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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil
political, economic, social and cultural rights,
including the right to development**


Intersessional seminar on cultural rights and the protection of cultural heritage

Report of the United Nations High Commissioner for Human Rights

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I. Introduction

1. In its resolution 33/20, the Human Rights Council requested the United Nations High Commissioner for Human Rights to convene a one-day intersessional seminar on 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 on best practices in this regard. On 7 July 2017, the Office of the United Nations High Commissioner for Human Rights (OHCHR) convened an intersessional seminar on cultural rights and the protection of cultural heritage.¹ The seminar was preceded by an expert meeting held in Geneva on 6 July.
2. The seminar was designed to build on the recommendations already available in three reports issued by the Human Rights Council mandate in the field of cultural rights (A/HRC/17/38, A/HRC/31/59 and Corr.1 and A/71/317), the relevant study of the Expert Mechanism on the Rights of Indigenous Peoples (A/HRC/30/53), Council resolution 33/20 and Security Council resolutions 2199 (2015) and 2347 (2017), and to discuss concrete actions that should be taken towards their implementation.
3. The panel discussion was moderated by Sneška Quaedvlieg-Mihailovic, of Europa Nostra. Opening statements were made by Peggy Hicks, OHCHR; Anna Korka, Permanent Representative of Greece to the United Nations Office at Geneva; and Karima Bennouna, Special Rapporteur in the field of cultural rights. The panellists were Ms. Bennouna; Giovanni Boccardi, United Nations Educational, Scientific and Cultural Organization (UNESCO); Patty Gerstenblith, De Paul University College of Law (United States of America); Christiane Johannot-Gradis, Traditions pour demain; Omara Khan Masoudi, former Director of the National Museum of Afghanistan; Mikel Mancisidor, Committee on Economic, Social and Cultural Rights; Peter Stone, UK Committee of the Blue Shield (United Kingdom of Great Britain and Northern Ireland); Rita Izsak-Ndiaye, former Special Rapporteur on minority issues; Daouda Keita, Université des sciences sociales et de gestion, Bamako; and Tui Shortland, Te Kopu, Pacific Indigenous and Local Knowledge Centre of Distinction (New Zealand).
4. The present summary was prepared by OHCHR pursuant to paragraph 14 of Council resolution 33/20.

II. Opening statements

5. In her opening statement, Ms. Hicks noted that the work of cultural rights defenders was the glue binding our ancestors and our children. In recalling the work of the Special Rapporteur in the field of cultural rights, she noted the significance of cultural heritage as a resource for the identity and development of individuals and groups, and the negative impact that its destruction had on several human rights and on people's capacity for resilience and peace.
6. Ms. Hicks underscored that respecting, protecting and realizing human rights, especially cultural rights, was the best and most sustainable way to protect and preserve cultural heritage. She stressed that earlier generations had entrusted us with their cultural heritage, and we had to ensure that it was transmitted to future generations. Cultural rights could and should guide us in that endeavour.
7. Ms. Korka took the floor on behalf of the core group of States that had sponsored Council resolution 33/20. She noted that destruction of cultural heritage was not a new phenomenon, but that terrorism, war and upheaval in various parts of the globe had caused a marked increase in the number and frequency of those incidents.
8. Ms. Korka recalled that in adopting resolution 33/20, the Council unconditionally condemned such destruction and expressed deep concern at the organized looting, theft,

¹ See www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx.

smuggling and illicit trafficking in cultural property. It invited States to adopt effective strategies to prevent destruction and to implement the recommendations in the relevant reports of the Special Rapporteur; underlined the important role that the Council could play in global efforts to protect cultural heritage; and called for the protection of cultural rights defenders. She underscored that a holistic approach was crucial in that respect; particularly a human rights perspective, which had been overlooked so far.

9. Ms. Bennoune noted with great concern the difficulties frontline cultural heritage experts faced in obtaining visas to participate in international events, as shown by the fact that Mr. Masoudi, former Director of the National Museum of Afghanistan, could not travel to attend the seminar. She thanked the core group for its leadership in the adoption of resolution 33/20 and urged it to continue pressing for its full implementation.

10. She recalled the efforts made by Mr. Masoudi and his colleagues to protect the museum's objects from armed groups in the 1990s and 2000s. She encouraged the international community to show as much courage and commitment as those and other frontline heritage defenders around the world had, and called on the relevant authorities to ensure that they had the safety, resources and visas they needed to perform their work.

11. Ms. Bennoune recalled the numerous testimonies she had received of the suffering caused by the destruction of cultural heritage, such as the destruction of the al-Hadba minaret in Mosul, Iraq, a few days before the seminar, demonstrating that it was no mere theoretical construct to say that intentional destruction of cultural heritage was a violation of human rights; it was the lived reality for many people around the world.

12. She underscored that the right of access to and enjoyment of cultural heritage formed part of the right to take part in cultural life, and recalled that cultural rights were at the core of human identity and enablers for many other civil, economic, political and social rights.

13. Ms. Bennoune emphasized the need for a human rights approach to the protection of cultural heritage and outlined priorities identified during the preparatory expert meeting, including: (a) mainstreaming of a human rights approach to cultural heritage across the United Nations system, regional bodies and relevant national bodies, including military forces; (b) adopting a holistic approach which encompassed all regions, brought together tangible and intangible cultural heritage, focused on prevention, education and accountability and targeted acts committed by State and non-State actors, in conflict and non-conflict situations; and (c) ensuring consultation with relevant stakeholders at local, national, regional and international levels concerning the meanings, interpretations and uses of heritage, as well as its protection, preservation, reconstruction, memorialization and nomination to the UNESCO World Heritage List.

14. She further called for a fully gender-sensitive approach to the protection of cultural heritage that included women cultural heritage experts in relevant forums and addressed women's challenges in accessing cultural heritage.

15. Ms. Bennoune committed to developing an implementation checklist setting concrete targets for States and civil society for the protection and enjoyment of cultural heritage. She provided a set of recommendations concerning ratification of relevant instruments, resource allocation, visa procedures and responses to extremist ideologies, which are reflected in section VI below.

Video projection

16. A seven-minute video was screened of Plácido Domingo, President of Europa Nostra and UNESCO Goodwill Ambassador, in which he calls cultural heritage — tangible and intangible — “our anchor in time”. *Cultural heritage* tells the closely interconnected stories of who we were in the past, who we are today and who we could become in the future. Intentional destruction of cultural heritage seeks to erase the record of human creation and our collective memory as human beings. Such deplorable acts must be firmly condemned and, eventually, stopped.

17. In the video, Mr. Domingo said that he had been deeply moved by the heroic stories of those cultural heritage defenders who had taken the greatest risks to protect their cultural heritage, sometimes even at the cost of their lives. He stressed that our best tribute to them would be to support their work and stand with the heritage heroes of today.

18. He underscored that it was our human right to protect and preserve cultural heritage; to access it, enjoy it and transmit it to future generations. Those rights could not be taken for granted and required our collective, vigorous defence. He endorsed the work of the Special Rapporteur in the field of cultural rights.

III. Existing protection mechanisms and recent developments

A. Statements by panellists

19. Mr. Boccardi noted that cultural rights were enablers for every other right and ultimately for peace, security and sustainable development. Conflict would persist unless those rights were addressed, protected and realized.

20. He stressed that in the last 15 years the work of UNESCO had placed more emphasis on the human dimension of culture and on its instrumental role in guaranteeing peace and sustainable development. That had led to the adoption of the Convention for the Safeguarding of Intangible Cultural Heritage in 2003; the Policy for the Integration of a Sustainable Development Perspective into the Processes of the World Heritage Convention in 2015; and the Strategy and Action Plan for the Reinforcement of Action for the Protection of Culture and the Promotion of Cultural Pluralism in the Event of Armed Conflict, also in 2015.

21. The Action Plan contained several elements required for the protection of cultural heritage, including from a human rights perspective, such as: (a) preparedness in times of peace, including by documenting cultural heritage; (b) strengthening of national institutional, legal and judicial frameworks; (c) adopting measures to strengthen resilience; (d) strengthening capacity-building in the cultural heritage sector and integrating culture and heritage within humanitarian, security and peacebuilding operations so that cultural rights were considered in conflict prevention and recovery processes; and (e) mainstreaming cultural rights and cultural diversity into education.

22. Mr. Boccardi appealed to the Human Rights Council to ensure continued work on resolution 33/20 and to support the UNESCO Strategy and Action Plan. He proposed working collaboratively with the Special Rapporteur in the field of cultural rights on a manual for the application of a cultural rights approach to humanitarian, security and peacebuilding operations, as well as a human rights approach to heritage conservation. He encouraged UNESCO and the Council to support that endeavour.

23. Ms. Gerstenblith noted that the destruction of cultural heritage could be seen as a security issue as well as a heritage and humanitarian concern. The destruction of cultural heritage, alongside the suppression of other cultural rights, was an indicator — often an early warning — of genocide and human rights abuses.

24. With regard to legal developments, Ms. Gerstenblith welcomed recent Security Council resolutions calling for the preservation of cultural heritage in the Syrian Arab Republic, Iraq and Mali² and increased ratification and implementation of international humanitarian law instruments that protected cultural property and cultural heritage during armed conflict, such as the 1954 Hague Convention for the Protection of Cultural Property in the event of Armed Conflict and its two Protocols.

25. She also recalled the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and welcomed the legislation adopted in Germany in 2016 broadening the application of the

² Resolutions 2347 (2017), 2359 (2017), 2295 (2016), 2199 (2015) and 2100 (2013).

Convention to illegal exports from all countries that had ratified it rather than to specific objects or conflict zones. She encouraged States to follow that example and ensure that they did not become markets for illegally removed cultural materials.

26. Ms. Gerstenblith further recognized the recent landmark prosecution at the International Criminal Court of Ahmad al-Faqi al-Mahdi for the destruction of shrines and monuments in Timbuktu, Mali. She hoped to see more prosecutions for intentional destruction and for destruction that resulted from extreme negligence or wilful disregard of cultural heritage protection imperatives.

27. Ms. Johannot-Gradis focused her presentation on the damages inflicted on cultural heritage, and particularly on intangible heritage, in armed conflict. That heritage encompassed cultural expressions, beliefs, know-how, traditional knowledge, etc. She noted that often, cultural heritage destruction resulting from war had devastating impacts on both its tangible and intangible dimensions, although harm to the latter was less visible. For example, alongside the destruction of the Timbuktu mausoleums, the local populations' intangible heritage was also gravely harmed. The rituals and ceremonies that had always been held around the mausoleums were banned during the conflict and had ceased to exist.

28. Ms. Johannot-Gradis recalled that no international humanitarian law norms specifically preserved intangible heritage; however, many of them did so indirectly by protecting life, physical integrity, dignity, non-discrimination, religious practices and other fundamental human rights. The International Court of Justice had several times ruled that human rights norms remained primarily applicable in armed conflict when it offered more precise protection in a given situation than international humanitarian law. Cultural rights, particularly the right to participate in and have access to cultural life and heritage, were crucial for the protection of intangible cultural heritage in armed conflict.

29. She stressed that no norms of the Convention for the Safeguarding of the Intangible Cultural Heritage formally prescribed its application in armed conflict; however, the Intergovernmental Committee established under the Convention had adopted the principle of the applicability of the Convention in armed conflict, and had recently decided that operational modalities for the implementation of the principles of the Convention in case of emergencies, including armed conflicts, must be explored.

30. Ms. Johannot-Gradis stressed that the low level of ratification of relevant treaties was a major obstacle to the protection of cultural heritage in wartime, as was their weak implementation due to insufficient preventive measures before (military training), during (operational protection measures) and after war (accountability and reparation mechanisms).

B. Summary of discussions and inputs received

31. During the interactive discussion, representatives of the following States took the floor: Azerbaijan, Egypt, Ethiopia, France, Iraq, Israel, Italy, Serbia, Switzerland and Russian Federation. Representatives of the following organizations made statements: Advisory Body Initiative to the World Heritage Convention, National Human Rights Council of Morocco, Observatory for Diversity and Cultural Rights, RASHID International and Technical Committee on Cultural Heritage in Cyprus. A staff member of the OHCHR Minority Fellowship Programme spoke. Written inputs were also received from States and civil society.

32. Several participants underscored the importance of resolution 33/20 in introducing a human rights-based approach to the protection of cultural heritage, and thanked Ms. Bennouna for her 2016 report in which she proposed recommendations for the adoption of such an approach.

33. One participant underscored that culture was an essential source of sustainability of diverse groups and was particularly vulnerable during and after armed conflicts or terrorist attacks. The aim of intentional and systematic destruction of cultural heritage was often to undermine specific cultural identities, which could sometimes be qualified as "cultural cleansing". Another participant noted that the destruction of cultural heritage unveiled a

hierarchization of cultures; therefore, its protection served to affirm the universality of culture.

34. A participant noted that intangible cultural heritage and its practitioners could be targeted during hostilities, in particular in cases of religious, ethnic or cultural conflicts. That heritage could also be destroyed or disappear unintentionally, for instance when its custodians had to flee war or could not participate in its manifestation due to circumstances related to the conflict, or when the persons or means enabling its transmission were missing, such as when children were separated from their parents or could not attend school to receive an education respectful of their culture.

35. Several participants stressed the need for stronger condemnation of and better responses to the intentional destruction of cultural heritage. The international community must focus its efforts on ending destruction of cultural heritage by terrorists. Recalling that trade in cultural heritage was thought to be one of the funding sources for terrorist operations, they welcomed the adoption of international instruments to combat the financing of terrorism, but noted that further efforts were needed.

36. Representatives noted that the restoration of damaged world cultural treasures could not be regarded as the sole responsibility of individual States, which often did not have the capacity to undertake such tasks. As stressed in resolution 33/20, affected States needed international assistance to protect and recover their cultural heritage.

37. The author of a written submission stressed that the best way to protect archaeological sites and objects was to document and record them. Inventories of heritage sites formed the basis for legislative protection and prosecutions, and local populations must be actively involved in their elaboration.

38. Regarding the need to increase ratifications of the relevant treaties, participants urged States parties to the relevant treaties to make use of the universal periodic review to encourage other States to ratify them.

39. Participants underscored the need to formalize a human rights approach to the preservation of cultural heritage that also included positive outcomes in terms of economic development, education, literacy and minority involvement in decision-making. They also emphasized the need for stronger linkages between the heritage and human rights fields.

40. The representative of the Technical Committee on Cultural Heritage in Cyprus noted the need to develop a model for the safeguarding of cultural heritage that not only focused on protection from war and conflict, but also from prejudices against minority groups and from inadequate public policies that disregarded the positive role that cultural heritage could play in sustainable development.

C. National experiences

41. The representative of Italy said that, in its international cooperation, the Government supported the inclusion of commitments aimed at protecting cultural heritage in the mandate of peace operations, promoted the training of peacekeepers and prioritized the protection of cultural heritage.

42. The representative of France noted that the International Alliance for the Protection of Cultural Heritage in Conflict Areas, launched in April 2017, focused on protecting tangible cultural heritage through shelters, but acknowledged that there was a continuum linking tangible and intangible heritage.

43. The representative of Israel said the imperative of preserving the cultural heritage sites of all religions and cultures was enshrined in its national legislation and in the work of relevant national institutions.

44. The representative of Egypt pointed out that the 2014 Constitution mandated the State to preserve the country's heritage and to entrench the principle of diversity and protection of tangible and intangible cultural heritage. Egypt had been the subject of many

terror attacks on cultural sites, such as the attack on the Islamic Museum in 2014 and the destruction of one of Egypt's most historic churches in 2017.

45. The representative of Ethiopia explained that the country had nine tangible and three intangible cultural heritage sites listed in the UNESCO heritage lists. Ethiopia had been a victim of plundering and looting of its heritage. A greater danger was the deliberate destruction of heritage as part of the deculturalization process used by terrorist groups.

46. The representative of Iraq recalled that the country had been the subject of terrorist attacks that destroyed and pillaged historic sites, such as Jonah's tomb, a number of religious sites, churches, mosques and, more recently, the al-Nuri mosque and the al-Hadba minaret. The representative of RASHID International welcomed the move by Iraq towards acceding to the Second Protocol to The Hague Convention.

47. The representative of Cyprus noted the country's rich tradition of intangible cultural heritage. In implementing the 2003 UNESCO Convention, the Government had adopted the following measures: (a) compiling and publishing a first register of heritage elements in the Cyprus Research Centre's Oral Tradition Archive; (b) updating annually the National Inventory of Intangible Cultural Heritage, with the involvement of concerned populations; (c) launching a funding scheme to support activities to safeguard elements in the National Inventory; (d) providing training to community members on the identification of their intangible cultural heritage and the elaboration of safeguarding measures; and (e) collaborating with other countries on the identification of common heritage elements for nomination to the UNESCO Representative List of the Intangible Cultural Heritage of Humanity.

48. The representative of the National Human Rights Council of Morocco said that the Council had drawn the attention of the national authorities to the destruction of prehistoric and proto-historic sites, in particular engravings in the southern provinces, by construction and road work companies. The Council had also underscored the risk of destruction of intangible cultural heritage by discriminatory policies that ran counter to the history of countries and their cultures. A representative of civil society mentioned that an indigenous language, Tamazight, was being destroyed by fundamentalism.

IV. Conditions for meaningful engagement of rights holders

A. Statements by panellists

49. Mr. Mancisidor stressed that the destruction of cultural heritage was a human rights violation, not merely the destruction of stones. He recalled general comment No. 21 (2009) on the right of everyone to take part in cultural life of the Committee on Economic, Social and Cultural Rights. Participation was part of the normative content of the right enshrined in article 15 of the International Covenant on Economic, Social and Cultural Rights. He noted that participation meant to act in freedom, to have the ability to access heritage, but also to construct, modify and interact with heritage.

50. Mr. Mancisidor noted that the more a community felt that heritage was useful for its life, identity and living conditions, the more willing it would be to protect it. In post-conflict reconstruction, heritage must provide an opportunity to create, recreate and reconstruct society and its identity, and to provide opportunities for employment and human development. Article 15 of the Covenant referred to heritage that must be useful for human development.

51. He explained that those issues had been discussed with State delegations appearing before the Committee and recommended that they be regularly addressed in the work of the Human Rights Council, especially the universal periodic review, with a focus on protection, participation, international cooperation, access, freedom, and the security of persons working on heritage. Those elements constituted the normative content of the right to participate in cultural life and were not merely political aspirations; therefore, they could, and should, be addressed at the universal period review.

52. In a video message, Mr. Masoudi explained that the staff at the National Museum of Afghanistan had transported 30,000 artefacts to safe areas when Kabul was affected by civil war in the late 1980s. That act had saved the precious artefacts, including Bactrian treasures.

53. He urged States to cooperate and facilitate the work of museum professionals, so that they could ensure the transfer of cultural heritage to future generations. Mr. Masoudi stressed that destruction of the cultural heritage was a crime, and noted that a nation stayed alive when its culture and history stayed alive.

54. Mr. Stone recalled the unbreakable link between people and their tangible and intangible heritage. Cultural heritage did not speak for itself; it needed to be interpreted and used by people to come alive.

55. He reported that the Blue Shield had brought heritage experts and military forces together to protect cultural heritage during armed conflict and following natural disasters. The Blue Shield approach set out the four time periods in which heritage experts needed to work alongside military forces: in the long term; immediately before a conflict; during a conflict; and in the post-conflict or stabilization phase. The approach identified seven risks to cultural heritage resulting from armed conflict: lack of planning; spoils of war; military lack of awareness about heritage; collateral damage; looting; enforced neglect; and specific targeting. By mitigating each of the seven the overall risk to that heritage could be lowered.

56. Mr. Stone provided a set of recommendations for the protection of cultural heritage that addressed ratification of relevant instruments, a human rights-based approach, granting visas to cultural heritage defenders, education, illicit trade, economic sustainability and the mandate of armed forces, which are reflected in section VI.

B. Summary of discussions and inputs received

57. During the interactive discussion, representatives of Azerbaijan, Armenia and the Plurinational State of Bolivia took the floor, along with representatives of the following organizations: Dayr Mar Elian Archaeological Project in the Syrian Arab Republic, Organization of Islamic Cooperation, Technical Committee on Cultural Heritage in Cyprus and Turquoise Mountain. Written inputs were also received from States and civil society.

58. Participants noted that the safeguarding of tangible and intangible heritage was essential to lasting peace and sustainable development. They stressed the importance of integrating a human rights-based approach to the preservation of cultural heritage and the need to develop a clear plan of action on how to protect and preserve cultural heritage.

59. Some participants underscored that it was crucial to create conditions for the meaningful engagement of rights holders in protecting cultural heritage and ensuring accountability for its destruction. They underscored that the greater challenge was to preserve the conditions that enabled the creation of cultural goods and practices, such as the enjoyment of cultural rights and the rights to health, education, security and sustainable socioeconomic development, rather than the cultural goods and practices themselves.

60. It was also pointed out that the protection, preservation and restoration of cultural heritage could be effective if sites were planned to be of benefit for local populations through direct participatory mechanisms. Sites could become sources of income and contribute to poverty alleviation and employment generation. The representative of the Technical Committee on Cultural Heritage in Cyprus also noted the linkage between cultural heritage and economic incentives. Unless cultural heritage was an integral part of economic development, ratification of international law instruments alone would not suffice. Ms. Quaedvlieg-Mihailovic underscored the need to apply a holistic approach to measuring the value of cultural heritage; that value could not be only economic, but was also environmental, social and cultural.

61. Kristen A. Carpenter, member of the Expert Mechanism on the Rights of Indigenous Peoples, in a written submission underscored that indigenous peoples' oral, visual, and other representations were not usually protected by national or international laws and thus

were vulnerable to exploitation by others. Many Governments allowed private developments on indigenous lands without the consent of the peoples concerned. Land dispossession, eviction and natural resource exploitation often threatened indigenous cultural practices. She called on States to harmonize domestic law and practice with the United Nations Declaration on the Rights of Indigenous Peoples. Ms. Carpenter also condemned the extraction and transfer of indigenous peoples' human remains and religious objects to institutions in other parts of the world.

62. The author of a written submission noted that for development to be undertaken in an environmentally and culturally sustainable way and without posing a threat to cultural heritage, planning processes must be informed and controlled through appropriate legislation and through transparent and public assignment of the roles and responsibilities of all stakeholders.

63. A participant recalled the work of the open-ended intergovernmental working group on a draft United Nations declaration on the rights of peasants and other people working in rural areas, and pointed to a draft article on "cultural rights and traditional knowledge". Peasants and persons working in rural areas had the right to enjoy their culture and to preserve, protect and develop their traditional knowledge as a way of life. Mr. Mancisidor noted that the draft declaration could provide opportunities to advance the right to free, prior and informed consent of peasants and indigenous peoples in the management of, enjoyment of and participation in heritage.

C. National experiences

64. The representative of Armenia indicated that the destruction of cultural masterpieces was an attempt to erase memory and destroy cultures and civilizations, and recalled the destruction of the Mosul museum, the Bamiyan Buddha, the mausoleums of Timbuktu and the thousands of medieval Armenian cross stones in Nakhijevan. Such manifestations of intolerance and extremism should be strongly condemned and punished.

65. The representative of the Technical Committee on Cultural Heritage in Cyprus reported that the Committee had been established to protect the cultural heritage that is valued by both communities living in Cyprus. It provided a bicomunal platform for cooperation and dialogue which defied the north-south divide. The Committee could be seen as an emerging model of how two communities had come to appreciate their common interest in their cultural heritage in a way that could inspire actors in areas where tensions persisted.

66. The representative of RASHID International commended the Iraqi and other armed forces active in Iraq for having consulted about heritage sites to be avoided as targets. It encouraged Iraq's efforts to re-establish a system of centrally paid site guards and to establish a national Blue Shield committee. He urged the coordination of international efforts to assist Iraq following the liberation of territory from Daesh to survey and digitally document cultural heritage, collect evidence for possible prosecution and provide conservation aid. The United Nations, including UNESCO and OHCHR, should lead those efforts. He further stressed the need for a thorough review of school curricula in Iraq to strengthen cross-cultural understanding and engagement, and urged the international community to provide capacity-building and training.

67. In a written submission concerning the situation in the Syrian Arab Republic, it was noted that often monuments that appear to be "minor" in the eyes of outsiders acted as the glue that kept a community together. The emotional and spiritual attachment to such sites, especially for people forcibly displaced and wishing to return, had often been overlooked when discussing the protection of cultural heritage. It was stressed that while the world would rightly mourn the destruction of Palmyra, the destruction of countless other monuments of great significance to Syrians must not be forgotten and must be included in criminal charges.

V. Issues needing further attention

A. Statements by panellists

68. Ms. Izsak-Ndiaye spoke about the numerous occasions on which she and other special procedure mandate holders had addressed attacks on religious and cultural sites of minorities. She noted that the intentional destruction of cultural heritage could be aimed at erasing evidence of the presence of minorities, and underscored that there was often little or no accountability for the perpetrators of those crimes.

69. Ms. Izsak-Ndiaye recalled that the protection of minority groups went beyond the duty not to destroy or deliberately weaken them; it also required respect for and protection of their religious and cultural heritage.

70. She explained that in her regular discussions with authorities, she had been concerned about the lack of national strategies for minority integration and how minority cultures were rarely referred to as “part of our national heritage” or “our culture”. That showed that minority cultures were often regarded as “alien” or “exotic”, which provided impetus to those who saw a perceived national homogenous identity threatened by minority cultures. Ms. Izsak-Ndiaye stressed that conscious efforts should be made to include minorities’ viewpoints in historical narratives.

71. Because destruction of cultural heritage could be used as a strategy to destroy the morale of the enemy, cultural heritage was considered in international humanitarian law as requiring a special protection regime during conflict. Ms. Izsak-Ndiaye recalled the judgments of the International Criminal Tribunal for Yugoslavia in which the Tribunal found that the destruction of cultural property with discriminatory intent against a cultural community could be charged as a crime against humanity, and that the intentional destruction of cultural and religious property and symbols could be considered as evidence of intent to destroy a group within the meaning of the Convention on the Prevention and Punishment of the Crime of Genocide.

72. Ms. Izsak-Ndiaye provided a list of priorities for addressing the destruction of cultural heritage: (a) analysing the motives underpinning those actions, because each of them required a different response; (b) adopting preventive strategies to protect heritage sites, with the involvement of local communities; and (c) adopting accountability and reconciliation measures.

73. Ms. Shortland explained that the Pacific Indigenous and Local Knowledge Centre of Distinction had raised the visibility of the challenges faced by local populations, including the impact of natural disasters and climate change, in safeguarding their cultural heritage. She noted the expertise possessed by indigenous peoples’ organizations on those issues and the extensive work they had performed in international forums. Those organizations also provided capacity-building to affected groups to find justice and reconciliation, and had raised their concerns at the United Nations.

74. Ms. Shortland noted the need to elevate the role of indigenous peoples in cultural heritage decision-making and recalled that there should be “no decision about us without us”. She further underscored the need to facilitate the engagement of indigenous peoples and local communities in the international debates on cultural heritage protection. She raised in particular the need to address the situation of Pacific climate migrants who had been forced to leave their heritage places and establish elsewhere, and called on States to mobilize resources to support indigenous peoples’ organizations.

75. Mr. Keita noted that the phenomena of looting and illicit trade of cultural heritage in Mali, although pre-existing, had worsened with the jihadist occupation in 2012 and the resulting absence of the State. That had led to the destruction of mausoleums in the city of Timbuktu, which were places of pilgrimage that had brought the community together, and affected tangible and intangible heritage. Due to the lack of preventive measures, those phenomena now affected the entire country.

76. Mr. Keita pointed to challenges in the preservation of cultural heritage in Mali such as the mismatch between customary rules and the law governing heritage, and the lack of interest of young people in traditional crafts. He recommended the creation of vocational training to promote traditional skills and crafts, and urged an accommodation between customary rules and national laws to assist in the protection and conservation of cultural heritage.

77. Mr. Keita said that local populations were the true holders of cultural heritage, but they were often forgotten in the management of that heritage. He underscored the need to train local people and to foster and accept their involvement in the management of cultural sites to ensure effectiveness and solidarity. He provided the example of the cultural banks established in some villages in Mali, which were managed by the villagers themselves. The items in those banks were ethnographic objects that people had contributed and for which they received a small loan in return. The banks facilitated villagers' involvement in the management of cultural heritage and helped curb the illicit trade in artefacts.

78. He concluded that the management of heritage was not viable without multidimensional cooperation that prioritized the role of local populations and provided them with the support needed to perform the task.

B. Summary of discussions and inputs received

79. During the interactive discussion, representatives of Azerbaijan, Cyprus, Iraq and the Syrian Arab Republic took the floor, along with representatives of the Baha'i International Community, the European Association of Archaeologists, Turquoise Mountain and the Penn Cultural Heritage Center at the University of Pennsylvania (United States). Written inputs were also received from States and civil society.

80. Participants noted the need to protect not only heritage sites but also the landscape in which they were situated, which retained remains and resonances of the cultural past. Archaeologists were helpful in analysing satellite pictures or mapping sites, but local people could add meaning and knowledge to what archaeologists saw.

81. Some participants underscored that minorities had been targeted and discriminated against throughout history and subjected to gross human rights violations, including the destruction of their cultural heritage. They recalled the essential role of prevention, through early warning mechanisms, and of accountability for gross human rights violations. They also recalled the need to develop an education system that was genuinely inclusive of minorities in all decision-making processes.

82. A participant noted that work on emergency heritage protection required connecting with local populations, particularly internally displaced persons. Mr. Boccardi suggested that further attention be paid in heritage protection to the cultural rights of migrants, refugees and displaced persons. Ms. Izak-Ndiaye noted that, besides States' obligations towards minorities who had resided in a territory for long periods, States must also address the cultural needs and aspirations of migrants.

83. A participant pointed to the role of the Internet, and women's unmonitored access to it, in the preservation and creation of cultural heritage. In a written submission, the role of libraries in the preservation of cultural heritage and the need for effective policies to preserve collections of documentary heritage were also stressed.

84. Delegates supported the proposals to use the universal period review to address cultural heritage concerns and create a contact mechanism for consultation on cultural rights issues which would work across the United Nations system and with the Human Rights Council, the Special Rapporteur in the field of cultural rights, indigenous and community representatives, national Blue Shield committees, civil society organizations and academia.

85. A written submission provided details about the cultural banks in Mali referred to by Mr. Keita. The banks enabled rural populations to mobilize their cultural resources in a sustainable and efficient way to meet their social, cultural and economic development

needs. They offered an alternative solution to the sale of cultural objects by valorizing the objects to the advantage of the community. The banks, which were composed of a museum, a microcredit bank and a cultural centre, facilitated the direct involvement of local people in the management of their cultural heritage.

86. Participants underscored the need to combat the markets for trafficked cultural property and to strengthen international cooperation to prevent, prosecute and punish trafficking in cultural property. They recalled the recommendations contained in the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences.

C. National experiences

87. The representative of Cyprus recounted measures taken to curb illicit trafficking, including: (a) legislative measures to monitor exports and exhibitions; (b) establishment of the National Committee for the Prevention of Illicit Trafficking of Cultural Property; (c) active participation in bilateral and multilateral debates and negotiations; (d) digitalization of cultural heritage; (e) monitoring of online and gallery auctions; (f) alerting authorities at points of entry, exit or transit about cultural heritage at high risk; (g) education and awareness-raising on the importance of cultural heritage.

88. The representative of the Syrian Arab Republic noted the Government's efforts to preserve and restore cultural heritage despite the challenges posed by the fight against terror and the unilateral coercive measures imposed on the country. A civil society representative shared information about the Syrian Cultural Index, an open online platform established to counteract the fragmentation of Syrian identity caused by destruction and displacement and to rebuild the country's social fabric by bringing together local and displaced cultural producers and showcasing their work.

89. The representative of Azerbaijan expressed serious concern about the cultural property that was being unlawfully excavated, exported and sold in occupied territories. The capital gained from those activities was used to fund further illicit activities. Suggestions on how to curb these illegal activities are reflected in section VI.

90. The representative of Iraq noted the destruction of tangible and intangible cultural heritage by Daesh and stressed the plight of Christians, Yazidi, Shabak, Turkmen and other groups. Following the liberation of the areas in which those groups lived, Iraq faced many challenges related to the return of displaced persons and the restoration of cultural heritage.

91. The representative of the Baha'i International Community raised the issue of historical revisionism and noted that some Governments purposely obliterated the history and culture of certain groups due to prejudice and discrimination.

VI. Conclusions and recommendations

A. Conclusions

92. Discussions at the seminar focused on the need to adopt a human rights approach to the protection of cultural heritage. The destruction of cultural heritage is a human rights issue and responses to it require a holistic approach centred on the realization of human rights, particularly cultural rights. Measures to protect cultural heritage must focus on tangible and intangible heritage.

93. Participants noted existing gaps in implementation and lessons learned in the struggle to protect cultural heritage, and provided numerous recommendations for the effective design and implementation of a human rights approach to its preservation, which are compiled below.

94. Participants highlighted that the lack of an inclusive approach to what we identify as cultural heritage could lead to fractured narratives and obstacles to the universal enjoyment

of cultural rights. Speakers underscored the need for a universal approach to heritage which treated everyone's heritage as equally important and deserving of the same respect.

95. The axiom "no decisions about us without us" was repeated during the course of the seminar and covered several themes, from the rights of minorities and indigenous peoples to the implication of internally displaced persons and local populations in those decisions. Concerning the latter, participants underscored the important role played by those who were closely related to heritage sites.

96. The positive impact that cultural heritage could have on sustainable development as well as on transitional justice was also emphasized in the discussions.

B. Recommendations

97. **The recommendations contained in the relevant reports of the Special Rapporteur in the field of cultural rights (A/HRC/17/38, A/HRC/31/59 and Corr.1 and A/71/317), Human Rights Council resolution 33/20 and Security Council resolutions 2199 (2015) and 2347 (2017) should be implemented in full.**

98. **The following recommendations complement those contained in the documents cited above and focus exclusively on the measures required for the adoption of a human rights approach to the protection of cultural heritage.**

Recommendations addressed to States

Ratification and implementation of international instruments and standards

99. States should:

(a) **Ratify the core cultural heritage conventions and other relevant standards for the protection of cultural heritage, including:**

(i) **The 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and the 1954 and 1999 Protocols thereto;**

(ii) **The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;**

(iii) **The 1977 Protocols Additional to the Geneva Conventions of 12 August 1949;**

(iv) **The 2003 Convention for the Safeguarding of the Intangible Cultural Heritage;**

(v) **The Rome Statute of the International Criminal Court;**

(vi) **The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol thereto;**

(b) **Enact domestic legislation that enables full implementation of those conventions;**

(c) **Make use of the universal periodic review to encourage other States to ratify them.**

Institutional, legal and judicial framework

100. States should:

(a) **Ensure that national institutional, legal and judicial frameworks for the protection of cultural heritage address tangible and intangible heritage, and strengthen these using a human rights approach;**

(b) **Ensure that policies related to the protection, safeguarding and preservation of cultural heritage adopt a human rights approach. Such an approach**

should include the involvement of and consultation with minorities and local populations, as well as marginalized groups, in all aspects of decision-making;

(c) Ensure that national laws and customary rules and practices aiming at the protection and conservation of cultural heritage reinforce each other and comply with international standards;

(d) Allocate sufficient budgetary resources, at both national and international levels, to the protection of cultural heritage;

(e) Adopt measures to ensure accountability for the destruction of cultural heritage, in particular:

(i) Facilitate criminal prosecution at national and international levels of those responsible for intentional and negligent destruction of cultural heritage, looting and illicit trafficking in cultural objects by State and non-State actors, in accordance with relevant international standards;

(ii) Develop guidelines for the documentation of heritage and the collection and preservation of evidence for the purpose of prosecution, in compliance with international standards; collect and preserve evidence in full compliance with these standards;

(iii) Promote truth and reparation processes with regard to the destruction of cultural heritage which involve all relevant stakeholders, and ensure a central role to victims;

(f) Include cultural heritage and cultural rights in any transitional justice or truth and reconciliation processes;

(g) Train members of the judiciary and parliament, government officials, relevant law enforcement officials, education professionals and museum and library professionals on relevant human rights aspects of cultural heritage, including its protection, safeguarding and preservation and respect for its diversity.

Promotion of pluralism and respect for diversity

101. States should:

(a) Tackle, in accordance with international standards, extremist and fundamentalist ideologies, sectarianism and discriminatory attitudes towards, inter alia, minorities, indigenous peoples and women, which often lead to cultural cleansing in the form of cultural heritage destruction, while ensuring that critical strategies in this regard include education, respect for human rights and promotion of tolerance and pluralism;

(b) Implement educational programmes on the importance of the cultural heritage and cultural rights of all, especially for young people, and review existing curricula to ensure that they reflect the different cultures and heritages present in a country, including that of minorities, provide knowledge about the culture and heritage of others and promote a culture of pluralism and respect for diversity;

(c) Acknowledge the role media can play in mainstreaming cultural heritage concerns and promoting a culture respectful of heritage diversity, and adopt measures to educate media workers on relevant human rights aspects of cultural heritage, including its protection, safeguarding and preservation and respect for its diversity;

(d) Ensure that the culture and heritage of local populations and minorities are not stigmatized in national media and institutions;

(e) Adopt a fully gender-sensitive approach to the protection of cultural heritage which recognizes the work of women defenders of cultural heritage, promotes their inclusion in relevant settings and addresses the challenges they face in accessing cultural heritage.

Conditions for the meaningful engagement of right holders

102. States should:

(a) Respect the rights of heritage professionals and other defenders of cultural heritage, work at the national and international levels to ensure their safety and security, and provide them with the conditions necessary to perform their work, including material and technical assistance;

(b) Grant asylum to at-risk cultural heritage professionals and defenders when necessary and ensure that displaced heritage professionals are able to continue their work and training in exile and to take part in the protection and rehabilitation of their country's cultural heritage;

(c) Facilitate the issuance of visas and travel arrangements for heritage professionals and scholars based in conflict areas so they can participate in international events where they can share their experiences and access best practices, advice and support;

(d) Ensure the meaningful participation of local populations, heritage defenders, minorities and indigenous peoples in cultural heritage decision-making, bearing in mind that there should be "no decision about them without them";

(e) Encourage, foster and accept the involvement of local people in the management and protection of cultural sites and institutions responsible for the safeguard of cultural heritage and transmission, and provide them with training in this regard;

(f) Conduct thorough consultations with local, national and international stakeholders before engaging in rehabilitation, reconstruction or long-term preservation efforts, and ensure that concerned populations, including displaced persons and refugees, play a central role in these processes as well as in determining how to memorialize recent destruction;

(g) Make every effort to include the viewpoints of local populations, minorities and indigenous peoples in historical narratives and school curricula, including about cultural heritage;

(h) Assess the potential impact that cultural heritage can have on poverty reduction, employment generation and economic development at the local level and, where advisable, adopt measures that promote the use of such heritage in full compliance with human rights standards, particularly cultural rights, and with the direct participation of the persons concerned;

(i) Implement or facilitate programmes of vocational training targeted particularly at young people which promote the traditional skills and crafts essential for the recreation and preservation of local cultural heritage.

Preventive measures

103. States should:

(a) Analyse the root causes underpinning disrespect or destruction of cultural heritage and adopt targeted strategies to address existing or potential threats to this heritage;

(b) Prepare in peacetime for any possible threat to cultural heritage in time of war, including by recording and documenting the tangible and intangible cultural heritage within their jurisdictions, using digital technologies wherever feasible, defining cultural heritage protection priorities and communicating these to relevant authorities and agencies, including military and peacekeeping forces;

(c) Formulate cultural heritage mapping processes and include cultural impact assessments in the planning of development projects, in consultation with concerned populations.

Armed forces, peacekeeping missions and humanitarian actors

104. States should:

(a) Recognize the protection of cultural heritage and cultural rights as a critical component of humanitarian assistance, peacekeeping and peacebuilding before, during and after conflict;

(b) Systematically incorporate cultural heritage awareness and safeguarding, as well as respect and protection of cultural rights, in the mandate and relevant rules of engagement of armed forces, peacekeeping missions and humanitarian actors and in peacebuilding and post-conflict reconciliation initiatives, and ensure adequate training concerning these aspects.

Measures to curb illicit trade in cultural property

105. States should:

(a) Adopt legal and judicial measures to criminalize the illicit import and export of cultural property, the looting of archaeological and cultural sites and their illicit excavation, in compliance with relevant international standards;

(b) Adopt administrative, financial, fiscal and educational measures, consistent with international standards, to thwart the markets for trafficked cultural property.

Recommendations addressed to the international community

106. The international community should:

(a) Provide technical and financial support to national and international institutions in the cultural heritage sector that integrate a human rights approach;

(b) Mobilize resources to support local populations, heritage defenders and indigenous peoples working on the protection of cultural heritage;

(c) Consider the creation of a mechanism for systematically collecting, analysing and distributing information on at-risk cultural heritage defenders around the world;

(d) Consider, where relevant, addressing cultural rights and cultural heritage issues in the work of the Human Rights Council, including the universal periodic review, with a focus on the following issues: protection, participation, international cooperation, access, freedom, security of persons working on heritage and ratification of relevant instruments;

(e) Encourage continued support from States, including the core group that sponsored Council resolution 33/20, for the findings and recommendations of the present report, including through the adoption of new, action-oriented resolutions;

(f) Consider establishing a contact group of interested States, concerned United Nations mechanisms and civil society representatives to carry them forward.

Recommendations addressed to the United Nations

107. The United Nations should:

(a) Strengthen the collaboration between UNESCO, OHCHR and the Special Rapporteur in the field of cultural rights to ensure the mainstreaming of a human rights approach to the protection of cultural heritage in their work and that of other relevant human rights mechanisms, as well as to promote consideration of cultural rights within humanitarian, security and peacebuilding operations;

(b) Explicitly integrate the protection of cultural property and cultural rights within the mandate of United Nations peacekeeping operations, in accordance with paragraph 19 of Security Council resolution 2347 (2017);

(c) Facilitate the inclusion of local populations, heritage defenders and indigenous peoples in United Nations work and debates concerning the promotion and protection of cultural heritage.

108. UNESCO, OHCHR and the Special Rapporteur in the field of cultural rights should develop a manual for the application of a cultural rights-based approach to humanitarian, security and peacebuilding operations, as well as a human rights approach to heritage conservation.

109. OHCHR could envisage providing consultative services to States in the implementation of relevant international instruments.

Recommendations addressed to civil society

110. Civil society organizations should:

(a) Submit more shadow reports and individual complaints related to article 15 of the International Covenant on Economic, Social and Cultural Rights and under the Optional Protocol thereto, to help expand the Committee's jurisprudence regarding the right to take part in cultural life and the right to access and enjoy cultural heritage;

(b) Submit further contributions to the universal periodic review process on these issues.
