

r a s h i d

Research Assessment & Safeguarding of the Heritage of Iraq in Danger

STATEMENT FOR UPR PRE-SESSION

Thursday, 10 October 2019

11.30 AM

Room XXII of the Palais des Nations, Geneva

to be delivered by Chief Legal Officer Seán Fobbe

Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

my name is Seán Fobbe and I serve as the Chief Legal Officer of RASHID International, an international non-profit organization dedicated to protecting and safeguarding the cultural heritage of Iraq. Our experts include distinguished professors of archaeology, cultural heritage specialists and international lawyers. We hold special consultative status with the Economic and Social Council of the United Nations.

Since 2016 we have published extensive research on the cultural heritage of Iraq, including:

- five reports in response to calls by the United Nations
- a written submission to the UPR
- a 117-page report on the destruction of Yazidi cultural heritage during the 2014 genocide
- an in-depth and peer-reviewed paper in the International Journal of Heritage Studies on the future of Iraqi heritage after ISIS

Today I will discuss the situation of cultural rights in Iraq. The previous Cycle's thematic list of recommendations did not contain a single recommendation specifically referring to cultural rights, cultural heritage or cultural property. Cultural rights are only mentioned as part of the formulaic "economic, social and cultural rights". The same is true for the report of the working group.

Therefore, I would like to highlight four issues: These are:

1. The Protection of Cultural Heritage in Armed Conflict
2. The Illicit Trafficking of Antiquities
3. Uncontrolled Development
4. The Situation of the Yazidi Minority

1) The Protection of Cultural Heritage in Armed Conflict

The campaign of destruction by ISIS showed the vulnerability of cultural heritage in the cradle of civilization. The security situation in Iraq is anything but stable. There is hope for peace, but civil war remains ever on the horizon. Preparations must be made.

We recommend:

- (a) Iraq should accede to the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict by the year 2020
- (b) Following accession, Iraq should nominate cultural property for inscription on the List of Cultural Property under Enhanced Protection; World Heritage sites are automatically eligible and should be nominated immediately
- (c) Iraq should create a National Blue Shield Committee, drawing on all sectors of society, especially civil society, academia, the military and government agencies

2) Illicit Trafficking of Antiquities

The illicit trafficking of antiquities from Iraq is a serious issue with international implications. Trafficked antiquities often do not resurface. The illicit trade impoverishes the cultural heritage of the world and fuels international organized crime networks and terrorism.

However, efforts can go too far. The Saddam-era Law No. 55 of 2002 governs the protection of heritage in Iraq and stipulates that various offenses are punishable by death. We state unequivocally that capital punishment for property offenses is incompatible with international human rights law. Cultural heritage exists to enhance and nurture human life, not to destroy it.

We recommend:

- (a) Law No. 55 of 2002 should be amended and the death penalty removed as soon as possible
- (b) Iraq should create digital inventories for all museums, as well as geo-referenced maps of archaeological sites and make these available to Europol and Interpol
- (c) Iraq should accede to the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects
- (d) Iraq should re-establish the system of site guards that effectively protected archaeological sites until 2003; the international community should provide financial assistance as Iraq is facing a budget crisis

3) Uncontrolled Development

The uncontrolled development of land is a significant challenge threatening the cultural heritage of Iraq. Tendering procedures for building, conservation and renovation projects in Iraq are often non-transparent. Companies lacking certifications and quality standards are permitted to work in the field without sufficient oversight. Serious damage has been done, for example at Madrasa Qubahan in Amedi.

We recommend:

- (a) Define and enforce certification and quality standards for building contractors
- (b) Ensure that non-commercial interests, such as the preservation of cultural heritage, are given sufficient weight during planning and construction processes
- (c) Ensure that even greater care is taken during the planning and construction of dams

4) The Situation of the Yazidi Minority

The consequences of ISIS' genocide against the Yazidis threaten the long-term survival of the community in Iraq. A significant facet of ISIS' genocidal policy was the systematic destruction of cultural heritage. The destruction of heritage is more than just a war crime, it is the very essence of the crime of 'persecution' and provides evidence of the special intent to commit genocide. Transitional justice efforts must reflect this element.

We recommend:

- (a) Iraq should make every effort to include and maintain Lalish Temple and the surrounding landscape on the World Heritage List to ensure that the heart of Yazidism survives
- (b) Iraq should guarantee that Yazidis remain the sole guardians of Lalish Temple and the holy lands surrounding it and register the lands in their name

Thank you.