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Agenda items 2 and 3

**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****Cultural rights: tenth anniversary report\*****Report of the Special Rapporteur in the field of cultural rights***Summary*

To mark the tenth anniversary of the mandate on cultural rights and the seventieth anniversary of the Universal Declaration of Human Rights, the Special Rapporteur provides an overview of the work of her mandate since its creation in 2009 and suggests strategies for advancing cultural rights during the next decade. She argues that the anniversaries are a critical moment for recommitting to the realization of article 27 of the Universal Declaration of Human Rights, which guarantees, inter alia, the right of all freely to take part in cultural life. That is vital because of the inherent importance of those rights within the universal human rights framework and so as to implement other rights in the Declaration and achieve other critical goals such as sustainable development, peace and inclusion.

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\* The annex to the present document is reproduced as received, in the language of submission only.



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## I. Introduction

1. Ten years ago, on 26 March 2009, the Human Rights Council adopted resolution 10/23 in which it established, for a period of three years, a new special procedures mandate in the field of cultural rights as set out in the relevant United Nations human rights instruments. Every three years since then, the mandate has been extended by the Council, most recently in March 2018.<sup>1</sup>

2. Just over 70 years ago, on 20 December 1948, the General Assembly adopted the Universal Declaration of Human Rights, article 27 of which provided the first universal guarantee of cultural rights, including the right of all freely to participate in cultural life, to enjoy the arts and to share in scientific advancement and its benefits. The founding of the mandate on cultural rights was an important step towards implementing rights already guaranteed by international law and central to the vision of the Declaration.

3. Taken together, these two important anniversaries mark a critical moment for assessing the progress that has been made in the implementation of cultural rights by the work of the mandate holders<sup>2</sup> and other actors, internationally and nationally, and enumerating the current challenges.<sup>3</sup> Looking forward to the next 10 years, the Special Rapporteur suggests future priorities and strategies for achieving the vision set out in article 27 and guaranteeing the cultural rights of all.

4. Developments in today's world also make this a timely review. Embattled humanity, living in a world of extremists of all kinds, of proliferating cultural relativism and cultural excuses for human rights violations, a world threatened by catastrophic climate change which threatens human civilization, including cultural heritage, where hate is being normalized, inequalities are growing, public space is being privatized and where the impulse to censor thrives, desperately needs full implementation of its cultural rights and other universal human rights. At the same time, there are many positive advances which must not be overlooked, including local initiatives aimed at increasing understanding and tolerance, creative efforts by cultural rights defenders to improve compliance, new possibilities for global cooperation in the promotion of cultural rights, multiplying challenges to sexual harassment in the fields of art and culture, the ongoing exercise of human creativity and scientific research, despite the obstacles, and growing recognition of areas of human rights, including cultural rights, such as those of persons with disabilities, peasants and lesbian, gay, bisexual, transgender and intersex persons. In the present review, the Special Rapporteur aims to ascertain how to magnify the positive developments while revisiting the strategies needed to confront the negative ones.

5. Responding to the current moment, the organizers of the first ever Americas Cultural Summit, held in Ottawa in May 2018, which the Special Rapporteur was delighted to attend posed the following question to participants: "How can Governments, institutions, artists and citizens work together to help build more vibrant, open and pluralist democracies which respect, promote and protect the right of everyone to take part in cultural life?" That is one of the most pressing questions of our times. If cultural rights are to be more fully implemented, the world will have to find relevant and effective answers.

6. Wole Soyinka, the first African writer to win the Nobel Prize for literature, took part in an event with the Special Rapporteur to launch her 2018 report on universality and cultural diversity (A/73/227). He stressed the need for everyone to choose whether they stand "on the side of principles which elevate humanity, rather than degrade humanity", and asserted that the rest of the century should be dedicated to enabling the realization of the Universal Declaration of Human Rights. That reflects the spirit of the cultural rights project.

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<sup>1</sup> See [www.ohchr.org/EN/Issues/CulturalRights/Pages/MandateInfo.aspx](http://www.ohchr.org/EN/Issues/CulturalRights/Pages/MandateInfo.aspx).

<sup>2</sup> For more information, see

[www.ohchr.org/EN/Issues/CulturalRights/Pages/SRCulturalRightsIndex.aspx](http://www.ohchr.org/EN/Issues/CulturalRights/Pages/SRCulturalRightsIndex.aspx).

<sup>3</sup> As in previous reports, country situations mentioned include cases that have been the subject of previous consideration by United Nations mechanisms and officials, reports from States, multilateral institutions and civil society organizations, as well as being drawn from submissions for the present report.

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7. The Special Rapporteur pays tribute to the diverse States and civil society actors that have supported the creation of the cultural rights mandate. She looks to those actors, and to many others, to collaborate with her and her successors in the realization of the goals of the mandate. All States have an obligation to respect, protect and fulfil cultural rights, and the States involved in creating the mandate should demonstrate leadership in that regard.

8. In order to collect the views of States and other stakeholders about the achievements and challenges of the first decade of the mandate, the Special Rapporteur distributed a questionnaire in September 2018. Responses were received from 10 States, 12 national human rights institutions and 27 other stakeholders.<sup>4</sup> The Special Rapporteur is grateful to all who contributed.

## **II. Overview of the work of the mandate since 2009**

9. Until 2009, the majority of the work done by the United Nations concerning cultural rights addressed questions regarding minorities and indigenous peoples. Major progress had been made regarding the cultural rights of national, ethnic and religious minorities and of indigenous peoples, particularly since 1990.<sup>5</sup> However, the various rights listed under article 15 of the International Covenant on Economic, Social and Cultural Rights were given little general attention in State party reports and many parts of the article had not yet been interpreted by the Committee on Economic, Social and Cultural Rights.

10. While advocates of minority and indigenous rights and some pioneering civil society groups in the field of cultural rights strongly supported work on cultural rights prior to the creation of the mandate, some States and civil society stakeholders were cautious about such rights. Some considered them not to be individual rights, or even human rights at all, but rather issues relegated to “culture” and therefore falling under the responsibility of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Some feared that their recognition would threaten States and others that they would undermine the universality of human rights and be used to justify traditional norms and practices that violate human rights.

11. The year 2009 was a watershed moment for cultural rights in the United Nations system, with the adoption of general comment No. 21 (2009) on the right of everyone to take part in cultural life by the Committee on Economic, Social and Cultural Rights, clarifying article 15 (1) (a) of the International Covenant on Economic, Social and Cultural Rights, and the creation of a special procedures mandate in the field of cultural rights. At that time, one of the main challenges was to ensure that cultural rights would be understood as being applicable to everyone. It was also critical to clarify the position of cultural rights within the universal, indivisible and interdependent human rights system. Another main challenge mentioned in the resolution creating the mandate was defining the relationship between cultural rights and cultural diversity.

### **A. Summary of thematic work conducted**

12. Over the last 10 years, the mandate has produced 16 thematic reports, covering many international human rights law provisions relevant to cultural rights, including most aspects of article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. Each report highlights the relevant conceptual and international human rights legal framework, notes examples of good practice and addresses significant challenges. The thematic work has contributed to clarifying the scope of cultural rights and their specificity in the universal human rights system and to a

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<sup>4</sup> Most of the submissions received for the present report are available on the webpage of the mandate and are referred to throughout the rest of the report by the name of the submitting State, organization or other stakeholder. See [www.ohchr.org/EN/Issues/CulturalRights/Pages/10thAnniversary.aspx](http://www.ohchr.org/EN/Issues/CulturalRights/Pages/10thAnniversary.aspx).

<sup>5</sup> In particular through the adoption of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in 1992, and the work related to the International Decade of the World’s Indigenous People, launched in 1994.

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better understanding of the indivisibility and interdependence of cultural rights with other human rights.

### **Mapping cultural rights**

13. The position of cultural rights within the international human rights framework was underscored in the first thematic reports of each mandate holder (A/HRC/14/36 and A/HRC/31/59), issued in 2010 and 2016 respectively. In the first report in 2010, the first mandate holder emphasized that cultural rights covered a broad range of issues, such as expression and creation, including diverse forms of art; language; identity and belonging to multiple, diverse and changing groups; development of specific world visions and the pursuit of specific ways of life; education and training; access, and contribution to and participation in cultural life; and the conduct of cultural practices and access to cultural heritage (para. 9). In later reports, she added concerns regarding scientific freedom. The array of relevant instruments guaranteeing cultural rights at that time was also discussed in the first report, ranging from the main instruments of the International Bill of Human Rights to more recent treaties such as the Convention on the Rights of Persons with Disabilities (paras. 11–20).

14. The status of cultural rights as an integral part of international human rights law was also recalled in the first thematic report of the second mandate holder (A/HRC/31/59, paras. 3–6 and 21–22). In each successive thematic report, she has further elaborated on the relevant international, regional and national legal standards, and emerging ones, so as to interpret and catalogue the jurisprudence of cultural rights, and has emphasized the strong legal grounding of those rights (see, in particular, A/HRC/31/59, paras. 21–22 and 52–65).

15. In her first report to the General Assembly, the first mandate holder established a working definition of cultural rights, clarifying their scope (A/67/287, para. 7). Those rights protect in particular: (a) human creativity in all its diversity and the conditions for it to be exercised, developed and made accessible; (b) the free choice, expression and development of identities, which include the right to choose not to be a part of particular collectives, as well as the right to exit a collective, and to take part on an equal basis in the process of defining it; (c) the rights of individuals and groups to participate, or not to participate, in the cultural life of their choice and to conduct their own cultural practices; (d) the right to interact and exchange, regardless of group affiliation and of frontiers; (e) the rights to enjoy and have access to the arts, to knowledge, including scientific knowledge, and to an individual's own cultural heritage, as well as that of others; and (f) the rights to participate in the interpretation, elaboration and development of cultural heritage and in the reformulation of cultural identities (A/HRC/31/59, para. 9). Both mandate holders have regularly stressed that the purpose of the mandate is not to protect culture or cultural heritage per se, but rather the conditions allowing all people, without discrimination, to access, participate in and contribute to cultural life in a continuously developing manner.<sup>6</sup>

16. It has been important for both mandate holders to insist on the universal character of cultural rights by asserting that all people and all peoples have culture, not merely certain categories or geographies of people. Following the approach of the Committee on Economic, Social and Cultural Rights, both mandate holders have also recalled that cultures are dynamic human constructs, constantly subject to reinterpretation, and added that while it is customary to refer to culture in the singular, that has problematic methodological and epistemological consequences and should always be understood as plural (see, for example, A/HRC/14/36, para. 6). “Culture” means cultures (A/HRC/31/59, para. 8).

17. Finally, in her most recent report to the General Assembly (A/73/227), the Special Rapporteur took the opportunity of the seventieth anniversary of the Universal Declaration of Human Rights to examine specifically the cultural rights approach to the universality of human rights and demonstrate how cultural rights contribute to strengthening the universal framework of human rights. She recalled the long-established international legal principle that the exercise of any human right or cultural diversity may not be invoked to infringe upon

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<sup>6</sup> The three components of the right to take part in cultural life were developed by the Committee on Economic, Social and Cultural Rights in its general comment No. 21.

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human rights guaranteed by international law, nor to limit their scope, a principle which guards against relativist attempts to use what are claimed to be cultural, religious or traditional arguments to undermine human rights.<sup>7</sup> She particularly challenged cultural relativism or the misuse of cultural rights to justify violations. Cultural rights are not a justification for violations of rights or discrimination. In her report, the Special Rapporteur reiterated that: “Universality is not meant to be a weapon against cultural diversity, nor is cultural diversity a weapon against universality. The two principles are mutually reinforcing and interlocking.” (para. 47). It is now clearly established beyond question that cultural rights are situated within the universal human rights framework.

### **Specific cultural rights topics covered by the mandate**

18. Two thematic reports have been dedicated to developing the understanding of the right to access and enjoy cultural heritage, and the negative human rights consequences of its intentional destruction (A/HRC/17/38 and A/71/317), issued in 2011 and 2016 respectively, an area that had not previously been examined by human rights mechanisms. In both reports, the mandate holders made it clear that cultural heritage is a human rights issue and elaborated a human rights approach to its protection. They set out the cultural rights related to heritage, including the rights of individuals and groups to know, understand, enter, visit, make use of, maintain and develop cultural heritage, as well as to benefit from the cultural heritage of others. In addition, they emphasized the right to participate in the identification, interpretation and development of heritage, as well as the right to participate in the design and implementation of preservation and safeguard programmes, raise awareness of the vital work of cultural heritage defenders and clarify the relationship of cultural rights with the relevant international criminal law and the UNESCO framework.

19. Three further thematic reports, issued in 2012 and 2015, have been dedicated to the specific rights recognized in article 15 (1) (b) and (c) of the International Covenant on Economic, Social and Cultural Rights, the right to benefit from scientific progress and its applications (A/HRC/20/26) and the right to the protection of the moral and material interests from any scientific, literary or artistic production of which one is the author (A/HRC/28/57 and A/70/279). Addressing two aspects of intellectual property rights, copyright law and patent policy, with a human rights approach offered new perspectives on the interactions between those two fields of international law. In the reports the Special Rapporteur highlighted the importance of guarding against the privatization of knowledge to such an extent that it deprives individuals of opportunities to take part in cultural life, and considered the balance needed between benefiting from the creativity of others and recognizing the rights of authors. In all three reports, the development of a “common good” approach to knowledge and creative production was encouraged.

20. In all the reports, the Special Rapporteur stressed the strong interlinkages between the different rights cited in article 15 (1) (a), (b) and (c): those rights all relate to the pursuit of knowledge and understanding, and to creative human responses to a constantly changing world. A prerequisite for their implementation is ensuring the preconditions for everyone to continuously engage in critical thinking and have the opportunity and means to investigate and contribute new knowledge, regardless of frontiers. Those rights require that States take the necessary steps for the “conservation, the development and the diffusion of science and culture” (article 15 (2)), “respect the freedom indispensable for scientific research and creative activity” (article 15 (3)) and “recognize the benefits to be derived from... international contacts and co-operation in the scientific and cultural fields” (article 15 (4)).

21. The mandate has also clarified the relationship between cultural rights and other human rights, thereby strengthening the indivisibility and interdependence of the whole human rights system and demonstrating the position of cultural rights at the intersection of civil and political rights and economic and social rights. Cultural rights are transformative and empowering, providing important opportunities for the realization of other human rights.

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<sup>7</sup> See, among other references, Universal Declaration of Human Rights, art. 30; Vienna Declaration and Programme of Action, part I, para. 5; UNESCO Universal Declaration on Cultural Diversity, art. 4; and Human Rights Council resolution 10/23, para. 4.

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A lack of equal cultural rights, combined with economic and social inequalities, make it difficult for people to exercise their civil and political rights and to enjoy their right to development.

22. In her 2012 thematic report dedicated to the cultural rights of women (A/67/287) the Special Rapporteur emphasized the empowering aspect of cultural rights. Ensuring that women can exercise their cultural rights in full equality, including the right to determine which traditions and cultural practices need to be preserved, modified or discarded, contributes to women's enjoyment of all other human rights. That approach highlights the cultural dimensions of the principle of equality and non-discrimination. It also opens the door to a paradigm shift from viewing culture as primarily negative for women (although it has sometimes been misused in this manner) to emphasizing the need for women's equal cultural rights. It can also be helpful in other areas, such as the cultural rights of elderly or disabled persons.

23. In her 2013 report on the right to freedom of artistic expression, the Special Rapporteur developed the understanding of the cultural and artistic components of freedom of expression (A/HRC/23/34). She stressed the need to consider article 15 of the International Covenant on Economic, Social and Cultural Rights when interpreting article 19 of the International Covenant on Civil and Political Rights, and vice versa, calling for a holistic approach, a suggestion that still needs implementation in the field. In the report, she addressed the laws and regulations restricting artistic freedom and the economic issues which have a significant impact on such freedom. She also stressed that States have positive obligations towards freedom of thought, opinion and expression, and called on them to take affirmative measures in support of the right of people to enjoy the arts and artistic freedom.

24. In her 2012 report concerning the right to benefit from scientific progress and its applications, the Special Rapporteur demonstrated the strong connections between that right and the effective realization of many other rights, including the rights to life, health, food, housing, water and sanitation, privacy, self-determination and freedom of thought, as well as specific issues related to the rights of women, migrants, internally displaced persons and indigenous peoples in each of those areas (A/HRC/20/26). The language in the report helped a number of stakeholders who responded to the questionnaire better integrate a human rights approach into their work and challenge laws and practices that impede persons from marginalized groups from accessing critical information and the benefits of scientific applications.<sup>8</sup>

25. In a report in 2013 on the writing and teaching of history, with a particular focus on history textbooks, the mandate significantly increased international awareness of the importance of historical narratives as forms of cultural heritage and critical resources for collective identity (A/68/296). In her report, the Special Rapporteur highlighted the way in which people continuously strive to retrieve, validate, make known and have acknowledged by others their own history, and at the same time contest certain interpretations. That process can have important impacts on the sustainability of peace and the report sheds light on the relationship between the histories that are recounted – or not – and the rights to freedom of thought and opinion and to education, as defined in article 13 of the International Covenant on Economic, Social and Cultural Rights and article 28 of the Convention on the Rights of the Child. Provided that historical narratives rigorously follow the highest deontological standards, they should be included in the debate. Citing regional standards, the Special Rapporteur noted that history teaching should not be an instrument of ideological manipulation or be used to promote intolerant and racist ideas. Historical research and history teaching should not promote or allow misuse of history, through the creation of false evidence and denial or omission of historical facts, all of which are of concern.

26. The subsequent report on memorialization processes, issued in 2014, focused on the role of memorials and museums in shaping cultural and symbolic landscapes that influence how people think of themselves and others (A/HRC/25/49). Memorialization processes reflect and shape, negatively or positively, social interactions and can make or break efforts aimed at building inclusive societies. In her report, the Special Rapporteur emphasized the

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<sup>8</sup> Treatment Action Group submission, paras. 5 and 19–26.

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role of cultural rights in achieving transitional justice and the interaction of those rights with the right to truth, and raised issues concerning the use of public space to strengthen democracy and promote critical thinking and discussion regarding the representation of the past, but equally to face contemporary challenges of exclusion and violence.

27. In her thematic report of 2014 focusing on the impact of commercial advertising and marketing practices on the enjoyment of cultural rights, the Special Rapporteur explored those relationships, looking into the connections between freedom of thought, opinion and expression, the rights of children with respect to education and leisure, academic and artistic freedom and the right to participate in cultural life (A/69/286). She considered the disproportionate presence of commercial advertising and marketing in public spaces and the way certain advertising techniques aim to circumvent individual rational decision-making. Those phenomena reduce the capacity to develop and express cultural diversity and to exercise various ways of life. In her report, the Special Rapporteur raised the issue of the positive obligations of States to take measures to protect civic space from undue levels of commercialization in order to preserve human dignity, a topic to which the mandate hopes to return.

28. In a more recent report, the Special Rapporteur stressed the significance of actions in the fields of art and culture for achieving overall societal goals of inclusion and greater respect for human rights (A/HRC/37/55). The examples cited in the report show how taking part in cultural and artistic initiatives is not only a way to exercise cultural rights, but also other human rights, including the rights to freedom of association, to education and to effective remedy. In the report the Special Rapporteur emphasized the way in which cultural expression is indivisible from human dignity.

29. Conversely, in the two thematic reports developing a cultural rights approach to the rise of diverse forms of fundamentalism and extremism issued in 2017, the Special Rapporteur highlighted the way in which such ideologies share a common mindset, based on intolerance of differences and pluralism and a rejection of universality, and how they attempt to stamp out diversity and dissent, having particular effects on the cultural rights of women, minorities and lesbian, gay, bisexual, transgender and intersex persons (A/HRC/34/56 and A/72/155). In her reports, she demonstrated the crucial contribution of arts, education, science and culture in resisting the threats such ideologies pose to all human rights by creating alternatives, making space for peaceful contestation and protecting people, in particular youth, from radicalization. Unfortunately, since 2017, the topic has become even more globally relevant and the Special Rapporteur hopes that her recommendations will continue to inform the strategies of States, international organizations and experts.

## **B. Fact-finding missions**

30. Since the creation of the mandate, the Special Rapporteur has conducted 12 fact-finding missions and official visits: 4 to the Eastern Europe region, 3 to the Asia-Pacific region, 2 to the Latin America and Caribbean region, 2 to the Africa region and 1 to the Western Europe region. Each mission resulted in a report to the Human Rights Council, including an analysis of the state of enjoyment of cultural rights in the country and specific recommendations on how to improve it.

31. In addition, the Special Rapporteur conducted a mission to Mali for the International Criminal Court to provide expert advice on reparation for victims of cultural heritage destruction in the landmark case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, the first case in which destruction of cultural heritage was the charge and that was tried as a stand-alone war crime. The resulting brief for the Court outlines a human rights approach that can be referenced in other cases in the future.<sup>9</sup>

32. The Special Rapporteur is grateful for the invitations she has received and the cooperation of States and civil society in the conduct of country missions. She is unable to undertake here a full review of all the countries visited, but emphasizes that full

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<sup>9</sup> See [www.icc-cpi.int/RelatedRecords/CR2017\\_05022.pdf](http://www.icc-cpi.int/RelatedRecords/CR2017_05022.pdf).

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implementation of her recommendations remains outstanding. In future, she hopes to conduct further assessments of the progress made.

### **C. Work on specific cases through communications**

33. One important tool for the Special Rapporteur to increase respect for cultural rights is the use of the communications procedure, under which she can raise specific cases of alleged violations. Since the creation of the mandate, 119 such communications have been sent out including 41 urgent appeals, covering the various themes explored by the mandate.<sup>10</sup> Cases can be submitted for the Special Rapporteur's consideration by, among others, individuals, victims, family members and civil society organizations.

34. Since cultural rights had not previously been much addressed by complaint mechanisms, the majority of the communications sent out required development of a relevant framework and language to assess situations of alleged violations. Each communication provided an opportunity to show the impact of violations of cultural rights in specific contexts. As most communications are sent jointly with other relevant special procedures mandate holders, they also represent an opportunity to increase awareness of cultural rights in the United Nations human rights system and to strengthen the indivisibility and interdependence of human rights.

35. The Special Rapporteur is particularly glad to have received responses to 76 communications (63 per cent) and considers this interaction a positive sign of the engagement of States, although she regrets the instances in which no response, or an insufficient response, has been received. Some States have repeatedly failed to reply to pressing concerns raised.

36. The number of communications issued by the mandate does not reflect the state of violations of cultural rights. Many persons whose cultural rights are being violated are unaware of the procedure. The Special Rapporteur will continue to share information about the mechanism at every opportunity and welcomes the support of all stakeholders in increasing its visibility and accessibility.

37. The Special Rapporteur also regrets that capacity limits the number of communications she is able to send. Her ability to increase the number in the future is dependent on increased support and staffing. There also need to be more possibilities for follow-up to and assessment of responses.

38. In some instances, communications sent out have contributed to raising awareness of certain problematic situations or laws and have supported the advocacy of other actors, or assisted in obtaining remedies. However, in other cases, the Special Rapporteur remains deeply concerned owing to the failure of States to take the necessary measures. In particular, she reiterates her call for the immediate release of Cheikh Ould Mohamed M'kheitir, a Mauritanian blogger who challenged the use of religious justifications for caste discrimination and whose health is reportedly deteriorating; Ashraf Fayadh, a Palestinian poet imprisoned in Saudi Arabia for the content of his verse; and Tashi Wangchuk, a Tibetan language rights defender.<sup>11</sup>

### **D. Engagement with stakeholders**

#### **States**

39. The Special Rapporteur expresses her deep appreciation of States that have engaged with the mandate including by taking part in her interactive dialogues, by extending invitations to conduct missions and by making financial contributions.

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<sup>10</sup> On how to submit allegations of violations, see [www.ohchr.org/EN/Issues/CulturalRights/Pages/ComplaintsSubmission.aspx](http://www.ohchr.org/EN/Issues/CulturalRights/Pages/ComplaintsSubmission.aspx). Communications are available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>11</sup> See communications MRT 4/2017, SAU 10/2015 and CHN 4/2018.

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40. However, the Special Rapporteur aspires to much greater interaction and dialogue with diverse States from all regions of the world. She hopes that participation in her interactive dialogues, especially in the General Assembly, will increase. Active engagement is needed to affirm commitment to cultural rights and advance their implementation.

### **Civil society and academia**

41. During the existence of the mandate, cultural rights have benefited from increased interest from researchers. There are a growing number of scientific papers and publications analysing aspects of cultural rights, referring explicitly to and building on the work of the mandate. Of particular interest have been the publication of the commentaries on the Fribourg Declaration in 2010, the Wroclaw Commentaries in 2016 and *Negotiating Cultural Rights: Issues at Stake, Challenges and Recommendations* in 2017.<sup>12</sup>

42. Certain universities have also included cultural rights and the work of the mandate in their programmes and courses.<sup>13</sup> For example, a UNESCO Chair in cultural rights was recently created at the University of Copenhagen. The Special Rapporteur created a United Nations human rights practicum at the University of California, Davis School of Law, with the support of the administration of the Law School, which trains law students to work on cultural rights. The Arts Rights Justice programme at the University of Hildesheim, Germany, created in collaboration with the first mandate holder, refers to reports of the mandate in its training and has developed a network of scholars and cultural professionals advocating for cultural rights.<sup>14</sup> A similar network working on the intersection between arts, culture and conflict transformation is currently forming.<sup>15</sup>

43. In various parts of the world, civil society organizations are increasingly aware of cultural rights. Each questionnaire sent out by the mandate to research thematic issues has been an opportunity to engage with new sectors of civil society and each thematic report has fostered new dialogues. New organizations have been created around cultural rights and some long-standing ones have broadened their mandates to include cultural rights. The work on freedom of artistic expression and creativity has been particularly successful in that regard, but there are also promising developments in the fields of heritage and the fight against fundamentalism and extremism.

44. One of the key commitments of the current Special Rapporteur has been to give a voice to human rights defenders, including defenders of cultural rights and women's human rights defenders, and diverse cultural practitioners in her work and at the United Nations. She is deeply grateful for their engagement and that of some civil society actors and experts with her mandate. However, much more engagement is necessary. The Special Rapporteur notes that unlike with regard to some other human rights issues, many actors working in the cultural field do not necessarily engage with the United Nations system and many of the civil society groups that do are not paying adequate attention to cultural rights. That must change.

45. The Special Rapporteur hopes to see the creation of a civil society coalition for cultural rights at the United Nations, modelled on similar coalitions around, inter alia, freedom of religion or belief. Such a coalition could help spread awareness among artists, cultural practitioners, scientists and relevant organizations about how to work within the system. It is time for more actors in the cultural rights sphere to recognize the relevance of the United Nations human rights system for their work and for the United Nations human rights system to pay greater attention to cultural rights.

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<sup>12</sup> See Andreas Wiesand, Kalliopi Chainoglu and Anna Sledzinska-Simon, eds., *Culture and Human Rights: the Wroclaw Commentaries*, (Berlin, Walter de Gruyter, 2016), Patrice Meyer-Bisch and Mylène Bidault, *Déclarer les droits culturels: commentaire de la Déclaration de Fribourg* (Zurich/Brussels, Schulthess/Bruylant, 2010) and Lucky Belder and Helle Porsdam, eds., *Negotiating Cultural Rights: Issues at Stake, Challenges and Recommendations* (Cheltenham, United Kingdom of Great Britain and Northern Ireland, Edward Elgar Publishing, 2017).

<sup>13</sup> The information received for the present report mainly concerned universities in Europe and North America. The Special Rapporteur encourages academics from all regions to inform her about relevant programmes.

<sup>14</sup> See [www.uni-hildesheim.de/arts-rights-justice/](http://www.uni-hildesheim.de/arts-rights-justice/).

<sup>15</sup> See [www.brandeis.edu/ethics/peacebuildingarts/impact/index.html](http://www.brandeis.edu/ethics/peacebuildingarts/impact/index.html).

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### **Other United Nations bodies**

46. The thematic work and joint communications have given the mandate holders the opportunity to develop cooperation with a wide variety of stakeholders, including a number of other special procedures mandate holders, the Committee on Economic, Social and Cultural Rights, UNESCO, the United Nations Children's Fund (UNICEF), the World Intellectual Property Organization and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).

47. The Special Rapporteur has been pleased to participate in one session of the Permanent Forum on Indigenous Issues and in side events during two sessions of the Commission on the Status of Women, thanks to civil society and academic support. However, she notes that there is no mechanism to facilitate such cooperation systematically.

## **III. Outstanding challenges**

### **A. Challenges facing the United Nations human rights system as a whole**

#### **Implementation**

48. The implementation of cultural rights at the national and international levels remains one of the main outstanding challenges. It results in part from the generalized dearth of follow-up mechanisms in the United Nations human rights system. The Special Rapporteur hopes to advance in this regard by developing a series of implementation toolkits based on some of her reports. However, there is a need for system-wide improvement. The Human Rights Council could do more by drawing attention to States that do not respond favourably to requests for visits by Special Rapporteurs. It could also more systematically inquire about follow-up to recommendations made by mandate holders during the universal periodic review.

#### **Funding and capacity**

49. Greater funding is needed for the work on cultural rights, to hold regional consultations and side events, and translate the work of the mandate into materials accessible to a popular, global audience, including youth. While the independence of mandate holders is critical, the time constraints resulting from having two full-time jobs sharply limits what can be achieved. Developing a system of independent funding that would, at the least, enable mandate holders to devote one full year in every three-year term to their mandates would significantly enhance their ability to achieve the goals set by the Human Rights Council.

50. Furthermore, with only one full-time staff person working at the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the cultural rights mandate, with part time support from one other, there is insufficient capacity. She thanks the staff for their hard work, but hopes that staffing will increase.

#### **Popularizing the human rights message**

51. Special Rapporteurs must contend with twenty-first-century human rights challenges using twentieth-century tools, which need updating. They must be enabled to make their reports and interactive dialogues more compelling and interesting to a broader audience, including through the use of cultural items such as artwork, graphics and photographs.

52. The Special Rapporteur disseminates information about the mandate on the mandate website, via a mailing list and the Twitter handle @UNSRCulture. She hopes to popularize the hashtag #CulturalRights. Both she and the OHCHR staff would benefit from increased technical and financial support to develop a range of other means of communication with the public, including through greater use of social media and new communications technology. Video versions of reports, including short summary videos for YouTube and other outlets, as well as visual content for platforms such as Instagram, should be systematically prepared.

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53. One of the most significant challenges that all special procedures mandate holders face is how to mobilize shame in an increasingly shame-free political world, where sometimes even discrimination, hate speech and open defence of human rights violations, even at the highest levels, have been normalized.

## **B. Challenges in the field of cultural rights**

54. In the area of cultural rights, one of the biggest challenges remains cultural relativism. Going forward, it will be important to continue making the distinction between cultural rights, which amplify rights and are protected by universal human rights law, and cultural relativism, which diminishes rights in the name of culture and has been repudiated by international law.

55. The Special Rapporteur also frequently confronts the view, even in some human rights circles, that cultural rights are less important than other rights and can be set aside in contexts of crises, conflicts or austerity. Even some working in the field of what is too often simply called “economic and social rights,” forget cultural rights. It is critical to insist on the “C” in “ESC” rights and to constantly reiterate the centrality of cultural rights to the human rights framework and the human experience.

56. A related perennial problem is that of insufficient funding for the culture sector in all regions of the world. There can be no real movement forward on cultural rights without adequate funding, at least meeting the UNESCO target of 1 per cent of total government expenditure devoted to culture.

## **IV. Advances in cultural rights around the world**

### **A. Developments at the international level**

57. Since 2010, the number of States parties to the International Covenant on Economic, Social and Cultural Rights has increased by 9, bringing the total to 169. The Optional Protocol, adopted in 2008, has entered into force and 24 States parties have ratified or acceded to it, 17 of which have done so since 2010. The Special Rapporteur regularly urges adherence to and implementation of these instruments in her reports and calls on civil society to submit more cases and information concerning article 15 of the Covenant to the Committee on Economic, Social and Cultural Rights.

58. Throughout their work, both mandate holders on cultural rights have made recommendations to stakeholders in relevant fields to integrate cultural rights into their work. Since 2009, there have been noticeable developments in the use of human rights language and approaches in various fields of culture. A number of organizations now refer explicitly to cultural rights, going beyond the request for “access to culture” to demand equal participation in cultural life for all.<sup>16</sup> It is important to recognize these positive developments.

#### **Freedom of artistic expression and creativity**

59. For expert Ole Reitov, “artistic freedom is no longer a ‘marginalized’ issue in the ‘world of freedom of expression’”.<sup>17</sup> As he stated in his submission, the report of the Special Rapporteur on the right to freedom of artistic expression in 2013 (A/HRC/23/34) was immediately picked up by several international organizations working for the protection of artists’ rights, who have continued to use it as a reference point for advocacy and training.<sup>18</sup>

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<sup>16</sup> See, for example, the 2018 *Appel de Winnipeg pour un pacte culturel mondial* and the “Culture 21 actions” self-evaluation method on culture and cultural rights in sustainable development agendas proposed in 2014 by United Cities and Local Governments, which has played a critical role at the municipal level.

<sup>17</sup> Ole Reitov submission, para. 13.

<sup>18</sup> *Ibid.*, paras. 6 and 8.

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60. Of particular relevance have been the UNESCO global reports monitoring the implementation of the 2005 Convention on the Promotion and Protection of the Diversity of Cultural Expressions, which have made the promotion of human rights and fundamental freedoms one of the four overarching implementation goals for the 140 States parties.<sup>19</sup> In both reports, the monitoring framework explicitly builds on the work of the mandate on the cultural rights of women (chapter 9) and freedom of artistic expression and creativity (chapter 10) and core indicators to measure achievements in cultural policies are proposed, thereby firmly incorporating cultural rights as key indicators.

61. In its submission for the present report, Freemuse noted how much the mandate had increased global awareness of the issue of freedom of artistic expression and its relationship with other human rights.<sup>20</sup> While improvements have been made, important gaps remain regarding the freedom of artistic expression and creativity of persons with disabilities, women or older persons, for example. One challenge has been that many cultural rights actors have not incorporated a gender perspective into their work, while many women's rights advocates have not considered cultural rights issues. The most recent report by Freemuse, addressing attacks against women artists, is a good example of how to increase the visibility of such issues.<sup>21</sup>

62. Over the last few years, the number of reported attacks perpetrated by State and non-State actors against those engaging in artistic expression has risen, which is also a reflection of the increased capacity of organizations to monitor such attacks.<sup>22</sup> Protection has likewise improved, with a growing number of safe haven cities for artists at risk, the inclusion of artists in protection schemes<sup>23</sup> and the adoption in 2015 in Tunis of the Carthage Declaration on the Protection of Artists in Vulnerable Situations. Other global organizations such as PEN International and the International Federation of Library Associations and Institutions regularly use the work of the mandate. The Federation has integrated artistic freedom and copyright issues as vital complements to freedom of access to information.<sup>24</sup>

### **Cultural heritage, history and memorialization**

63. The same progress can be noted in the field of cultural heritage, where policymakers and global organizations have incorporated cultural rights language and issues raised in the relevant reports of the mandate.

64. Since 2010, the number of States parties to cultural heritage instruments has increased. The relevant UNESCO conventions include the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage with 6 new ratifications and the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, with 58 new States parties. The Convention for the Protection of Cultural Property in the Event of Armed Conflict has had eight new accessions and two ratifications, and its two Protocols of 1954 and 1999 have gained 9 and 26 new States parties respectively since 2010.

65. Between 2011 and 2017, the three advisory bodies mandated by the World Heritage Convention: the International Centre for the Study of the Preservation and Restoration of Cultural Property, the International Council on Monuments and Sites and the International Union for Conservation of Nature collaborated through an "Our Common Dignity Initiative" to develop awareness of the significance of rights-based approaches to world heritage management, which included training and analysis of the reports issued by the mandate

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<sup>19</sup> See *Re/Shaping Cultural Policies* (Paris, UNESCO, 2015 and 2018), available from <https://en.unesco.org/creativity/publications>.

<sup>20</sup> Freemuse submission, p. 3.

<sup>21</sup> *Creativity Wronged: How Women's Right to Artistic Freedom Is Denied and Marginalized* (2018).

<sup>22</sup> Sarah Whyatt submission, p. 2.

<sup>23</sup> See, for example, the International Cities of Refuge Network and the "Safe havens for artists at risk" seminar series, which the Special Rapporteur was delighted to attend in 2018, designed to share and improve practice in this area.

<sup>24</sup> International Federation of Library Associations and Institutions submission, para. 1.3.

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holders.<sup>25</sup> The commitment to human rights of the International Council on Monuments and Sites is also visible in its resolution 2017/23 adopted at its nineteenth General Assembly.

66. Through its work on culture in emergencies, UNESCO often references the Special Rapporteur's reports and relevant Human Rights Council resolutions to advocate for enhanced consideration of cultural heritage and the need for its protection in humanitarian and security policies.<sup>26</sup> In its responses to the destruction of cultural heritage, UNESCO is increasingly guided by cultural rights, giving significant importance to broad participation and recognition of local knowledge in reconstruction efforts.

67. The International Criminal Court appointed the Special Rapporteur as an expert whose cultural rights approach was deemed relevant in determining reparations due to those who had suffered from the destruction of cultural heritage, in the case against Ahmad Al Faqi Al Mahdi. The Special Rapporteur hopes that this approach will receive more attention in similar future cases and judgments.

68. Some cultural heritage professionals, organizations and institutions have over recent years included cultural rights in their approaches. The submissions received for the present report mention the considerable advocacy work done by RASHID International in favour of a cultural rights approach with its partners, collaborating to safeguard Iraqi heritage,<sup>27</sup> and the experiences in the Democratic Republic of the Congo, using cultural heritage practices to establish spaces for interaction and understanding between groups and find solutions to problems that have caused tensions and deaths.

69. These positive developments indicate the capacity of relevant stakeholders to improve the fulfilment of human rights commitments. However, much still needs to be done to mainstream that approach among diverse actors in the field and those working in peacekeeping and transitional justice. Unfortunately, a human rights approach has not been integrated into the work of the Security Council on cultural heritage, as recent relevant resolutions make clear through the omission of any reference to human rights. The Special Rapporteur also condemns the removal of a specific mention of the protection of cultural heritage from Security Council resolution 2423 (2018) renewing the mandate of the United Nations Multidimensional Integrated Stabilization Mission in Mali. That is a step backward, which must be reversed.

70. In 2018, the Special Rapporteur considered the impact of climate change on cultural heritage. Many world heritage sites are already threatened by, inter alia, rising sea levels and climate change is a "threat multiplier", magnifying existing threats to heritage, such as by fuelling conflicts. The Special Rapporteur participated in the ground-breaking "Climate heritage mobilization" side event during the Global Climate Action Summit held in San Francisco in September 2018. She salutes that initiative and notes (a) that the impact of climate change on cultural heritage is an urgent human rights question and must be understood and responded to as such and (b) that cultural heritage in all its forms represents a powerful resource for addressing the challenges caused by climate change.

71. The Special Rapporteur supports the Pocantico Call to Action on climate impacts and cultural heritage and endorses its appeal for ensuring that cultural heritage voices are represented in climate policy discussions.<sup>28</sup> She hopes to address those issues further in the future, including through a regional mission.

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<sup>25</sup> ICOMOS Norway submission, p. 1. See also Amund Sinding-Larsen, Peter Bille Larsen, eds., report and case studies carried out within the "Our Common Dignity Initiative" on rights-based approaches in world heritage (February and April 2017).

<sup>26</sup> See <https://en.unesco.org/themes/culture-in-emergencies>.

<sup>27</sup> RASHID International e.V. submission, p. 11.

<sup>28</sup> See [www.ucsusa.org/global-warming/solutions/pocantico-call-action-climate-impacts-and-cultural-heritage#.XA7wt\\_ZFyZ8](http://www.ucsusa.org/global-warming/solutions/pocantico-call-action-climate-impacts-and-cultural-heritage#.XA7wt_ZFyZ8).

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### **Right to benefit from scientific progress and its applications and the cultural rights impact of patent policies**

72. The integration of a cultural rights approach in the various fields of science has been more modest, with fewer organizations and platforms having embraced the recommendations of the reports of the mandate holders. However, those who have worked with a cultural rights perspective have noted that the cultural rights approach to scientific knowledge, framing it as a right with corresponding obligations and emphasizing its public good aspect, has been vital to empower activists and move forward regarding HIV/AIDS, tuberculosis and the hepatitis C virus.<sup>29</sup> More work needs to be done by the mandate on scientific freedom.

### **Impact of commercial advertising and marketing practices on the enjoyment of cultural rights**

73. The report by the Special Rapporteur on the impact of advertising and marketing practices on the enjoyment of cultural rights and its recommendation to ban all commercial advertising and marketing in schools resonated strongly with UNICEF. In 2016, it organized a workshop on children's rights and school marketing and started discussing possible guidelines for businesses on commercial free schools, based on the rights of the child. That work continues and in December 2017, UNICEF Netherlands organized an event on children's rights in marketing to present the guidelines.

### **Impact of diverse forms of fundamentalism and extremism on cultural rights**

74. The Special Rapporteur has worked closely with civil society, including women human rights defenders, in developing work on fundamentalism and extremism, which has provided tools for concrete human rights advocacy. For example, Muslims for Progressive Values asserted that it had "unequivocally relied on the definitions and explanations provided in report A/HRC/34/56" and viewed those definitions as normative and standard-setting. The organization affirmed that the mandate had provided civil society organizations with the language necessary to actively address and counter narratives of religion and culture that are rights-diminishing in strategic ways within the United Nations system.<sup>30</sup>

75. The work in this area, in particular the report on fundamentalism, extremism and the cultural rights of women, strengthened the interest of women human rights defenders in the mandate. The Special Rapporteur was informed by one delegation that in response to the report, its national security officials had met with officials in charge of implementing women's rights for the first time. The Association for Women's Rights in Development (AWID) reported that the work of the mandate on fundamentalism was crucial for women human rights defenders.<sup>31</sup> The Association produced a series of videos on the reports on fundamentalism, extremism and cultural rights<sup>32</sup> and used them as a resource for those working in the development sector and the basis of a webinar. The reports were also referenced as a tool by the Observatory on the Universality of Rights.<sup>33</sup>

## **B. Developments within the United Nations system**

76. In the majority of their thematic reports, the mandate holders have also made recommendations to the United Nations human rights system and its various mechanisms in order to improve the recognition and enjoyment of cultural rights and strengthen the indivisibility of all human rights and the coherence of the system.

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<sup>29</sup> Treatment Action Group submission, paras. 32–34.

<sup>30</sup> Muslims for Progressive Values submission.

<sup>31</sup> See Isabel Marler, "5 reasons the work of the Special Rapporteur in the field of cultural rights matters to feminists", 24 November 2017, Association for Women's Rights in Development (AWID).

<sup>32</sup> See [www.awid.org/resources/impact-fundamentalisms-and-extremisms-cultural-rights-interview-un-special-rapporteur](http://www.awid.org/resources/impact-fundamentalisms-and-extremisms-cultural-rights-interview-un-special-rapporteur).

<sup>33</sup> See [www.oursplatform.org/resource/impact-fundamentalism-extremism-cultural-rights-report-special-rapporteur-field-cultural-rights/](http://www.oursplatform.org/resource/impact-fundamentalism-extremism-cultural-rights-report-special-rapporteur-field-cultural-rights/).

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77. Positive developments include the use of new language about cultural rights in the work of other human rights bodies. In September 2015, a joint statement by 57 States at the Human Rights Council reaffirmed the right to freedom of expression, including creative and artistic expression, stating that they were critical to the human spirit, the development of vibrant cultures and the functioning of democratic societies. In 2014, in resolution 27/31 on civil society space, the Human Rights Council emphasized the important role of artistic expression and creativity.

78. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence stressed the importance of actions in the field of culture as one of the four central measures needed to prevent recurrence of conflicts and support sustainable peace (A/HRC/30/42). He reiterated that position in 2017 in a framework approach to prevention that he had developed (A/72/523) and in the joint study, issued in conjunction with the Special Adviser to the Secretary-General on the Prevention of Genocide, on transitional justice and the prevention of gross violations of human rights (A/HRC/37/65).

79. The work of the mandate on the cultural rights of women has attracted the attention of many human rights mechanisms dedicated to the rights of women, including UN-Women, the Committee on the Elimination of Discrimination against Women and the Working Group on the issue of discrimination against women in law and in practice,<sup>34</sup> who have integrated this perspective into their work and taken measures to develop their collaboration with the mandate, including meeting directly with the Special Rapporteur. More needs to be done to systematize such collaboration.

80. One of the most successful initiatives at the Human Rights Council concerns cultural rights and the protection of cultural heritage. A joint statement, rallying an unprecedented 146 States, condemned the intentional destruction of cultural heritage and called for the identification of best practices for its prevention and for raising awareness of the mutually reinforcing relation between the protection of cultural heritage and human rights and of the risks faced by defenders of cultural heritage. In the resulting resolutions 33/20 and 37/17 the Council confirmed that these are matters for it to follow, in cooperation with the mandate on cultural rights.<sup>35</sup>

81. Although it is not possible to establish a clear causal relationship, it appears that the work of the mandate has contributed to increasing the number of submissions received, questions raised and recommendations made by the treaty monitoring bodies on cultural rights in their dialogues with States parties, especially the Committee on Economic, Social and Cultural Rights. The concluding observations of the Committee related to article 15 of the International Covenant on Economic, Social and Cultural Rights have been on an upward trajectory since 2009 and since 2013, most have dealt with article 15 in particular, but also covering a wider array of cultural rights questions. This positive development needs to be supported, both by the experts on the Committee, through dedicating more attention to those rights in the preparation of their dialogues with States, and by OHCHR, through dissemination of information on cultural rights that develops the capacities of stakeholders to engage with the Committee and report on those rights.

82. The Special Rapporteur is pleased that the thematic work of her mandate has been extensively referred to during the day of general discussion organized by the Committee on Economic, Social and Cultural Rights on its forthcoming general comment on the right to benefit from scientific progress and its applications.<sup>36</sup> She emphasizes the need for more coordination between her mandate and the Committee and other relevant bodies, and welcomes opportunities to pursue this dialogue in the future.

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<sup>34</sup> See, in particular, the reports of the Working Group A/HRC/38/46 and A/HRC/29/40.

<sup>35</sup> See also [www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx](http://www.ohchr.org/EN/Issues/ESCR/Pages/CulturalRightsProtectionCulturalHeritage.aspx).

<sup>36</sup> See [www.ohchr.org/EN/HRBodies/CESCR/Pages/Discussion2018.aspx](http://www.ohchr.org/EN/HRBodies/CESCR/Pages/Discussion2018.aspx).

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83. Finally, submissions received in the preparation of the present report also indicate that some civil society stakeholders have contributed information regarding cultural rights to the universal periodic review.<sup>37</sup> Those efforts must continue and accelerate in order for cultural rights to gain the full attention they deserve.

### **C. Developments at national and regional level around the world**

84. There are a variety of ways to improve the implementation of cultural rights and translate them into concrete measures at national and regional levels. The Special Rapporteur was glad to learn of many initiatives implemented by local and national authorities and civil society actors, including those further to her recommendations. The submissions received illustrate at least five types of measures taken: (a) awareness-raising campaigns and training on cultural rights; (b) the adopting of laws or reviews of existing legal frameworks; (c) measures taken at the policy level by public authorities or civil society organizations to increase the ability of all to exercise their cultural rights, including by reviewing administrative and financial frameworks from a cultural rights perspective; (d) creating alternative services to increase access to diversity; and (e) developing partnerships and cooperation (see annex).

## **V. Next 10 years of the mandate**

85. In her remaining years in the mandate and subject to capacity and funding, the Special Rapporteur hopes to address a number of critical issues that represent gaps, issues which require further attention, or new and emerging questions. They include public space as a forum for the enjoyment of cultural rights, the work of cultural rights defenders – a critical and often overlooked constituency among human rights defenders – the cultural rights of persons with mixed identities, current controversies regarding cultural appropriation and misuse of that concept, and the cultural rights of indigenous peoples. Discrimination in the field of cultural rights will continue to be a cross-cutting priority. A number of other issues, such as the impact of social media and the Internet on cultural rights, the cultural rights of youth and of rural people<sup>38</sup> also need to be further addressed by the mandate.

86. The Human Rights Council emphasized that the mandate on cultural rights should “integrate a gender and disabilities perspective” (resolution 10/23, para. 9 (e)). The mandate has been very successful in addressing gender, with two dedicated reports, as well as the mainstreaming of gender and the cultural rights of lesbian, gay, bisexual, transgender and intersex persons<sup>39</sup> in both thematic and country work, and close cooperation with women human rights defenders and lesbian, gay, bisexual, transgender and intersex rights defenders and other relevant special procedures mandate holders. The Special Rapporteur is proud that her mandate was listed among those making the most regular and in-depth references to issues affecting lesbian, gay, bisexual, transgender and intersex persons in a survey by the International Service for Human Rights and the International Lesbian, Gay, Bisexual, Trans and Intersex Association. The Special Rapporteur hopes to receive submissions of more cases in this important area.

87. However, much more needs to be done on the cultural rights of persons with disabilities. The Special Rapporteur met with the Special Rapporteur on the rights of persons with disabilities to discuss shared concerns in this area. A future dedicated report on the cultural rights of persons with disabilities, addressing article 30 of the Convention on the Rights of Persons with Disabilities, should be considered.

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<sup>37</sup> See submissions by RASHID International e.V., p. 1; Treatment Action Group, para. 9; and Ole Reitov, paras. 6–7.

<sup>38</sup> The Special Rapporteur welcomes the newly adopted Declaration on the Rights of Peasants and Other People Working in Rural Areas.

<sup>39</sup> See International Service for Human Rights and International Lesbian, Gay, Bisexual, Trans and Intersex Association factsheets on special procedures, available from [www.ishr.ch/news/lgbti-rights-factsheets-un-special-procedures](http://www.ishr.ch/news/lgbti-rights-factsheets-un-special-procedures).

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88. The Special Rapporteur looks forward to continuing to strive to maximize past gains and surmount current challenges in cultural rights. Over the next 10 years, if fully resourced and supported, the mandate will continue to play a vital role in supporting cultural rights within the universal human rights framework.

## **VI. Conclusions and recommendations**

### **A. Conclusions**

89. The cultural rights guaranteed by the Universal Declaration of Human Rights will only be realized if new ways are found to stand up for them and new allies to stand with. The Special Rapporteur calls on States from all regions to engage with the work of the mandate; participate in interactive dialogues about the reports it produces, both at the level of the Human Rights Council and the General Assembly; respond positively to her requests for invitations to carry out missions; and most importantly implement her recommendations. She calls on civil society to engage more fully with the mandate as well and to consider forming a coalition for cultural rights at the United Nations.

90. Cultures must not be misused to violate human rights, but they can have many positive implications for the enjoyment of universal human rights and that must never be overlooked. Cultures can be like oxygen for the human spirit. When enjoyed in accordance with international standards, they can nourish, sustain and challenge and create space for debate and resolving conflicts, as well as for expression, education and enjoyment. That is part of why the battle for cultural rights means so much today. The cultural rights mandate has a critical role to play in continuing to develop that body of rights, but they must also be mainstreamed across the United Nations human rights system and systematically implemented by all relevant actors at international, regional, national and local levels.

91. Article 27 of the Universal Declaration of Human Rights is critical for the future of humanity and is essential for the implementation of all the other articles in the Declaration. The Special Rapporteur calls on everyone to go forward together to creatively and doggedly realize cultural rights for all without discrimination. Seventy years after the adoption of the Declaration and its, as yet, unrealized promise of the equal and inalienable rights of all members of the human family, and 10 years after the creation of the mandate on cultural rights, it is time to recommit to making the vision of article 27 a lived reality all around the world.

### **B. Recommendations**

92. Governments, United Nations bodies, civil society and experts should develop cultural rights action plans, setting specific goals to be achieved during the next 10 years of the mandate and to be reported on in 2029. They should also set targeted goals for improving implementation of article 27 of the Universal Declaration of Human Rights by its seventy-fifth anniversary in 2023.

93. Governments should:

(a) Ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, and all international standards guaranteeing cultural rights, and put in place effective implementation and monitoring mechanisms to realize those standards and rights;

(b) Respect, protect and fulfil cultural rights;

(c) Ensure respect for the principle of non-discrimination and equality in the field of cultural rights, including with regard to the rights of marginalized persons. In particular, States must aggressively combat discrimination in the cultural sector against, inter alia, women, lesbian, gay, bisexual, transgender and intersex persons and persons with disabilities;

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- (d) Review laws that discriminate against anyone on the basis of cultural or religious arguments and bring them into line with universal human rights standards;
  - (e) Put in place mechanisms, if they have not already done so, to ensure systematic follow-up to country missions and review progress in implementing thematic recommendations from the mandate;
  - (f) Review all past communications received from the mandate and ensure they have fully investigated allegations and, where appropriate, taken measures to halt violations and hold perpetrators accountable;
  - (g) Ensure effective remedies for all violations of cultural rights and the justiciability of those rights, make reparation to victims and ensure alleged perpetrators are brought to justice in accordance with international standards;
  - (h) Respect and ensure the rights of cultural rights defenders, support civil society working in the cultural sector and ensure that its work is not impeded;
  - (i) Release all those deprived of their liberty in violation of international standards for exercising their internationally guaranteed cultural rights and guarantee the security of those at risk for exercising those rights, including by providing asylum where necessary;
  - (j) Ensure that respect for cultural rights in accordance with international standards is taught throughout educational systems and to the general public;
  - (k) Refrain from using culture, cultural rights or tradition to justify violations of international human rights and ensure that no representative of the State does so in national or international forums;
  - (l) Adopt a cultural rights approach informed by commitments to equality, non-discrimination, full consultation and participation in all areas of cultural policy;
  - (m) Make culture fully accessible to all;
  - (n) Increase funding for the cultural sector to meet at least the UNESCO minimum target of 1% per cent of total government expenditures;
  - (o) Consider making more funds available to the mandate so it can meet the goals set by the Human Rights Council.

94. The Office of the United Nations High Commissioner for Human Rights should:

- (a) Mainstream cultural rights and dedicate more resources to implementation of those rights;
- (b) Develop more tools and publications to increase awareness of cultural rights and educate human rights mechanisms, treaty bodies and United Nations agencies about cultural rights, including the right to science;
- (c) Pursue further opportunities for cooperation between the mandate of the Special Rapporteur and other relevant mechanisms;
- (d) Foster better thematic coordination between the mandate and the Committee on Economic, Social and Cultural Rights, for example by organizing periodic meetings of the experts;
- (e) Ensure integration of the work of the mandate on cultural rights in future revisions of the guidelines for reporting to all relevant treaty bodies, especially under article 15 of the International Covenant on Economic, Social and Cultural Rights;
- (f) Consider how to increase the attention paid to cultural rights issues when establishing the basis of the fourth cycle of the universal periodic review;
- (g) Increase the human and material resources and technical support devoted to the mandate on cultural rights so as to increase the output of communications, the development of follow-up and implementation mechanisms and improvement in the communications capacity of the mandate;

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(h) Ensure transmission of the Special Rapporteur's reports and recommendations through all appropriate channels at the national and international level, so as not to rely solely on posting on the website.

95. The Committee on Economic, Social and Cultural Rights should:

(a) Dedicate more attention to article 15 of the International Covenant on Economic, Social and Cultural Rights in its dialogue with States;

(b) Consider addressing in greater detail the content and obligations relating to article 15 (2), (3) and (4) through days of general discussion and general comments;

(c) Conduct outreach so as to encourage more civil society groups working in the cultural rights area to engage with the Committee through the submission of shadow reports to it, and submission of cases under the Optional Protocol.

96. Other human rights treaty bodies should increase their work on relevant aspects of cultural rights, including in dialogue with States and in concluding observations, and should consider adopting general comments on the cultural rights provisions of their respective treaties where they have not done so, such as in the case of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities.

97. Regional, national and international human rights mechanisms and civil society organizations working on freedom of opinion and expression should systematically integrate freedom of artistic expression into their work and accordingly refer to article 15 of the International Covenant on Economic, Social and Cultural Rights, together with article 19 of the International Covenant on Civil and Political Rights to interpret this freedom.

98. International courts and tribunals should hear more cases concerning violations of cultural rights.

99. The United Nations system should hold an international conference bringing together those working against fundamentalism and extremism from a human rights perspective, including relevant cultural rights defenders and women human rights defenders.

100. Civil society should:

(a) Engage more systematically with the mandate and with other United Nations and regional human rights bodies on cultural rights, including by submitting shadow reports, participating in interactive dialogues and submitting cases related to article 15 of the Covenant to the Committee on Economic, Social and Cultural Rights under the Optional Protocol to the Covenant and relevant cultural rights cases to bodies with similar complaints mechanisms;

(b) Engage in outreach, training and consultation in cultural, artistic and scientific circles on cultural rights, the work of the mandate, relevant international standards and working with the United Nations human rights system;

(c) Ensure that human rights organizations mainstream cultural rights in their work, and that cultural organizations adopt a human rights perspective in their work. More work must be done at those intersections, including on the cultural rights of women, lesbian, gay, bisexual, transgender and intersex persons, persons with disabilities, rural persons and peasants, migrants and refugees;

(d) Consider forming a coalition for cultural rights at the United Nations, modelled on similar coalitions covering other universal human rights.

### Developments in the field of cultural rights at the national and regional levels around the world

1. The following is an overview of selected examples of good practice in the implementation of cultural rights at the national and regional levels around the world drawn, in particular, from submissions received. The Special Rapporteur notes that this is not a complete or fully representative survey, but it covers many positive methods for moving the cultural rights agenda forward on the ground and initiatives, which could be replicated elsewhere. In her ongoing work, the Special Rapporteur looks forward to receiving other examples from more regions, countries and locales.

#### A. Raising awareness about cultural rights

2. Raising awareness can take the form of public campaigns through social media, dedicated human rights days or weeks, and brochures. The latter are particularly effective when they translate the information into accessible languages, and relate cultural rights to specific contexts, such as by explaining the rights one has when antiquities are found on one's land,<sup>1</sup> or providing information about the rights of patients faced with tuberculosis to have access to knowledge and the benefits of science,<sup>2</sup> and by publicly challenging fundamentalist and extremist ideologies and restrictive laws that hinder expression of diversity.<sup>3</sup> The Special Rapporteur received information from National Human Rights Institutions and civil society organisations about their efforts in this vein, such as the production of radio talk shows promoting human rights and rights of women in Egypt.

3. Submissions mention instances when cultural rights were referred to as means to achieve sustainable peace, build bridges of dialogue and increase democratic participation and respect for diversity.<sup>4</sup> The National Human Rights Commission of Nigeria noted that, in their country, "cultural rights are recognised as being indigenous to a people and continuous efforts are being made by government and non-state actors to educate people on the need to respect Nigeria's cultural diversity through workshops, conferences and seminars".

4. Cultural rights have also been the subject of trainings for cultural professionals working. Submissions received mention trainings for heritage and conservation professionals, cultural operators, artists and policy makers.<sup>5</sup> In France, for example, a large applied research project was developed since 2012 to analyse public policies through the lens of cultural rights.<sup>6</sup> Piloted by the French organization *Reseau Culture 21* and the *Observatoire de la diversité et des droits culturels*, the project developed training and a methodology to guide agents of public services through the evaluation of more than 350 of their activities, programmes and processes with a cultural rights approach. In a different area, the International Federation of Library Associations has developed and widely distributed guidelines on cultural rights for librarians,<sup>7</sup> and the Itaú Cultural institute in Brazil has been organizing yearly short trainings on cultural rights, including the work of the mandate since 2010.<sup>8</sup>

5. Many creative initiatives are happening in different regions of the world in these regards. Nevertheless, many more such programmes need to be developed to help governments at all levels comply with their cultural rights obligations.

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<sup>1</sup> Emek Shaveh, p. 6.

<sup>2</sup> Treatment action group, §34, *Know your rights guide*, translated into 8 languages.

<sup>3</sup> Freemuse, p. 2; European Bangladesh Forum, p. 4, Government of Mauritius, p. 1.

<sup>4</sup> RASHID, National Human Rights Commission of Nigeria.

<sup>5</sup> Submissions from ICOMOS Norway, RASHID, *Observatoire de la diversité et des droits culturels*.

<sup>6</sup> See the website of the project, called *Paideia*: [www.droitsculturels.org/paideia](http://www.droitsculturels.org/paideia).

<sup>7</sup> International Federation of Library Associations and Institutions (IFLA), p. 5.

<sup>8</sup> See [www.itaucultural.org.br](http://www.itaucultural.org.br).

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## B. Legal recognition

6. The ratification of international human rights instruments relevant to cultural rights is an important step for the realization of these rights, and one that the Special Rapporteur has continuously called for. However, it is as important to translate these international commitments into national and regional laws providing for concrete implementation.

7. In the review of its constitution in 2011, Mexico recognized that human rights obligations have an equal value with the constitution, and specifically incorporated cultural rights into the text.<sup>9</sup> Meanwhile, Mexico City dedicated a full chapter to cultural rights in its first city constitution.<sup>10</sup> Egypt has also included a number of cultural rights in its 2014 constitution. Morocco recognized linguistic and cultural diversity in its constitution in 2011,<sup>11</sup> and France, when modifying its territorial organization, made explicit the shared responsibilities of different levels of Government in the implementation of cultural rights,<sup>12</sup> In these countries, the challenge now is to ensure that institutional, administrative and public policy frameworks, and practice, comply with these commitments.

8. Cultural rights have also been explicitly mentioned in certain laws. One example is the decree about cultural centers in the Wallonia-Brussels Federation, adopted in November 2013 and committing cultural centers to contribute through their activities to the exercise of cultural rights for all.<sup>13</sup> Additionally, cultural rights are mentioned in the section on culture in the coalition agreement of the new government of Luxembourg (2018-2023). A number of States have put in place legislative changes to respect freedom of artistic expression, including France, Tunisia, South Korea<sup>14</sup> and the Nordic Ministries of Culture.<sup>15</sup>

9. Other States have made efforts to increase guarantees regarding access to culture and heritage, either in National Human Rights Plans or in laws governing the cultural sector and intellectual property.<sup>16</sup> In such cases, the challenge is ensuring the adoption and utilisation of a human rights approach that will foster greater cultural choices and the participation of all, and not only provide for people's access to a given cultural offer as consumer. One notable example concerns the cancellation of a trademark, the "Viche del Pacífico", which was an example of expropriation of indigenous peoples' equitable share of the economic, medical or social benefits arising from the use of their traditional knowledge or practices.<sup>17</sup>

10. Another area of national legislation contributing to the implementation of cultural rights relates to the recognition of diversity. Some submissions mentioned changes to provide better protection for minority and indigenous peoples and their cultural resources, for

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<sup>9</sup> Instituto Internacional de Derecho Cultural y Desarrollo Sustentable (IDC Cultura), p. 2.

<sup>10</sup> National Council for human Rights of Egypt.

<sup>11</sup> Institut Royal de la Culture Amazighe (IRCAM), p. 1; Morocco, p. 8.

<sup>12</sup> French law on the new territorial organisation of the Republic (Nouvelle Organisation Territoriale de la République, NOTRe), 2015-991, articles 103-104.

<sup>13</sup> [www.centresculturels.cfwb.be/index.php?id=9331](http://www.centresculturels.cfwb.be/index.php?id=9331).

<sup>14</sup> Sarah Wyatt, p. 3.

<sup>15</sup> Nordic Ministers of Culture Declaration on "Promoting Diversity of Cultural Expressions and Artistic Freedom in a Digital Age", Helsinki, 2 May 2016. Submissions from Ole Reitov, §5 and the Government of Sweden. See also Norway's submission for its strategy for Freedom of Expression and its human rights agenda supporting artistic freedom and combatting radicalisation and violent radicalism and Sweden's submission on its efforts to improve opportunities for persons with disabilities to equally take part in cultural life (I, 3, i).

<sup>16</sup> Submissions from the Defensoría del Pueblo de la República Bolivariana de Venezuela about Venezuelan cultural policy; from the National Institute for Human Rights of Argentina, p. 5, about the inclusion of access to culture and heritage in Argentina's National Human Rights Plan 2017-2019; from the Comisionado Nacional de los derechos humanos de Honduras, on its Action Plan for the Development of Moskitia 2016-2017; from the Commission on Human Rights of the Philippines about the inclusion of a chapter on culture in the country's development plan 2017-2022, p. 2 and annex; from the Cyprus Department of Antiquities, p. 2; measures taken in national law by a number of States following the ratification of the Treaty of Marrakech.

<sup>17</sup> Submission from the Defensoría del Pueblo de Colombia, p. 1-2.

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example in Colombia, Norway and Morocco.<sup>18</sup> In these countries, recognition of minorities has also had an impact on education. In Morocco, language trainings were organised for administrators, civil servants and journalists.<sup>19</sup> The immediate past Government of the United States of America<sup>20</sup> and the current Government of Canada<sup>21</sup> have since 2010 made pledges to better recognize and implement the rights of Indigenous peoples. These commitments need to be followed with legal implementation, the development of processes to ensure free, prior and informed consent of indigenous peoples and the creation of effective monitoring mechanisms.

11. In a number of countries, National Human Rights Institutions have been at the forefront of defending cultural rights, receiving complaints about alleged violations, advocating for changes in laws and procedures to better respect these rights and contributing to their monitoring both at the national level and through the submission of information to the United Nations treaty monitoring bodies and the Universal Periodic Review. The Special Rapporteur welcomes these efforts and encourages National Human Rights Institutions to further invest in the development of monitoring and implementation tools for cultural rights generally, and for the recommendations of the mandate, in particular.

12. In some countries, civil society actors can file legal petitions against undue restrictions of cultural rights. This has been done in certain instances with regard to access to cultural heritage sites or to information about archaeological excavations,<sup>22</sup> politically motivated interferences in history writing and teaching, and fundamentalist and extremist efforts to reduce sexual and reproductive rights.<sup>23</sup>

13. In the United Kingdom, the organization Southall Black Sisters which intervened in an important case regarding gender segregated religious schools<sup>24</sup> noted that “lawyers drew extensively upon the expert reports from both Special Rapporteurs [in the field of cultural rights] to understand the connections between fundamentalist views on education and the use of gender segregation as a specific tool with which to disempower young Muslim girls” and more generally that the reports enabled them “to mobilise support and influence public policy on gender segregation in the educational context”.<sup>25</sup>

### C. Policy making

14. Changes in law are only one avenue explored by States to improve the fulfilment of international obligations regarding cultural rights. The Special Rapporteur was also glad to learn about measures taken at the policy level to improve access to cultural resources, foster diversity and ensure participation in cultural life.

15. Measures to increase the accessibility of cultural resources include the creation of new cultural institutions, for example in rural areas,<sup>26</sup> the evaluation and improvement of

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<sup>18</sup> Submissions from the Government of Colombia about its laws 1381 of 2010; from the Government of Norway on Norway’s protection of the Sami and national minorities; from the Government of Morocco about its law on linguistic pluralism, including in school curricula and training of public agents, p. 7-9.

<sup>19</sup> IRCAM, §4.

<sup>20</sup> President Obama, “Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples – Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples”, 16 December 2010, [www.state.gov/documents/organization/194027.pdf](http://www.state.gov/documents/organization/194027.pdf). See also the perspective of the UN Special Rapporteur on the rights of indigenous peoples on her recent visit to the United States, A/HRC/36/46/Add.1.

<sup>21</sup> Speech delivered by Prime Minister Justin Trudeau, House of Commons, 14 February 2018. At-sik-hata: nation of Yamasee-Moors submission.

<sup>22</sup> Emek Shaveh, p. 4, 6.

<sup>23</sup> Submission from Agenda 2030 Feminista.

<sup>24</sup> HM Chief Inspector of Education Children’s Services and Skills v the Interim Executive Board of Al-Hijrah School, 2017 EWCA Civ 1787.

<sup>25</sup> Southall Black Sisters.

<sup>26</sup> Submissions from the National Human Rights Institution of Cameroon, III, §2, and the Government

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accessibility for persons with disabilities<sup>27</sup> to such institutions, and the resources they contain, through websites and digitalization.<sup>28</sup> In Bulgaria, a training was conducted in 2016 for museum specialists to enhance access to cultural heritage for persons with disabilities.<sup>29</sup> Some Governments have increased their investments in reading, in translation of important works and in library networks.<sup>30</sup> In Egypt, the National Human Rights Institution developed an open library specialised in human rights.<sup>31</sup>

16. Some Governments have improved opportunities for all to take part actively in cultural activities by dedicating more support to public cultural events, as well as supporting independent civil society and the voluntary sector, thereby promoting a plurality of voices in the public space. Others have developed promotion mechanisms to identify and support young talent or support artists exposed to threats and hatred based on their artistic activities.<sup>32</sup> In Norway, the Government financially supports key stakeholders active on different continents for the protection of cultural rights, including the Arterial Network, the Roberto Cometta Fund, the Arab Fund for Arts and Culture, and Arts Move Africa.<sup>33</sup>

17. Concerning cultural heritage, interesting initiatives include cultural events taking place in heritage or memorialisation sites, which keeps these sites and the history they represent alive and dynamic, and may promote human rights and reconciliation. A positive example the Special Rapporteur encountered on mission is found in the restored Othello tower in Famagusta/Gazimağusa, Cyprus, where, for example, the eponymous Shakespeare play was staged in Greek with Turkish subtitles. The play was directed by a Turkish Cypriot and featured a bicomunal cast of Greek Cypriot and Turkish Cypriot actors.<sup>34</sup> The Special Rapporteur also notes Sweden's launch in 2015 of an online participatory inventory of cultural heritage.

18. Protection of cultural resources and their diversity were fostered by the creation of new posts in cultural institutions, to better protect and preserve heritage and transmit knowledge, but also by the development of intercultural and multi-lingual education.<sup>35</sup> Other policy measures have included the restitution by the Cultural Heritage Institute of Venezuela of the sacred stone of the Pemón "Kueka" to the Indigenous people.<sup>36</sup>

19. National Human Rights Institutions have also contributed to the revision of educational materials and historical narratives about significant events, taking into consideration a human rights perspective. Another example of positive measures is the review of participatory processes to ensure wide participation in the elaboration, implementation and evaluation of policies and programmes that have an impact on cultural rights,<sup>37</sup> and the systematic inclusion of women in activities and projects, and decision making positions.

20. Increased investment in the field of culture and in institutional resources is unfortunately the exception. In a number of countries, the Special Rapporteur has witnessed cuts – sometimes severe – in the overall budget dedicated to culture. She notes however that,

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of Greece, p. 6.

<sup>27</sup> Submissions from Venezuela, p. 4 and 6, Colombia, and Morocco.

<sup>28</sup> Examples received in submissions from Morocco and Venezuela.

<sup>29</sup> Submissions from the Government of Bulgaria, p. 1, and the Cyprus Department of Antiquities, p. 3.

<sup>30</sup> Submissions from IDC Cultura, Norway, Cyprus Ministry of Education and Culture and Morocco.

<sup>31</sup> National Council for Human Rights of Egypt, p. 2.

<sup>32</sup> Sweden, II, 1, viii.

<sup>33</sup> Norway, III, p. 3.

<sup>34</sup> A/HRC/34/56/Add.1, para. 74.

<sup>35</sup> Examples provided by the Comisionado Nacional de los Derechos Humanos de Honduras, the Government of Colombia, the Institut Royal de la Culture Amazighe (Morocco) and the National Human Rights Commission of Nigeria.

<sup>36</sup> Defensoría del Pueblo de Venezuela, p. 7.

<sup>37</sup> Defensoría del Pueblo de Venezuela, p. 6, 12-13 about indigenous peoples; Colombia, about the strategy to promote the recognition of the cultural manifestations and identities of Afro-descendent people, with active participation of Afro-descendent collectives and organizations; Guatemala, about the participation of Mayan people in religious activities in archaeological sites, ceremonial centers and sacred sites.

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as many of the policy measures mentioned in this section indicate, sometimes increased political will is as significant as financial means to improve implementation and the conditions for all to exercise their cultural rights.

21. Regional organisations have also played a role in developing the policy framework for cultural rights. The Special Rapporteur hopes to receive further information about this and to collaborate with diverse relevant regional mechanisms. She notes that in the Europe region, the European Union adopted in 2014 the Conclusions on participatory Governance of cultural heritage<sup>38</sup> and in 2017 the conclusions on Promoting Access to Culture via Digital Means. These standards invited member states to “recognise the importance of creators' rights while aiming at the broadest possible access to content”, promoted public access to digital heritage resources and services, and sought to increase participation in the governance of cultural heritage by members of all social groups.<sup>39</sup> 2018 was the European year on cultural heritage.<sup>40</sup> The Council of the European Union’s Work Plan for Culture for the period 2019-2022 includes thematic priority on gender equality in the culture and creative sectors.

22. In 2017, the European Union Agency for Fundamental Rights invited international experts to a high-level meeting in Vienna to explore the connections between arts and human rights. Several references were made to the mandate’s report, including concerns about how “the increasing privatisation of public space inhibits creativity in this arena”.<sup>41</sup>

#### **D. Developing alternative offers and services**

23. The implementation of cultural rights can also be improved through the action of individuals, groups and organisations, which increase the range of opportunities to take part in cultural experiences and contribute to cultural life by developing a wider diversity of offers and services.

24. One critical initiative consists in making existing material and information about cultural rights and the mechanisms for their protection available in local languages. This task often falls to national human rights institutions and civil society organizations which translate such materials into the local language(s). More should be done to ensure that these capacities are supported and developed.

25. In the field of heritage and historical narratives, the Special Rapporteur received information and witnessed herself during her country visits how some stakeholders have organized guided thematic visits of cities and sites that offer the possibility to hear other narratives about the past and discover different places and perspectives, such as that of women. In some cities, these offers are available through smartphone applications or include the possibility for participatory contributions to the content.<sup>42</sup>

26. Numerous experiences demonstrate how linguistic and cultural diversity can be included in education<sup>43</sup> and in health care. In the Philippines, including indigenous health knowledge and allowing indigenous peoples to perform their practices related to the delivery of babies at the hospital and with the presence of midwives has had a positive impact on the rate of maternal deaths. Such initiatives can only flourish if States and local authorities allow this to happen and consider those proposing their contribution to cultural life as allies and partners in the implementation of cultural rights. Authorities must ensure the necessary conditions, including a policy and administrative framework that fosters freedom of expression, freedom of association, and access to heritage resources and to public space.

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<sup>38</sup> Council of the European Union, C463/01, 23 December 2014.

<sup>39</sup> Council of the European Union, C425/03, 12 December 2017.

<sup>40</sup> European Parliament and Council of the European Union, 2017/864, 17 May 2017.

<sup>41</sup> [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2017\\_arts-and-human-rights-report\\_may-2017\\_vienna.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2017_arts-and-human-rights-report_may-2017_vienna.pdf).

<sup>42</sup> Emek Shaveh, p. 3-5. See also RASHID, p. 8-9.

<sup>43</sup> Institut Royal de la Culture Amazighe, p. 1.

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## E. Developing partnerships and cooperation

27. One last mode of implementation of cultural rights to be reviewed here consists in developing inter-sectoral partnerships or coalitions that bring together local people, cultural professionals, academics, politicians, human rights defenders and social activists. The information received through the submissions shows a diversity of ways to do so, some of which transcend national boundaries.

28. A group of researchers from different universities has, for example, attracted international funds and provided technical assistance to public authorities in their efforts to restore and rehabilitate Iraqi cultural heritage.<sup>44</sup>

29. In Cameroon, financial, material and technical support were provided to associations organising cultural events that helped in the implementation of recommendations of the mandate on access to and enjoyment of cultural heritage.<sup>45</sup> One example is the partnership with the association *Cinema Numérique Ambulant* to allow free projection of movies throughout the country.

30. Based on the recommendations in the Special Rapporteur's reports and the UN Declaration on the Rights of Indigenous Peoples, the International Federation of Library Associations and Institutions (IFLA) developed its capacity to engage and collaborate with indigenous peoples and marginalized groups: they engaged more regularly with these groups to develop jointly a guidance for libraries on the best way to treat their respective heritage. IFLA has also been working with WIPO to develop set of minimal exceptions and limitations to copyrights.<sup>46</sup>

31. In 2017, the City of Geneva initiated a partnership with other cities, civil society organisations and the Office of the High Commissioner for Human Rights to commit to a cultural rights approach to the protection of cultural heritage.<sup>47</sup>

32. This brief overview suggests what is possible in terms of regional, national and local implementation initiatives, which are critical to successful implementation of international cultural rights standards. The Special Rapporteur recalls that the Universal Declaration of Human Rights calls on "every individual and every organ of society", to work to secure rights, reminding us that a range of actors is implicated in our achievement of cultural rights for all. Relevant efforts of this nature by a wide array of bodies and persons must be multiplied and diversified in all parts of the world. The Special Rapporteur looks forward to continuing cooperation with the actors involved, and stands ready to assist them in their efforts.

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<sup>44</sup> RASHID, p. 6, 10.

<sup>45</sup> National Human Rights Institute of Cameroon, II, 1, I.

<sup>46</sup> IFLA, §1.1 and §1.7

<sup>47</sup> See the website of the Declaration of Geneva: [www.ville-geneve.ch/themes/geneve-internationale/declaration-geneve/](http://www.ville-geneve.ch/themes/geneve-internationale/declaration-geneve/).