



大会

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人权理事会
咨询委员会
第十八届会议
2017 年 2 月 20 日至 24 日
议程项目 5
咨询委员会第十八届会议报告

咨询委员会第十八届会议报告*

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* 报告附件不译，原文照发。

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一. 咨询委员会第十八届会议采取的行动

18/1. 消除对麻风病患者及其家人的歧视

人权理事会咨询委员会，

回顾人权理事会 2015 年 7 月 2 日第 29/5 号决议，其中理事会请咨询委员会在现有资源范围内开展一项研究，审查消除对麻风病患者及其家人的歧视的原则和准则的执行情况以及这方面的障碍，向理事会第三十五届会议提交一份报告，其中载有切实可行的建议，以促进更广泛地宣传和更有效地执行原则和准则，消除与麻风病有关的歧视和耻辱，促进、保护和尊重麻风病患者及其家人的人权，

又回顾咨询委员会第十五届会议设立了一个起草小组，目前小组成员有：劳伦斯·布瓦松·德沙祖尔内、马里奥·柳斯·科廖拉诺、小畑郁(主席)、奥比奥拉·希内杜·奥卡福尔、徐昌禄、阿赫马尔·比拉勒·苏菲和伊梅鲁·塔姆拉特·伊盖祖(报告员)，以及本届会议加入起草小组的刘昕生，

还回顾咨询委员会第十六届会议注意到起草小组提交咨询委员会的关于消除对麻风病患者及其家人的歧视原则和准则执行情况的初步报告，

回顾咨询委员会第十七届会议注意到起草小组提交咨询委员会的关于消除对麻风病患者及其家人的歧视原则和准则执行情况的进展报告，¹ 并请起草小组将最后报告草稿提交委员会第十八届会议，

1. 注意到起草小组提交咨询委员会本届会议的关于消除对麻风病患者及其家人的歧视原则和准则执行情况的最后报告草稿；²

2. 通过尚待核准的最后报告草稿，并委托报告员完成报告定稿，以期向人权理事会第三十五届会议提交最后报告。

2017 年 2 月 24 日
第 9 次会议

[未经表决获得通过。]

¹ A/HRC/AC/17/CRP.1。

² A/HRC/AC/18/CRP.1。

18/2. 促进和保护人权的区域安排

人权理事会咨询委员会，

回顾人权理事会 2016 年 6 月 30 日第 32/115 号决定，其中理事会请咨询委员会编写一份报告，说明促进和保护人权的区域安排，特别是在建立促进和保护人权的区域和分区域安排方面取得的进展及其在世界所有区域取得的成就，并说明联合国人权事务高级专员办事处在增进国际和区域人权机制的合作方面发挥的作用及今后能够发挥的作用；确定如何加强区域安排在促进和保护人权方面的作用，强化世界人权标准，包括国际人权文书中所载的标准；并在理事会第三十九届会议之前向理事会提交该报告，

又回顾人权理事会鼓励咨询委员会在编写上述报告时酌情考虑会员国的意见，以及有关国际组织和区域组织、高级专员办事处、国家人权机构和非政府组织及其他相关利益攸关方的意见，

还回顾咨询委员会第十七届会议设立了一个起草小组，目前小组成员有：穆罕默德·本纳尼、劳伦斯·布瓦松·德沙祖尔内、马里奥·柳斯·科廖拉诺、卡拉·阿纳尼亚·德巴雷拉、米哈伊尔·列别杰夫、小畑郁、凯瑟琳娜·帕贝尔(主席)、阿南托尼亚·雷耶斯·普拉多、徐昌禄(报告员)和伊梅鲁·塔姆拉特·伊盖祖，以及本届会议加入起草小组的刘昕生，

1. 注意到起草小组提交本届会议的关于促进和保护人权的区域安排的初步报告草稿；³

2. 请起草小组重新分发调查问卷，酌情征求未对调查问卷提供答复的会员国的意见以及有关国际组织和区域组织、国家人权机构和非政府组织及其他利益攸关方的意见，从而掌握工作所需的更多资料；

3. 又请起草小组参照咨询委员会本届会议的讨论情况，向委员会第十九届会议提交进展报告草稿，以期向人权理事会第三十九届会议提交最后报告。

2017 年 2 月 24 日
第 9 次会议

[未经表决获得通过。]

18/3. 无人陪伴的移民儿童和少年与人权

人权理事会咨询委员会，

回顾人权理事会 2015 年 7 月 2 日第 29/12 号决议，其中理事会请咨询委员会就无人陪伴的移民儿童和少年与人权这一全球问题开展一项研究，查明世界上出现这一问题的地区、原因和案例，以及人权在哪些方面受到威胁和侵犯，并为保护这类人的人权提出建议，提交理事会第三十三届会议审议，

³ A/HRC/AC/18/CRP.4。

又回顾咨询委员会第十五届会议设立了一个起草小组，目前小组成员有：易卜拉欣·阿卜杜·阿齐兹·阿尔谢迪、马里奥·柳斯·科廖拉诺、卡拉·阿纳尼亚·德巴雷拉(报告员)、奥比奥拉·希内杜·奥卡福尔、凯瑟琳娜·帕贝尔、阿南托尼亚·雷耶斯·普拉多(主席)和徐昌禄，以及本届会议加入起草小组的莱兹赫里·布齐德，

还回顾咨询委员会第十六届会议在委员会第 16/2 号行动中建议人权理事会延长原定时间安排，以便掌握工作所需的更多资料，除其他外，应考虑保护所有移徙工人及其家庭成员权利委员会和儿童权利委员会的工作，并请咨询委员会向理事会第三十三届会议提交进展报告，向理事会第三十六届会议提交最后报告，

回顾在起草报告时需要与保护所有移徙工人及其家庭成员权利委员会、儿童权利委员会及暴力侵害儿童问题秘书长特别代表加强沟通、协调与合作，以便确保协调一致并加强协同作用，

又回顾咨询委员会第十七届会议注意到提交人权理事会第三十三届会议审议的进展报告，⁴ 并请起草小组参照委员会第十七届会议的讨论情况，向委员会第十八届会议提交最后报告草稿，以期向理事会第三十六届会议提交最后报告，

1. 注意到起草小组提交咨询委员会第十八届会议的无人陪伴的移民儿童和少年与人权全球问题研究最后报告草稿；⁵

2. 请起草小组参照咨询委员会本届会议的讨论情况，将提交人权理事会的报告以电子方式发给委员会全体成员并征得他们同意，然后完成定稿并提交理事会第三十六届会议。

2017 年 2 月 24 日
第 9 次会议

[未经表决获得通过。]

18/4. 不归还非法来源资金对享有人权的负面影响

人权理事会咨询委员会，

回顾人权理事会 2016 年 3 月 24 日第 31/22 号决议，其中理事会请咨询委员会开展一项全面研究，研究非法来源资金的流动和不把非法来源资金归还来源国对享有人权的影响，包括对享有经济、社会及文化权利尤其是发展权的影响，以便汇总相关的最佳做法和主要挑战，根据这些最佳做法提出应对这些挑战的建议，并向理事会第三十六届会议提交关于该项研究的进展报告供其审议，

⁴ A/HRC/33/53。

⁵ A/HRC/AC/18/CRP.2。

又回顾人权理事会还请咨询委员会为完成该研究报告，在必要时进一步征求会员国、有关国际组织和区域组织、联合国人权事务高级专员和有关特别程序、国家人权机构和非政府组织的意见和看法，同时特别考虑到国家外债和其他有关国际金融义务对充分享有所有人权尤其是经济、社会及文化权利的影响问题独立专家关于非法资金流动、人权和《2030 年可持续发展议程》的最后研究报告，

还回顾咨询委员会第十七届会议设立了一个起草小组，目前小组成员有：马里奥·柳斯·科廖拉诺、米哈伊尔·列别杰夫、奥比奥拉·希内杜·奥卡福尔(联合报告员)、阿赫马尔·比拉勒·苏菲(主席)和让·齐格勒(联合报告员)，以及本届会议加入起草小组的莫纳·奥马尔，

1. 注意到起草小组提交本届会议的进展报告草稿，其中研究了非法来源资金的流动和不把非法来源资金归还来源国对享有人权的影响；⁶

2. 请起草小组参照咨询委员会本届会议的讨论情况，将提交人权理事会的进展报告以电子方式发给委员会全体成员并征得他们同意，然后完成定稿并提交理事会第三十六届会议。

2017 年 2 月 24 日
第 9 次会议

[未经表决获得通过。]

二. 通过议程和安排工作

A. 会议开幕和会期

1. 根据人权理事会 2007 年 6 月 18 日第 5/1 号决议设立的人权理事会咨询委员会，于 2017 年 2 月 20 日至 24 日在联合国日内瓦办事处举行了第十八届会议。会议由第十七届会议主席阿赫马尔·比拉勒·苏菲主持开幕。
2. 人权理事会主席华金·亚历山大·马萨·马特利在 2017 年 2 月 20 日咨询委员会第 1 次会议上发表了讲话。
3. 在同次会议上，联合国人权事务高级专员办事处(人权高专办)人权理事会和条约机制司司长代表高级专员发了言。
4. 也在同次会议上，与会者为全世界侵犯人权行为的受害者默哀一分钟。

B. 咨询委员会的组成

5. 咨询委员会成员名单如下：⁷ 易卜拉欣·阿卜杜勒·阿齐兹·阿尔谢迪(沙特阿拉伯，2018)；穆罕默德·本纳尼(摩洛哥，2017)；劳伦斯·布瓦松·德沙祖尔内(法国，2017)；莱兹赫里·布齐德(阿尔及利亚，2019)；马里奥·柳斯·科

⁶ A/HRC/AC/18/CRP.3。

⁷ 括号内为任期届满的年份(任期于 9 月 30 日结束)。

廖拉诺(阿根廷, 2018); 卡拉·阿纳尼亚·德瓦雷拉(萨尔瓦多, 2019); 米哈伊尔·列别杰夫(俄罗斯联邦, 2019 年); 刘昕生(中国, 2019); 小畑郁(日本, 2019); 奥比奥拉·希内杜·奥卡福尔(尼日利亚, 2017); 莫纳·奥马尔(埃及, 2019); 凯瑟琳娜·帕贝尔(奥地利, 2018); 阿南托尼亚·雷耶斯·普拉多(危地马拉, 2017); 徐昌禄(大韩民国, 2017); 阿赫马尔·比拉勒·苏菲(巴基斯坦, 2017); 伊梅鲁·塔姆拉特·伊盖祖(埃塞俄比亚, 2018); 让·齐格勒(瑞士, 2019)。⁸

6. 劳拉-玛丽亚·克勒丘内安 2016 年 6 月入选经济、社会及文化权利委员会后辞去了在咨询委员会的职务。

C. 出席情况

7. 出席本届会议的有: 咨询委员会成员, 以及联合国会员国、国际组织和非政府组织的观察员。阿纳尼亚·德巴雷拉女士因病未能出席本届会议。

D. 会议和文件

8. 咨询委员会在第十八届会议期间举行了 9 次全体会议和 4 次非公开会议。消除对麻风病患者及其家人的歧视问题起草小组、促进和保护人权的区域安排起草小组、无人陪伴的移民儿童和少年与人权问题起草小组以及不归还非法来源资金对享有人权的负面影响问题起草小组也举行了非公开会议。咨询委员会还与来文工作组举行了一次非公开会议, 并与非政府组织代表、人权理事会主席团及各区域和政治集团协调员举行了会议。

9. 咨询委员会还与支助最不发达国家和小岛屿发展中国家参与人权理事会工作的自愿技术援助信托基金所支助国家的 11 名代表举行了会议。在随后的讨论中, 咨询委员会成员、最不发达国家和小岛屿发展中国家的代表、国家观察员和一名政府间组织观察员发了言(见附件一)。

E. 选举主席团成员

10. 根据大会议事规则第 103 条和咨询委员会议事规则第 5 条, 2017 年 2 月 20 日举行的第十八届会议第 1 次会议以鼓掌方式选出以下主席团成员:

主席: 米哈伊尔·列别杰夫

副主席: 穆罕默德·本纳尼

劳伦斯·布瓦松·德沙祖尔内

小畑郁

阿南托尼亚·雷耶斯·普拉多

报告员: 小畑郁

⁸ 人权理事会第三十四届会议将任命一名东欧国家的成员。

F. 通过议程

11. 2017 年 2 月 20 日，咨询委员会第 1 次会议通过了议程(A/HRC/AC/18/1)。

G. 工作安排

12. 2017 年 2 月 20 日，咨询委员会第 1 次会议通过了秘书处编写的工作方案草案。

三. 人权理事会决议对咨询委员会提出的要求

A. 咨询委员会目前正在审议的要求

1. 纳入性别观点

13. 在 2017 年 2 月 20 日第 1 次会议上，人权高专办妇女权利和性别平等科代表介绍了咨询委员会根据人权理事会第 6/30 号决定，在执行任务时纳入性别观点的问题。在随后的讨论中，咨询委员会成员和一个国家的观察员发了言(见附件一)。

2. 消除对麻风病患者及其家人的歧视

14. 在 2017 年 2 月 20 日第 2 次会议上，咨询委员会根据人权理事会第 29/5 号决议，讨论了消除对麻风病患者及其家人的歧视问题。起草小组报告员伊盖祖先生介绍了提交理事会第三十五届会议审议的最后报告草稿(A/HRC/AC/18/CRP.1)。在随后的讨论中，咨询委员会成员、国家观察员和非政府组织观察员发了言(见附件一)。报告员随后作了总结发言。

15. 在 2017 年 2 月 24 日第 9 次会议上，消除对麻风病患者及其家人的歧视问题起草小组主席小畑先生介绍了一份案文草案(A/HRC/AC/18/L.1)，提案人为咨询委员会全体成员。经口头订正的案文草案未经表决获得通过(见第一节，第 18/1 号行动)。

3. 促进和保护人权的区域安排

16. 在 2017 年 2 月 21 日第 3 次会议上，咨询委员会根据人权理事会第 32/115 号决定，讨论了促进和保护人权的区域安排问题。起草小组报告员徐先生介绍了提交理事会第三十九届会议审议的进展报告草稿(A/HRC/AC/18/CRP.4)。人权高专办代表介绍了这一专题。在随后的讨论中，咨询委员会成员发了言(见附件一)。报告员随后作了总结发言。

17. 在 2017 年 2 月 24 日第 9 次会议上，促进和保护人权的区域安排问题起草小组主席帕贝尔女士介绍了一份案文草案(A/HRC/AC/18/L.2)，提案人为咨询委员会全体成员。经口头订正的案文草案未经表决获得通过(见第一节，第 18/2 号行动)。

4. 无人陪伴的移民儿童和少年与人权全球问题

18. 在 2017 年 2 月 21 日第 4 次会议上，咨询委员会根据人权理事会第 29/12 号和第 33/7 号决议，讨论了无人陪伴的移民儿童和少年与人权这一全球问题。起草小组主席雷耶斯·普拉多女士介绍了将提交理事会第三十六届会议审议的最后报告草稿(A/HRC/AC/18/CRP.2)。保护所有移徙工人及其家庭成员权利委员会副主席巴勃罗·塞里亚尼和暴力侵害儿童问题秘书长特别代表办公室儿童保护问题专家安-克里斯汀·维尔维克通过视频会议介绍了这一专题。保护所有移徙工人及其家庭成员权利委员会秘书也作了专题介绍。在随后的讨论中，咨询委员会成员和国家观察员发了言(见附件一)。主席随后作了总结发言。

19. 在 2017 年 2 月 24 日第 9 次会议上，无人陪伴的移民儿童和少年与人权全球问题起草小组主席雷耶斯·普拉多女士介绍了一份案文草案(A/HRC/AC/18/L.3)，提案人为咨询委员会全体成员。案文草案未经表决获得通过(见第一节，第 18/3 号行动)。

5. 不归还非法来源资金对享有人权的负面影响

20. 在 2017 年 2 月 22 日第 5 次会议上，咨询委员会根据人权理事会第 31/22 号决议，讨论了不归还非法来源资金对享有人权的负面影响问题。起草小组联合报告员奥卡福尔先生和齐格勒先生介绍了提交理事会第三十六届会议审议的进展报告草稿(A/HRC/AC/18/CRP.3)。禁止酷刑委员会委员阿布德尔瓦哈布·哈尼介绍了这一专题。在随后的讨论中，咨询委员会成员和国家观察员发了言(见附件一)。联合报告员随后作了总结发言。

21. 在 2017 年 2 月 24 日第 9 次会议上，不归还非法来源资金对享有人权的负面影响问题起草小组联合报告员奥卡福尔先生介绍了一份案文草案(A/HRC/AC/18/L.4)，提案人为咨询委员会全体成员。案文草案未经表决获得通过(通过的案文见第一节，第 18/4 号行动)。

B. 提交人权理事会的报告的后继行动

地方政府与人权

22. 在 2017 年 2 月 22 日第 6 次会议上，咨询委员会主席向委员会成员通报了人权理事会第 33/8 号决议，理事会在决议中赞赏地注意到咨询委员会的最后报告(A/HRC/30/49)，并决定在理事会第三十五届和第三十六届会议之间举行一次小组讨论会，讨论地方政府在促进和保护人权方面的作用。小组讨论会将于 2017 年 9 月 4 日举行，高级专员将向理事会第三十八届会议介绍讨论会报告。

23. 在同次会议上，帕贝尔女士向委员会通报了她出席会议介绍咨询委员会该专题报告的情况。

四. 人权理事会 2007 年 6 月 18 日第 5/1 号决议附件第三和第四节及理事会 2011 年 3 月 25 日第 16/21 号决议附件第三节的执行情况

A. 审查工作方法

24. 2017 年 2 月 21 日和 22 日，咨询委员会举行了非公开会议，讨论其工作方法和提高程序效率的途径。

B. 议程和年度工作方案，包括新的优先事项

25. 在 2017 年 2 月 23 日第 7 次和第 8 次会议上，咨询委员会讨论了思考文件和研究专题建议。委员会成员介绍了以下思考文件草案，供委员会审议：

- 评估咨询委员会工作影响及其执行情况(小畑郁)
- 诉诸司法的机会：原则和准则(马里奥·柳斯·科廖拉诺)
- 损毁文化遗产及其对享有经济、社会及文化权利的影响(让·齐格勒)
- 与非政府组织和国家人权机构的接触(马里奥·柳斯·科廖拉诺)
- 预算与人权(马里奥·柳斯·科廖拉诺)
- 促进和保护无形社会遗产(穆罕默德·本纳尼)

26. 人权高专办代表就此作了介绍，人权高专办南美区域办事处的区域代表和布宜诺斯艾利斯省人权事务秘书圣地亚哥·坎顿也通过视频会议作了介绍。在随后的讨论中，咨询委员会成员、国家观察员和非政府组织观察员发了言(见附件一)。

27. 在第 7 次会议上，咨询委员会决定就损毁文化遗产及其对享有经济、社会及文化权利的影响问题提出一项新的研究专题建议(见附件三)，供人权理事会审议。

28. 在第 8 次会议上，咨询委员会决定第十九届会议继续审议其余的思考文件。

五. 咨询委员会第十八届会议报告

29. 在 2017 年 2 月 24 日第 9 次会议上，咨询委员会报告员介绍了委员会第十八届会议报告草稿。咨询委员会通过了尚待核准的报告草稿，并决定委托报告员完成报告定稿。

30. 在同次会议上，本纳尼先生、布瓦松·德沙祖尔内女士、刘先生、奥马尔女士、雷耶斯·普拉多女士和徐先生作了最后发言。非政府组织 *iuventum* 的观察员也发了言。按惯例相互致意后，主席作最后发言，宣布咨询委员会第十八届会议闭幕。

Annex I

List of speakers

<i>Agenda item</i>		<i>Meeting and date</i>	<i>Speakers</i>
3. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions			
(a) Requests currently under consideration by the Committee	(i) Integration of a gender perspective	1st meeting 20 February 2017	Members: Lazhari Bouzid, Mikhail Lebedev, Mona Omar, Katharina Pabel, Anantonia Reyes Prado, Imeru Tamrat Yigezu Observer State: Egypt
	(iv) Elimination of discrimination against persons affected by leprosy and their family members	2nd meeting 20 February 2017	Members: Lazhari Bouzid, Mario Luis Coriolano, Xinsheng Liu, Kaoru Obata, Obiora Chinedu Okafor, Mona Omar, Anantonia Reyes Prado, Ahmer Bilal Soofi Observer States: Brazil, Ethiopia Non-governmental organizations: The Nippon Foundation, International Federation of Anti-Leprosy Associations (ILEP)
	(vii) Regional arrangements for the promotion and protection of human rights	3rd meeting 21 February 2017	Members: Mohamed Bennani, Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev, Xinsheng Liu, Kaoru Obata, Obiora Chinedu Okafor, Mona Omar, Katharina Pabel, Anantonia Reyes Prado, Ahmer Bilal Soofi, Imeru Tamrat Yigezu
	(v) Unaccompanied migrant children and adolescents and human rights	4th meeting 21 February 2017	Members: Lazhari Bouzid, Mario Luis Coriolano, Mona Omar Observer States: El Salvador, Greece, Honduras, Italy, Libya, Venezuela (Bolivarian Republic of)

<i>Agenda item</i>		<i>Meeting and date</i>	<i>Speakers</i>
	(vi) Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights	5th meeting 22 February 2017	Members: Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev, Mona Omar, Ahmer Bilal Soofi, Imeru Tamrat Yigezu State observers: Bolivia (Plurinational State of), Egypt, Syrian Arab Republic, Tunisia
(b) Follow-up to reports submitted to the Human Rights Council	(i) Local Government and human rights	6th meeting 22 February 2017	Members: Lazhari Bouzid, Kaoru Obata, Anantonia Reyes Prado, Changrok Soh State observer: Republic of Korea
4. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007 and of section III of the annex to Council resolution 16/21 of 25 March 2011			
(b) Agenda and annual programme of work, including new priorities		7th and 8th meeting 22 February 2017	Members: Mohamed Bennani, Laurence Boisson de Chazournes, Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev, Xinsheng Liu, Kaoru Obata, Obiora Chinedu Okafor, Mona Omar, Katharina Pabel, Anantonia Reyes Prado, Changrok Soh, Ahmer Bilal Soofi, Imeru Tamrat Yigezu State observers: Argentina, Bhutan, Cabo Verde, Djibouti, France, Haiti, Jamaica, Marshall Islands, Micronesia (Federated States of), Myanmar, Papua New Guinea, Peru, Senegal, Serbia, Switzerland, Timor-Leste, Tonga, and Trinidad and Tobago Intergovernmental organization: Convention Against Torture Initiative

Annex II

List of documents issued for the eighteenth session of the Advisory Committee

Documents for general distribution

<i>Symbol</i>	<i>Agenda item</i>	
A/HRC/AC/18/1	2	Provisional agenda
A/HRC/AC/18/1/Add.1	2	Annotations to the provisional agenda
A/HRC/AC/18/2	5	Report of the Advisory Committee on its eighteenth session

Documents for limited distribution

<i>Symbol</i>	<i>Agenda item</i>	
A/HRC/AC/18/L.1	3 (a) (iv)	Elimination of discrimination against persons affected by leprosy, and their family members
A/HRC/AC/18/L.2	3 (a) (vii)	Regional arrangements for the promotion and protection of human rights
A/HRC/AC/18/L.3	3 (a) (v)	Unaccompanied migrant children and adolescents and human rights
A/HRC/AC/18/L.4	3 (a) (vi)	Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights

Documents issued in the non-governmental organizations series

<i>Symbol</i>	<i>Agenda item</i>	
A/HRC/AC/18/NGO/1	3 (a) (iv)	Written statement submitted by the Nippon Foundation, a non-governmental organization on the roster

Annex III

Research proposal

Destruction of cultural heritage and its effects on the enjoyment of economic, social and cultural rights

1. Acts of intentional destruction^a of cultural heritage continue to spread across multiple regions of the world. Existing armed conflict and post-conflict situations are the breeding ground for acts of pillage, looting and acts of vandalism against cultural property. Despite recent visible and openly declared acts against cultural heritage have been broadly condemned^b, if no corrective action is urgently taken, there is a risk that such violations will progressively be tolerated as an unavoidable consequence of armed hostilities and, ultimately, end up going unnoticed to public opinion^c. As it has been observed, “cultural heritage is not a weapon: it is an issue concerning universal human rights. We must come together to defend the heritage of all, for all”^d.

2. In January 2017 the UN Security Council (SC) issued a new public statement to express its alarm at reports of the destruction of cultural heritage in Palmyra, Syria by ISIL/Da’esh, including the tetrapylon and parts of the theatre. The SC’s members reiterated their condemnation of the destruction of cultural heritage including targeted destruction of religious sites and objects^e. They noted with concern that ISIL and other individuals, groups, undertakings and entities associated with Al-Qaida have generated income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives and other sites in Syria^f. Such funds are being used to support their recruitment efforts and to strengthen their operational capability to organize and carry out terrorist attacks. The members of the Security Council underlined the need to bring perpetrators of these acts to justice.

3. These are not isolated acts. It is well known that the terrorist organization ‘State Islamic’ (Daesh) is systematically destroying monuments dating back to the pre-Islamic times in the territory under its control notably in Iraq, Syria, Libya and Mali. Two

^a “Intentional destruction” is defined as “an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience”.

^b The UNESCO is at the forefront in publicly denouncing and strongly condemning any acts of destruction of World Heritage sites. In relation with the destruction of an iconic part of the Syrian site of Palmyra, the Director-General of the organization said that ‘the systematic destruction of cultural symbols embodying Syrian cultural diversity reveals the true intent of such attacks, which is to deprive the Syrian people of its knowledge, its identity and history’. ‘Director-General Irina Bokova firmly condemns the destruction of Palmyra’s ancient temple of Baalshamin, Syria; <http://en.unesco.org/news/director-general-irina-bokova-firmly-condemns-destruction-palmyra-s-ancient-temple-baalshamin>.

^c The action of UNESCO, the UN Special Rapporteur in the field of cultural rights and international civil society, such as the L’Association Mondiale ‘Patrimoine Vivant’, continues to be crucial in denouncing actions intentionally aimed at devastating the cultural heritage as violations of cultural rights.

^d A/71/317, para. 9.

^e <https://www.un.org/press/en/2017/sc12690.doc.htm>.

^f See: S/RES/2199 (2015).

particularly striking examples are the destruction of the Palmyra's ancient Temple of *Baalshamin* in Syria and more recently of Sabrata and Leptis Magna in Libya^g. Such strategy is not only carried out to obtain an economic support by selling in the international market objects of art such as sculptures, rituals objects and others, looted from the territories under their control^h; it also tend to eradicate those pieces of art that feed the memory of the humanity and populations. In fact, there are many examples which are believed to be part of a kind of "cultural engineering" practiced by these extremist groups with the aim of transforming tradition and history, which implies. Such is a very concerning trend considering that its ultimate goal is erasing memory and whatever does not accord with their vision to create new historical narratives without affording any alternatives to themⁱ.

4. To erase pre-Islamic history, ISIS has employed sledgehammers and drills at a museum in Mosul, explosives at Palmyra, and all of these weapons, plus jackhammers, power saws, and bulldozers, at Nimrud. As the conflict progresses, the trade of antiquities has become the source of a significant revenue for the terrorist group. Investigations not only confirm that ISIS profits from loot and regulates black market profits, but also that such illicit goods are traded on the markets in Europe and the United States^j.

5. There are clear evidences that this strategy benefits from the lack of clear regulation, monitoring and sensitization of those involved in arts market is contributing to the pillage of ancient sites, as the illicit trade of artefacts is fuelled by demand. According to US customs, between 2011 and 2013 alone, there has been a 145% increase in imports of Syrian cultural property and 61% increase in imports of Iraqi cultural property. These numbers suggest that illicit trade is piggybacking on the legal trade^k.

6. Against this background, the Special Rapporteur in the field of cultural rights has recalled that "the obligation to stop looting must be viewed as a collective one which includes not only the States where looting takes place but also those powerful countries that offer the lucrative markets for looted objects. If they do not reduce market demand, there will be further incentive for looting and for intentional destruction, and more funding for groups engaging in it"^l.

7. Disrespect demonstrated by States involved in hostilities *vis-a-vis* the added value for humanity of protecting cultural heritage from destruction, exacerbates this situation. There are clamorous evidences of unnecessary or disproportionate attacks against cultural property which are nevertheless officially justified on the basis of military necessity^m. It is a disconcerting fact to admit, but there are clear evidences that cultural heritage is clearly being targeted "not in spite of the prohibitions on attacking cultural heritage and

^g See: Ch. Doppelhofer, 'Will Palmyra rise again? War Crimes against Cultural Heritage and Post-war reconstruction';

<http://www.ohchr.org/EN/Issues/CulturalRights/Pages/IntentionalDestruction.aspx>.

^h Reportedly, ISIS maintains a marginally profitable "antiquities division"; See: B. Taub, 'The real value of ISIS antiquities trade', *The New Yorker*, 4 December 2015; at:

<http://www.newyorker.com/news/news-desk/the-real-value-of-the-isis-antiquities-trade>.

ⁱ A/71/317, para. 36.

^j Reportedly, ISIS maintains a marginally profitable "antiquities division"; See: B. Taub, 'The real value of ISIS antiquities trade', *The New Yorker*, 4 December 2015; at:

<http://www.newyorker.com/news/news-desk/the-real-value-of-the-isis-antiquities-trade>.

^k L. Amineddoleh, 'How western art collectors are helping to fund Isis', *The Guardian*, 26 February 2016.

^l A/71/317, para. 31.

^m See : A/71/317, paras. 37, 47-51 and 59-67.

notwithstanding the value of the objects in question, but precisely because of that value and those norms”ⁿ.

8. The prohibition of acts of deliberate destruction of cultural heritage is a norm of general international law, also applicable to non-state actors^o. The destruction of cultural heritage constitutes a war crime under Article 8 of the International Criminal Court’s Statute. In 2016 the Court, for the first time, condemned on this basis an individual for the destruction of cultural monuments in the case against a jihadi leader accused of demolishing ancient mausoleums in Timbuktu (Mali)^p. Increasingly, it is acknowledged that acts of intentional destruction may under certain circumstances constitute “cultural cleansing” since they take the terrorization of a population to a new level by attacking even its history. Such cases represent an urgent challenge to cultural rights, and calls for a rapid and thoughtful international response^q.

9. Destruction of cultural heritage is most often irreversible and is motivated by the desire of annihilating the identity of a group and erasing its collective memory. International community cannot remain impassive before such evidence. Time is of the essence. States are unequivocally instructed to prevent, avoid, stop and suppress intentional destructions, whenever such heritage is located^r. They are particularly called to refrain from any military use or targeting of cultural property in compliance with IHL and complementary human rights applicable norms. Enhanced cooperation is also needed to prevent and combat the looting, smuggling and illicit trafficking in cultural objects. UN bodies should also enhance coordination to strengthen the implementation of the international legal framework^s.

10. By Resolution 2199 (2015) the Security Council condemned the destruction of cultural heritage in Iraq and Syria particularly by ISIL and ANF “including targeted destruction of religious sites and objects” regardless incidental or deliberate^t. It called upon to Member States to take all appropriate steps to: 1) prevent the trade in Iraqi and Syrian cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance illegally removed from Iraq and Syria, including by prohibiting cross-border trade in such items; 2) restoring looted or trafficked cultural properties to the Iraqi and Syrian people and calls upon the UNESCO, Interpol, and other international organizations, as appropriate, to assist in this task^u.

ⁿ UN Doc. A/HRC/31/59, 3 February 2016, ‘Report of the Special Rapporteur in the field of cultural rights’, paras. 66 and 45.

^o See: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule40; A/71/317, para. 60.

^p <https://www.icc-cpi.int/mali/al-mahdi>; ‘ICC’s first cultural destruction trial to open in The Hague’, *The Guardian*, 28 February 2016; <http://www.theguardian.com/law/2016/feb/28/iccs-first-cultural-destruction-trial-to-open-in-the-hague>.

^q A/HRC/31/59, para. 67.

^r See the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage.

^s A/71/317, para. 2.

^t The SC noted with concern that those terrorist organizations and other individuals, groups, undertakings and entities associated with Al-Qaida “are generating income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives, and other sites... which is being used to support their recruitment efforts and strengthen their operational capability to organize and carry out terrorist attacks”.

^u In implementing this mandate, the UNESCO has developed a strategy to strengthen its capacity to respond urgently to cultural emergencies; See: http://en.unesco.org/system/files/unesco_clt_strategy_en.pdf.

11. According the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage intentional destruction of cultural heritage “may have adverse consequences on human dignity and human rights”^v. Building on this statement, a human rights perspective has been increasingly introduced in the debate. In fact, is increasingly believed that such approach would allow going beyond in the protection of cultural heritage, by bringing into the discussion the rights of individuals and groups “to connect cultural heritage with its source of production”^w. Existing connections between tangible and intangible heritage should be further emphasized, as the Committee on Economic, Social and Cultural Rights’ States’ has stated, the obligations to respect and to protect freedoms, cultural heritage and cultural diversity are interconnected. It is impossible to separate a people’s cultural heritage from the people itself and their rights^x. As the ICJ Judge Cançado Trindade has observed, the ultimate titulaires of the right to the safeguard and preservation of their cultural and spiritual heritage are the collectivities of human beings concerned, or else humankind as a whole”^y.

12. The Human Rights Council should take a more pro-active stance before this concerning trend and contribute to the debate to the intentional destruction of cultural heritage by highlighting the human rights related concerns and issues which are involved. Resolution 33/20 on the Cultural rights and the protection of cultural heritage adopted by consensus on September 2016 constitutes an important step in this direction. The HRC recognized that “addressing the destruction of tangible and intangible cultural heritage needs to be holistic, encompassing all regions, contemplating both prevention and accountability, focusing on acts by State and non-State actors in both conflict and non-conflict situations, and terrorist acts”. It further decided to convene, before the thirty-sixth session, a one-day intersessional seminar on ways to prevent, contain and/or mitigate the detrimental impact of the damage to or destruction of cultural heritage on the enjoyment of human rights, including cultural rights by all, and on best practices in this regard and to present a summary report at its thirty-seventh session.

13. A holistic approach is therefore needed to unify the different policies, strategies and positions that have been put forward by the different actors. To that end, the Advisory Committee could be mandated to develop a desk-study focussing on the negative impact of the destruction of cultural heritage on the enjoyment of economic, social and cultural rights, and the right to development. More specifically, the Advisory Committee’s research study would aim at supporting the implementation of Council resolution 33/20 as well as the mandate of the Special Rapporteur in the field of cultural rights by: a) taking stock of the existing international initiatives, rules and good practices both at national and international level; b) identifying the main human rights issues which are at stake; c) addressing illegal trade in cultural property and failures of current policies to tackle this problem; d) making recommendations for actions to States, IOs, NGOs and other stakeholders to strengthening a human-rights based approach.

^v The Declaration also stresses that cultural heritage constitutes “an important component of cultural identity and of social cohesion”.

^w A/71/317, para. 53 and A/HRC/17/38 and Corr. 1 para. 2.

^x See: General Comment No. 21, para. 50. Under article 15 of the International Covenant on Economic, Social and Cultural Rights includes the obligation to respect and protect cultural heritage in all its forms and of all groups.

^y Request for Interpretation of the Judgement of 15 June 1962 in the *Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand)*, Separate Opinion of Judge Cançado Trindade, *ICJ Reports 2013*, p. 606, para. 114.