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Open Letter to Arria-Formula Meeting (@UN) on the protection of Cultural Heritage in Armed Conflict.

By TADAUK.ORG

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‘The Ethiopian State intentionally destroyed or intentionally failed to take appropriate measures to prohibit, prevent, stop, and punish intentional destruction of cultural heritage of great importance for humanity in Tigray’ TADAUK.ORG

On Tuesday 2 May 2023, France and the United Arab Emirates (UAE) will co-host an Arria-formula meeting (@UN) on the protection of cultural heritage in armed conflict. The meeting is being co-sponsored by non-Council members Cyprus and Italy.

This will be an opportunity for the Arria-formula Meeting participants to highlight the destruction of Tigrayan National Heritage, particularly the destruction of Churches, Mosques and Monasteries, looting of valuable religious and historic assets, destruction of Tigray heritage.

The “Policy Document for the Integration of a Sustainable Development Perspective into the Processes of the World Heritage Convention” (UNESCO, 2015) treats cultural heritage rights as being human rights. A draft policy of the International Criminal Court (ICC) published on 22 March 2021 article 8:41 says, ***“War crimes fall under the Court’s jurisdiction under article 8 of the Statute, and at present may offer the most straightforward means to address intentional harm to cultural heritage—not least since it is well established that these crimes not only address violence to the person but also to property.”*** As Tigray

heritage, including the world registered heritages like Aksum, are part of our shared global heritage and history, it is incumbent upon the responsible and capable international bodies to be well concerned about the targeted destruction and theft of Tigray heritage icons, to advocacy for accountability, and for everything from restitution up to rehabilitation.

The General Conference of the United Nations Educational, Scientific and Cultural Organization meeting in Paris at its thirty-second session in 2003 has clearly articulated ,

Expressing serious concern about the growing number of acts of intentional destruction of cultural heritage,

Referring to Article I(2)(c) of the Constitution of UNESCO that entrusts UNESCO with the task of maintaining, increasing and diffusing knowledge by "assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions",

Recalling the principles of all UNESCO's conventions, recommendations, declarations and charters for the protection of cultural heritage,

Mindful that cultural heritage is an important component of the cultural identity of communities, groups and individuals, and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights,

Reiterating one of the fundamental principles of the Preamble of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict providing that "damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world",

Recalling the principles concerning the protection of cultural heritage in the event of armed conflict established in the 1899 and 1907 Hague Conventions and, in particular, in Articles 27 and 56 of the Regulations of the 1907 Fourth Hague Convention, as well as other subsequent agreements,

Mindful of the development of rules of customary international law as also affirmed by the relevant case-law, related to the protection of cultural heritage in peacetime as well as in the event of armed conflict,

Also recalling Articles 8(2)(b)(ix) and 8(2)(e)(iv) of the Rome Statute of the International Criminal Court, and, as appropriate, Article 3(d) of the Statute of the International Criminal Tribunal for the former Yugoslavia, related to the intentional destruction of cultural heritage,

Reaffirming that issues not fully covered by the present Declaration and other international instruments concerning cultural heritage will continue to be governed by the principles of international law, the principles of humanity and the dictates of public conscience,

The UN must enforce the present UNESCO Declaration by:

I. Recognizing the importance of cultural heritage

The international community must recognize the importance of the protection of cultural heritage of Tigray and affirm its commitment to fight against its intentional destruction in any form so that such cultural heritage may be transmitted to the succeeding generations.

II. Scope

1. The present Declaration addresses intentional destruction of cultural heritage including cultural heritage linked to a natural site such as in Tigray.
2. For the purposes of this Declaration "intentional destruction" means 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, in the latter case in so far as such acts are not already governed by fundamental principles of international law.

III. Measures to combat intentional destruction of cultural heritage

1. Ethiopia should take all appropriate measures to prevent, avoid, stop and suppress acts of intentional destruction of cultural heritage, wherever such heritage is located.
2. The Ethiopian government should adopt the appropriate legislative, administrative, educational and technical measures, within the framework of their economic resources, to protect cultural heritage and should revise them periodically with a view to adapting them to the evolution of national and international cultural heritage protection standards.
3. Ethiopian Government should endeavour, by all appropriate means, to ensure respect for cultural heritage in society, particularly through educational, awareness-raising and information programmes.
4. Ethiopia is party to:
 - (a) The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two 1954 and 1999 Protocols and the Additional Protocols I and II to the four 1949 Geneva Conventions.
 - (b) Ethiopia must promote the elaboration and the adoption of legal instruments providing a higher standard of protection of cultural heritage, and

(c) Must promote a coordinated application of existing and future instruments relevant to the protection of cultural heritage.

IV. Protection of cultural heritage when conducting peacetime activities

When conducting peacetime activities, States should take all appropriate measures to conduct them in such a manner as to protect cultural heritage and, in particular, in conformity with the principles and objectives of the 1972 Convention for the Protection of the World Cultural and Natural Heritage, of the 1956 Recommendation on International Principles Applicable to Archaeological Excavations, the 1968 Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works, the 1972 Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage and the 1976 Recommendation concerning the Safeguarding and Contemporary Role of Historic Areas.

V. Protection of cultural heritage in the event of armed conflict, including the case of occupation

When involved in an armed conflict, be it of an international or non-international character, including the case of occupation, States should take all appropriate measures to conduct their activities in such a manner as to protect cultural heritage, in conformity with customary international law and the principles and objectives of international agreements and UNESCO recommendations concerning the protection of such heritage during hostilities. The Ethiopian government has violated these cardinal rules & should be held accountable.

VI. State responsibility

The Ethiopian State intentionally destroyed or intentionally failed to take appropriate measures to prohibit, prevent, stop, and punish intentional destruction of cultural heritage of great importance for humanity in Tigray, whether or not it is inscribed on a list maintained by UNESCO or another international organization, bears the responsibility for such destruction, to the extent provided for by international law. The Ethiopian government should allow Independent International Investigators to assess the level of atrocities committed in Tigray and other war zones in Ethiopia.

VII. Individual criminal responsibility

Ethiopia should take all appropriate measures, in accordance with international law, to establish jurisdiction over, and provide effective criminal sanctions against, those persons who committed, or ordered to commit, acts of intentional destruction of cultural heritage of great importance for humanity, whether or not it is inscribed on a list maintained by UNESCO or another international organization. The Ethiopian government must comply and take criminal responsibility.

VIII. Cooperation for the protection of cultural heritage

1. The Ethiopian Government should cooperate with UNESCO to protect cultural heritage from intentional destruction. Such cooperation should entail at least:

- (i) provision and exchange of information regarding circumstances entailing the risk of intentional destruction of cultural heritage;
- (ii) consultation in the event of actual or impending destruction of cultural heritage;
- (iii) consideration of assistance to States, as requested by them, in the promotion of educational programmes, awareness-raising and capacity-building for the prevention and repression of any intentional destruction of cultural heritage;
- (iv) judicial and administrative assistance, as requested by interested Regional States, in the repression of any intentional destruction of cultural heritage.

2. For the purposes of more comprehensive protection, The Ethiopian Government must take all appropriate measures, in accordance with international law, to cooperate with other States concerned with a view to establishing jurisdiction over, and providing effective criminal sanctions against, those persons who have committed or have ordered to be committed acts referred to above (VII – Individual criminal responsibility) and who are found present on its territory, regardless of their nationality and the place where such act occurred.

IX. Human rights and international humanitarian law

In applying this UN Declaration, Ethiopia must respect international rules related to the criminalization of gross violations of human rights and international humanitarian law, in particular, when intentional destruction of cultural heritage is linked to those violations.

X. Public awareness

The Ethiopia Government should take all appropriate measures to ensure the widest possible dissemination of this Declaration to the general public and to target groups, inter alia, by organizing public awareness-raising campaigns.

End.