



**CONSIDERATION OF REQUESTS FOR THE
INCLUSION OF AN EMERGENCY ITEM IN THE ASSEMBLY AGENDA**

**Request for the inclusion of an emergency item
in the agenda of the 128th Assembly of the Inter-Parliamentary Union
submitted by the delegation of Morocco**

On 8 January 2013, the President received from the delegation of Morocco a request for the inclusion in the agenda of the 128th Assembly of an emergency item entitled:

"Should the deliberate destruction of world cultural heritage not be considered as a crime against humanity? The role of parliaments in: 1) passing appropriate legislation to guarantee protection of world cultural heritage; and 2) developing international criminal law provisions that criminalize serious attacks on the cultural heritage of humanity".

Delegates to the 128th Assembly will find attached the text of the communication submitting the request (Annex I), as well as an explanatory memorandum (Annex II) and a draft resolution (Annex III) in support thereof.

The 128th Assembly will be required to take a decision on the request of the delegation of Morocco on Saturday, 23 March 2013.

Under the terms of Assembly Rule 11.1, any Member of the IPU may request the inclusion of an emergency item in the Assembly agenda. Such a request must be accompanied by a brief explanatory memorandum and a draft resolution which clearly define the scope of the subject covered by the request. The Secretariat shall communicate the request and any such documents immediately to all Members.

Furthermore, Assembly Rule 11.2 stipulates that:

- (a) A request for the inclusion of an emergency item must relate to a major event of international concern on which it appears necessary for the IPU to express its opinion. Such a request must receive a two-thirds majority of the votes cast in order to be accepted;
- (b) The Assembly may place only one emergency item on its agenda. Should several requests obtain the requisite majority, the one having received the largest number of positive votes shall be accepted;
- (c) The authors of two or more requests for the inclusion of an emergency item may combine their proposals to present a joint one, provided that each of the original proposals relates to the same subject;
- (d) The subject of a proposal that has been withdrawn by its authors or rejected by the Assembly cannot be included in the draft resolution submitted on the emergency item, unless it is clearly referred to in the request and title of the subject adopted by the Assembly.

**COMMUNICATION ADDRESSED TO THE PRESIDENT OF THE INTER-PARLIAMENTARY
UNION BY THE SPEAKER OF THE HOUSE OF COUNCILLORS OF THE KINGDOM
OF MOROCCO ON BEHALF OF THE MOROCCAN DELEGATION**

7 January 2013

Dear Mr. President,

In accordance with the relevant rules of the Inter-Parliamentary Union, in particular Assembly Rule 11.1, I am honoured to submit a request for the inclusion of an emergency item in the agenda of the 128th IPU Assembly, which will take place in Quito (Ecuador), from 22 to 27 March 2013 entitled:

"Should the deliberate destruction of world cultural heritage not be considered as a crime against humanity? The role of parliaments in: 1) passing appropriate legislation to guarantee protection of world cultural heritage; and 2) developing international criminal law provisions that criminalize serious attacks on the cultural heritage of humanity".

Please find attached a brief explanatory memorandum as well as a draft resolution on the scope of the topic.

Best wishes for the New Year!

Please accept, Mr. President, the assurance of my highest consideration.

Yours sincerely,

(signed)

Mohamed Cheikh BIADILLAH
Speaker of the House of Councillors
of the Kingdom of Morocco

SHOULD THE DELIBERATE DESTRUCTION OF WORLD CULTURAL HERITAGE NOT BE CONSIDERED AS A CRIME AGAINST HUMANITY? THE ROLE OF PARLIAMENTS IN: 1) PASSING APPROPRIATE LEGISLATION TO GUARANTEE PROTECTION OF WORLD CULTURAL HERITAGE; AND 2) DEVELOPING INTERNATIONAL CRIMINAL LAW PROVISIONS THAT CRIMINALIZE SERIOUS ATTACKS ON THE CULTURAL HERITAGE OF HUMANITY

Explanatory memorandum submitted by the delegation of Morocco

The parliamentary delegation of the Kingdom of Morocco to the Inter-Parliamentary Union wishes to propose the inclusion of an emergency item in the agenda of the 128th Assembly entitled "Should the deliberate destruction of world cultural heritage not be considered as a crime against humanity? The role of parliaments in: 1) passing appropriate legislation to guarantee protection of world cultural heritage; and 2) developing international criminal law provisions that criminalize serious attacks on the cultural heritage of humanity to guarantee protection of world cultural heritage", for the following reasons.

During the past two years, several countries in North Africa and the Middle East, convulsed by the political unrest of the Arab Spring and the ensuing armed conflicts, have witnessed acts of deliberate and systematic destruction of cultural and religious sites, most of which are part of the cultural heritage of humanity. In Libya, the destruction of the Sufi shrines and libraries in Zliten, Misrata and Tripoli by fundamentalist and extremist armed movements has alarmed the international community. In Syria, the old city of Aleppo, on the UNESCO World Heritage List since 1986, has been the target of military strikes by the Government. In Mali, since 1 April 2012, the city of Timbuktu, inscribed on the UNESCO List of World Heritage in Danger, has been subjected to systematic acts of pillaging and vandalism perpetrated by armed groups, including jihadists affiliated to Al-Qaeda in the Islamic Maghreb.

The international community has memories of the tragic fate of the majestic Buddhas of Bamiyan in Afghanistan, destroyed by the Taliban in 2001, and the serious attacks on historical monuments and cultural buildings committed in the former Yugoslavia by the Serbian army in 1993. Should it not be supporting the countries affected by the latest destructions of the world cultural heritage by calling on the International Criminal Court to bring the perpetrators of what are clearly crimes against humanity to justice?

Since 2008, questionable archaeological excavations undertaken at several religious and cultural sites in Palestinian territories under Israeli occupation, in flagrant violation of the provisions of existing international conventions, recommendations and resolutions for the protection of cultural property in occupied countries, have caused serious damage to the cultural heritage of humanity. Despite several appeals made to the Israeli authorities in this regard, which unfortunately have gone unheeded, these excavations continue to alarm the international community. However, the inscription by UNESCO in June 2012 of the Church of the Nativity in Bethlehem (West Bank) on the World Heritage List, using an emergency procedure, was seen as a beacon of hope, in view of the state of decay and degradation of several cultural and religious buildings in Palestine. Should this first recognition by UNESCO of a cultural and religious site in Palestine as part of the world heritage not allow UNESCO to require the Israeli occupation authorities to protect and promote the cultural and religious heritage in Palestine and, accordingly, oblige them to end the archaeological excavations that are endangering several historical sites in the occupied territories?

In Europe, since 2008, a worrying increase in the number of acts of desecration and vandalism perpetrated against Jewish and Muslim funerary monuments and places of worship has been of concern to international public opinion. Fed by the current atmosphere of intolerance and racism and the sharp increase in the number of extremist movements preaching xenophobia and anti-Semitism, these acts, which tend to occur when armed conflicts break out in other parts of the world (Iraq, Afghanistan, Palestine, etc.), are often intended to destroy the symbols and buildings that embody the cultural and religious heritage of the supposed adversaries in a confrontation that some insist on depicting as a "global sectarian conflict".

The parliamentary delegation of the Kingdom of Morocco would like the IPU to join in the efforts of the United Nations and the other international organizations concerned to develop a framework convention for the protection and promotion of the world cultural heritage in countries in a situation of armed conflict or under occupation.

SHOULD THE DELIBERATE DESTRUCTION OF WORLD CULTURAL HERITAGE NOT BE CONSIDERED AS A CRIME AGAINST HUMANITY? THE ROLE OF PARLIAMENTS IN: 1) PASSING APPROPRIATE LEGISLATION TO GUARANTEE PROTECTION OF WORLD CULTURAL HERITAGE; AND 2) DEVELOPING INTERNATIONAL CRIMINAL LAW PROVISIONS THAT CRIMINALIZE SERIOUS ATTACKS ON THE CULTURAL HERITAGE OF HUMANITY

Draft resolution submitted by the delegation of MOROCCO

The 128th Assembly of the Inter-Parliamentary Union,

- (1) *Deeply concerned* at the increase in the number of acts of deliberate destruction of the cultural heritage in several countries in a situation of armed conflict, in particular Mali and Syria,
- (2) *Concerned* at the danger posed by the questionable archaeological excavations regularly undertaken at various religious and cultural sites in Palestinian territories under Israeli occupation,
- (3) *Alarmed* at the serious damage caused by frequent acts of vandalism and desecration carried out on Jewish and Muslim religious buildings, cultural symbols and/or funerary monuments by extremist groups, in particular in some European countries,
- (4) *Considering:*
 - a) resolution 2085 adopted by the United Nations Security Council at its 6898th meeting on 20 December 2012, in which it (condemned) "strongly all abuses of human rights in the north of Mali by armed rebels, terrorist and other extremist groups, including those involving violence against civilians, notably women and children, killings, hostage-taking, pillaging, theft, destruction of cultural and religious sites and recruitment of child soldiers", (reiterated) "that some of such acts may amount to crimes under the Rome Statute and that their perpetrators must be held accountable and (noted) that the Transitional authorities of Mali referred the situation in Mali since January 2012 to the International Criminal Court on 13 July 2012",
 - b) the resolution adopted unanimously by the 127th IPU Assembly in Québec City (Canada) on 26 October 2012, entitled *The institutional and security situation in Mali*, in which the Assembly "condemned the serious human rights abuses and violations of international humanitarian law committed in the north of the country by armed rebels and groups of terrorists, fundamentalists and separatists, in particular acts of violence against civilians, notably women and children, murders, amputations and stoning, as well as pillaging and the destruction of cultural and religious world heritage sites",

- c) the resolution adopted by consensus by the 105th Inter-Parliamentary Conference in Havana (Cuba) on 6 April 2001, in which the Conference "condemned the Taliban's decision to destroy Afghanistan's pre-Islamic and Buddhist cultural heritage and their implementation of that decision despite all the appeals by the international community",
- d) the resolution adopted without a vote by the 89th Inter-Parliamentary Conference held in New Delhi (India) on 17 April 1993, in which the Conference deplored the conflict in the former Yugoslavia, especially in Bosnia and Herzegovina, and condemned atrocities against minorities, women and children, strongly condemned the practice of "ethnic cleansing" as a weapon of war, and declared that such violations of human rights were most heinous war crimes and must be considered crimes against humanity,

(5) *Recalling:*

- a) the human rights principles that the international community has undertaken to respect, which are established in various United Nations declarations, conventions and covenants on political, civil, economic, social and cultural rights, and which the Inter-Parliamentary Union has repeatedly reaffirmed,
- b) the principles on the protection of the cultural heritage in the event of armed conflict established by the 1899 and 1907 The Hague Conventions,
- c) in particular, the 1954 The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols of 1954 and 1999 as well as Additional Protocols I and II to the four Geneva Conventions of 1949,

(6) *Reaffirming* 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, which stipulates 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",

(7) *Recalling* the declaration adopted by UNESCO in Paris, on 17 October 2003, in which it was clearly stipulated that "States should take all appropriate measures, in accordance with international law, to establish jurisdiction over, and provide effective criminal sanctions against, those persons who commit, or order to be committed, 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",

(8) *Referring* to the provisions of Articles 8 (2) (b) (ix) and 8 (2) (e) (iv) of the Rome Statute of the International Criminal Court and, where necessary, those of Article 3 (d) of the Statute of the International Criminal Tribunal for the Former Yugoslavia, on the deliberate destruction of the cultural heritage,

1. *Strongly condemns* all human rights violations committed in the north of Mali by armed rebels, terrorists and other extremist groups, in particular acts of violence against civilians, notably women and children, killings, hostage-taking, pillaging, theft, destruction of cultural and religious sites, and recruitment of child soldiers, some of which acts may amount to crimes under the Rome Statute for which their perpetrators must be held accountable, notably before the International Criminal Court;
2. *Also condemns* the serious violations of the principles established by the 1954 Hague Convention and its two Protocols of 1954 and 1999 for the Protection of Cultural Property in the Event of Armed Conflict, in particular the pillaging and deliberate and systematic destruction of cultural and religious monuments belonging to the world heritage committed in the north of Mali by terrorist movements and in Syria by the government army;
3. *Further condemns* the acts of vandalism and desecration frequently carried out on Jewish and Muslim religious buildings, cultural symbols and cemeteries by extremist groups in some European countries;
4. *Asks* the Israeli authorities to end the archaeological excavations in Palestine that are endangering several religious buildings and other cultural sites included in the World Heritage List, and *recalls* to that effect that the responsibility for protecting those sites and cultural and religious buildings falls upon the Israeli occupation authorities, in accordance with the provisions of the Convention for the Protection of the World Cultural and Natural Heritage adopted in Paris on 16 November 1972;
5. *Welcomes* the decision taken by the Director-General of UNESCO, Ms. Irina Bokova, to set up a "special fund to help Mali safeguard its cultural heritage", and *urges* all the Member States of UNESCO, the Islamic Educational, Scientific and Cultural Organization and the Organization of Islamic Cooperation to contribute to the fund to ensure that it will be effective and sustainable;
6. *Invites* all parliamentarians and the IPU to join in the efforts of the United Nations and its specialized organizations, in particular UNESCO, to mobilize world political will to develop the legal instruments of an international law of culture with a view to criminalizing all serious damage to universal cultural property and the elaboration of an international framework convention to guarantee the protection and promotion of the cultural heritage of humanity, in particular in countries in a situation of armed conflict or under occupation;
7. *Invites* the parliaments of States which have not yet done so to adopt positions in favour of ratifying the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols of 1954 and 1999, and *urges* parliaments to put pressure on their respective governments to mobilize resources for the Fund for the protection of cultural property in the event of armed conflict set up pursuant to Article 29 of the Second Protocol to the 1954 Hague Convention;

8. *Urges* parliaments to pass laws or amend existing laws to guarantee the protection and promotion of sites and buildings included in the lists of the cultural heritage of humanity; *also urges* parliaments to set up specialized commissions for the protection and promotion of the cultural heritage, to monitor the implementation and ratification of conventions, resolutions and declarations on the protection and promotion of cultural property; and *invites* parliaments to use the monitoring tools at their disposal throughout budgetary procedures, along with innovative funding methods, to ensure that adequate financial resources are allocated to the protection and promotion of the cultural heritage;
9. *Further urges* parliaments to pass laws making all forms of systematic damage to and deliberate destruction of the cultural heritage of humanity, including in situations of armed conflict, serious criminal offences;
10. *Entrusts* the IPU with conveying this resolution to all its Members, Associate Members and Observers and other international organizations.