must respect their rights and ensure their safety and security, but also provide them, including through international cooperation, with the conditions necessary to complete their work, including all needed material and technical assistance, and provide them with asylum when their work becomes too dangerous.

In the destruction of heritage and in its protection, new media is a game changer, capable of magnifying the impact of the initial destructive acts, but also of enhancing the means to mitigate the damage caused, such as through digitization. These tools should be widely made available to cultural heritage professionals.

A human rights approach also embraces prevention. Preventive action and education on the importance of cultural heritage and cultural rights are vital aspects of the endeavour to protect and safeguard cultural heritage.

Acts of deliberate destruction are often accompanied by other grave assaults on human dignity and human rights. As such, they have to be addressed in the context of holistic strategies for the promotion of human rights, and peacebuilding. We must care about the destruction of heritage in conjunction with our grave concern for the destruction of the lives of populations who live around it. To do otherwise is both immoral and counterproductive.

In the face of large-scale killings or assaults on the security of persons, attacks on cultural heritage may seem less important, and, understandably, there may be conflicting priorities. But, as a Haitian sculptor asserted in the context of the aftermath of natural disaster: “the dead are dead. We know that. But if you don’t have the memory of the past, the rest of us can’t continue living”.[[1]](#footnote-1)

Clearly, the destruction of cultural heritage is a human rights issue and the approach to stopping it needs to be holistic, encompassing all regions, contemplating both prevention and punishment, targeting acts by State and non-State actors, in conflict and non-conflict situations. We must respond urgently, but also take the long view. To that end, in my report to this session of the Council I made many recommendations to which I hope governments and civil society will give close consideration.

These are important issues not just in Paris at UNESCO, but also here in Geneva at the Council. We must all work together to safeguard heritage. As the human rights advocate Gita Sahgal pointed out, heritage is humanity. Indeed, I assert that it is a record of the genius of human beings, that which we leave behind for the next generations to mark our path through this world, and quite simply irreplaceable even in a digital world. Let our meeting here today be a beginning, not an end, of our collaboration to defend cultural heritage and cultural rights. Thank you again to the organizers and thank you for your kind attention.

1. Cited in Marc Lacey, “Cultural riches turn to rubble in Haiti quake”, *New York Times*, 23 January 2010. [↑](#footnote-ref-1)