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Cultural Diversity and Cultural Rights: building a global agenda

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“Every person’s map of the world is as unique as their thumbprint. There are no two people alike. No two people who understand the same sentence the same way.... So in dealing with people, you try not to fit them to your concept of what they should be.”

Milton Erickson

Some months ago I was travelling by plane and by chance sat next to a neurologist who had been studying bilingual people for more than twenty years. As a mother of a multicultural and -linguistic child I was quite intrigued to know about the benefits and disadvantages of living in a *carrefour* of cultures and languages without really being identified with only one but forced to construct a reality through all of them. My questions were socio-cultural and his reasoning was scientific, and his message quite simple. Diversity is good for the species, he said, and isolation leads literally to a poverty of mind. He smiled at my concerns that he called very European and said that turning our back to diversity would be like denying our offspring. *“We carry diversity within”* he said, *“and we are equipped with a physical capacity to speak many languages, think through different cultural landscapes and it is only good that we meet, mix and produce offspring that carries all this within and secures our survival. But sometimes it is the human beliefs and mental constructions that keep us from realising this, and unfortunately sometimes it is the culture itself.”*

Building diversity

Diversity is a concept that has suffered a bit of inflation due to an excess of use. Sometimes highly politicized the concept *diversity* can mean almost anything from marking a difference to a rainbow collage. In cultural policies diversity is a term that has been in great use for the last thirty years and it is related to an idea of acceptance and inclusion of all. During the last decades of the twentieth century, attempts to democratize culture began to gain ground among cultural activists and researchers. The notion of cultural democracy, the most important innovation in international discourse on cultural policy from the sixties to the eighties, supported by community arts movement, fomented the idea that all of us, each community and each cultural minority, have cultural rights and needs which must be respected. That same idea acknowledges the creative potential of all, which is waiting to be discovered. This current thought has gone hand in hand with notions of cultural development and involvement since the eighties, and with cultural diversity toward the end of the twentieth century and the beginning of the twenty-first. They all aim to discover mechanisms for peaceful coexistence, on an equal footing, in which individuals are able to master their cultural future and be accepted and acknowledged as having full cultural rights.

Since the early 1990s, the notion of diversity has gained importance with new demographic trends and emerging tensions between different groups. At the same time, a more individualised approach that fosters individuals' needs and abilities has gained reasonable ground. It has been stated that diversity empowers everyone to develop to the maximum of their potential and inclination and is the common heritage of humanity (UNESCO 2001, article 1) *"diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity that should be recognized and affirmed for the benefit of present and future generations."* Cultural diversity is above all a concept that has flourished in the framework of UNESCO. The report elaborated by UNESCO in 2000 shows the development of the concept within the organisation during the second half of the twentieth century.¹

Diversity, of course, can mean many things. Naseem Khan (2006) points out that *"the British experience differs from the French that differs from the Bulgarian that differs from the Malaysian. However, similar pressures do pertain and the questions themselves cannot be brushed aside"*. The International Network on Cultural Diversity underlines cultural diversity as the recognition of cultural plurality within, between and across societies. At the policy level cultural diversity is understood in various ways and diversity takes different forms in different settings.

Cultural diversity is mentioned in many legal instruments and international agreements. Currently, the main legally binding instrument is the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by the General Conference of UNESCO on October 21, 2005. The existence of this convention is a win for the cultural sector even though by all means a perfect instrument. However, achieving the adoption of this kind of instruments is essential for the protection of cultural expression and diversity.

Cultural citizenship, cultural rights and the democratization of culture, place equality of participation and access to cultural life at the very base of human interaction. The main principles underlying these ideas are to incorporate commitments to the promotion of and support for pluralism, active and equal participation in cultural life, and to ensure fair and equal access to cultural resources. Likewise, protection and promotion of both cultural diversity and the right of all to cultural expression, form part of the phenomena of the identification of culture as the backbone to any human activity.

¹ UNESCO and the issue of Cultural Diversity. Review and strategy, 1946-2000.

Talking about right and culture

Human rights as a family of rights have suffered from the unnecessary division between political and civil rights and economic, social and cultural rights. The historical reasons for this division are quite clear since the legally binding core documents of human rights – the Covenant on Civil and Political rights and the Covenant on Economic, Social and Cultural Rights were drafted in 1960s when the current political situation forced to put emphasis on those human rights considered civil and political (nationality, voting rights etc.) and less on those for which the states would have needed to offer structures for their realization. Famously enough, the few cultural rights mentioned in international instruments have long suffered from a lack of attention or clarity, and no clear consensus has been achieved to define what cultural rights really mean.

Human rights have their base in the 30 articles of the Universal Declaration of Human Rights that was introduced in the international public law in 1948. Even if the Declaration was not the first international instrument to articulate human rights, it is the central document that gathers the essence of universal rights. Human Rights basically permit to identify certain objectives and obligations as a common frame for human action. It has also been demonstrated that human rights violations have cultural impacts. Human Rights depend on legislation, policies, resources, diplomacy, relations, reciprocity, participation and education, among other elements. The fundamental instruments of Human Rights are the Universal Declaration of Human Rights (United Nations, 1948), the International Covenant on Civil and Political Rights (United Nations, 1966) with its two Additional Protocols, the International Covenant on Economic, Social and Cultural Rights (United Nations, 1966). Within the structure of the United Nations there are also other instruments that deal with racial discrimination (1965), elimination of all forms of discrimination against women (1979), fight against torture (1984) and right of the child (1989). At the European level the reference document is the European Convention on Human Rights (1950) of the Council of Europe and in Africa the African Charter on Human and People's Rights (1981) of the Organisation of African Unity.

The building brick of all instruments that give attention to culture (or to participation in it) is the Article 27 of the Universal Declaration.

Article 27 of the Universal Declaration of Human Rights (United Nations, 1948)

“1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic protection”

Different from other human rights that seek equal treatment to all, cultural rights foster the richness of difference. Stephen Marks (2003) says that *“while other human rights are essential to human survival, to bodily integrity, and to material existence, cultural rights are much more than accessory rights. It is not an exaggeration to say that cultural rights guarantee to individuals and to culturally defined groups their sense of meaning. They merit much more attention than they have received, for they are in a real sense the grounding of the aesthetic, cognitive, spiritual and emotional bonds of all humans to their society and the cosmos and their means of expressing those bonds”*. A minority rights expert Asbjørn Eide has underlined that the right to participate in cultural life can protect people from different threats such as authoritarian governments and that this right has a close link to different freedoms such as opinion, expression and information.

As regards access some hold primordial access to one’s culture. Absjorn Eide (2002) underlines the right to culture as a base for identification: *“cultural rights should give priority to the access to the culture of one’s own and to the learning of it as well as to the right to participate in the reproduction and ulterior development of that culture. The individual as a producer of culture becomes important when he / she sees that some of the old traditions are unacceptable or insufficient (in comparison with other practices in other parts of the world). As some of the old traditions may not go along the lines of equality, liberty and personal integrity, the right to innovate and change old habits must also be secured.”* Others such as Rudder (2006) say *“the right to access to the products of other cultures as well as the right of access to one’s one culture is therefore fundamental to the acceptance of meaningful cultural diversity”*

In a shared cultural space it is the access to and participation in cultural life that form an essential part of making policies successful. The collective dimension of cultural rights fosters collective action and can prove to be powerful instruments of collective action. Collective action contributes to the promotion, defence and protection of cultural rights and awareness-raising through diverse activities from monitoring to participation in different forms.

Cultural rights debate takes different forms in different places. While in Europe and the Western world the most legally developed areas of cultural rights are related to intellectual property rights and education, outside Europe we can observe processes where cultural rights are linked to large social themes such as sexual and reproductive rights and mobility. Cultural rights, including the right to participate in cultural life, are individual rights with a collective nature. Yvonne Donders (2004) puts it *“Communities are an important factor in creating a valuable life for individuals, and these communities should be protected by collective rights.”*

Moving towards praxis

We are starting to move beyond the point where we talk about cultural rights as a group. After years of sometimes fast, sometimes slow, development on deciding what cultural rights might be, no consensus has been made on the content of them. Cultural rights are often considered to be those exclusively related to a cultural content or expression or also to include so called neighbouring rights such the right to education or fundamental freedoms such as the right to expression or to opinion. As all human rights have a cultural side to them and all rights are universal, interrelated and interdependent, cultural rights fulfil those requirements. Therefore it is probably more practical to concentrate on the development of separate, individual rights than cultural rights as a whole but we might not be there yet. However, there are a couple of important practical measures being adopted in the field of cultural rights within the international framework.

The Committee on Economic, Social and Cultural Rights of the United Nations is currently and after some years of warming up in a process of approving a General Comment on the Article 15.1.a of the International Covenant on Economic, Social and Cultural Rights that is the Right to participate in cultural life. In May 2009 an experts' group was invited to view the first draft of the General Comment and even though a long path still lays ahead for the approval, having an actual draft already means a significant step.

The Article 15 states

“ 1. The States Parties to the present covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications:

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.”

The Draft General Comment still has a confidential nature and cannot be quoted here but it does include a large vision of the right to participate in cultural life and several obligations to member states to provide, protect and fulfil this right. The Draft General Comment has been

introduced to the Committee on Economic, Social and Cultural Rights and the earliest possibility for its adoption is most probably in May 2010.

Together with this development, the United Nations Human Rights Council has just announced the creation of the Special Procedure Mandate position of Independent Expert on Cultural Rights. Within the United Nations system, the independent experts or special rapporteurs as they are sometimes called, all called to examine, monitor and create UN reports on different rights. The deadline for the submission of nominations is 24 July 2009.

The Independent expert, named some time later this year will be responsible of different actions:

- Identifying the best practices in the promotion of cultural rights at the local, national, regional, and international levels
- Identifying possible obstacles to the promotion and protection of cultural rights and to submit proposals and/or recommendations to the Human Rights Council on possible actions in that regard
- Working in cooperation with States in order to foster the adoption of measures at the local, regional, and international levels aimed at the promotion and protection of cultural rights through concrete proposals enhancing sub regional, regional, and international cooperation in that regard
- Studying the relation between cultural rights and cultural diversity, in close collaboration with States and other relevant actors, including in particular UNESCO, with the aim of further promotion cultural rights

Some of this work has already been carried out since the Council has gathered information for a database on organisations and experts that work in the field of cultural rights. Nevertheless, one of the important aspects of the work of the independent expert is to work with different actors and foster follow-up structures.

The creation of the mandate has raised some concerns on activists and organisations working in the field of human rights and especially women's right on the impact on the rights of women and other marginalised groups. A Asian Women's Rights organisation expresses this by saying: *"We fear that the mandate may have a very detrimental impact on the ways in which the UN human rights system may be called on to protect the rights of women if it were to be taken up by someone without a clear understanding of the way in which culture and tradition can be used to enforce discriminatory practices and values on women and other groups that challenge the 'norm'."*² The latter is also a reference to sexual minorities.

² The IRAW Asia Pacific statement further dictates: "The way in which the creation of this mandate has been driven by very conservative forces within the Human Rights Council heightens our concern. This is all the more so because we are all familiar with the numerous UN Declarations, Conventions and Resolutions that recognise how "tradition" and

The worries the organisations have is not without fundament. We can celebrate this announcement as a big step in the field of the protection of cultural expressions and trust that the Council will make a good decision in this highly sensitive area.

Global and local action

The development of international measures is important but those of us that work with the receiving end of cultural rights – that being states, administrations or most importantly civil society actors and people in general – know that at times urgent immediate actions are needed. Whilst local cultural policies need to tackle merging problems, national policies take longer to warm up. The diversity of local actors or cities as sources of local policies is more permissive than the role given to the state. Whereas local environment needs to reflect physical access and possibility to interaction, the participation element in national policies is many times about recognition.

Many activists, policy-makers, thinkers and ‘common’ people underline that local environment is the space where cultural conflicts in the everyday life are carried out. International legal instruments may have a guiding role in local settings but the real key is how to turn them into successful policies. At the local level *“culture can function as a fundamental exercise of citizenship, autonomy and liberty but at the same time as a base of contradiction, fragmentation of societies and lack of communication between members of a certain community..... Cultural policies at the local level have strong ethical dimensions from strengthening social phenomena such as democracy and equality, access and participation to the sense of belonging in a community. Furthermore, culture can also generate contrapositions and conflicts that bring a special challenge to the forming of cultural policies. Therefore, any indicators to measure inclusive actions should also include components on conflicts and discrimination. (Laaksonen, 2006).*

The changed role of the states brings along modifications in power relations which has activated the contribution of local and regional authorities in building an enabling environment for cultural participation and inclusion. As the global civil society is more connected and active than ever, the ‘subjects’ of different policies, including cultural ones, find themselves requiring a more active involvement in the design and execution of policies.

“culture” are frequently invoked to justify violations of human rights, particularly the human rights of women.” And furthermore: “There is another resolution under consideration at the Human Rights Council now which deals with “traditional values”. This resolution is being presented by Russia, and enthusiastically supported by Egypt, Pakistan and others. Again, this Resolution, which will probably be adopted, may have a serious impact on the universality of human rights standards.”

This is something we know already. In the cultural field, the management of certain elements depends essentially on the participation of people at the local level, on the political will and on the contribution of the communities. Strengthening the civil society and its autonomy is not a new objective. In Europe in 1997 the report of the Council of Europe *In from the Margins* counted as one of its recommendations the importance to strengthen the civil society and democracy through cultural measures and underlined that sometimes voluntary action can be more appropriate for cultural action (and fulfilment of cultural rights) than government activity. But how could this be translated into real action – and is there space – or need - for a global platform?

It is all about options: access and participation

Access is a fundamental element of any cultural right and especially of the right to participate in cultural life. Access is about opportunities, options, alternatives and choices. It's about an enabling and secure environment and equality, interaction, recognition and respect. Building access is about *making possible, facilitating and letting happen*. Access is a pre-condition for participation and participation is indispensable in guaranteeing the fulfilment of human rights.

Participation is strongly linked to cultural citizenship. The very concept of the civil society is linked to the promotion and protection of cultural rights and freedoms. Many of the cultural agents of the civil society were 'born' as regards the promotion and protection of cultural identities and link, and to promote collective rights. Citizenship is above all a political or social concept but it has gained strong cultural content as well. Many sources claim that cultural citizenship is closely linked to the idea of forming part of a community and without the fulfilment of cultural citizenship it is not possible to have a cohesive community.

It would of course be thrilling that people would go to barricades and protests for better conditions for cultural diversity and the right to participate in cultural life, as other rights. But as enthusiastic as we may be of this, it is not foreseen that a global platform for the right to participate in cultural life would have the same impact than an environmental, peace or human rights movement. George Yúdice says that *"There is very little public awareness of the importance of cultural rights and cultural diversity among not only the populace but also the legislators and journalists of just about any country. There are several reasons for this, but I think two are major: the construction of newsworthiness and the lack of citizen mobilization"* Albeit the cultural sector is an active field where voluntary action and strong feelings towards the importance of culture in the well-being of people are among driving forces, it does not translate into media campaigns and global memberships.

Furthermore, Yúdice states that *“successful mobilization requires rallying around issues about which people are or can become passionate. Some of the issues broached in the documents on cultural rights and diversity are quite abstract or distant. It is hard to imagine activists breaking into legislative meetings or corporative offices over social cohesion, values and meaning, intercultural dialogue, or international cooperation.”*

Activism in the cultural sector is mostly carried out by third sector actors such as NGOs or cultural associations. These actors are many times dependent on state support and their scope is limited. Nevertheless, the third sector is an active arena for social cohesion, citizen education and different aspects of socio-ethics such as awareness-raising on various issues. Mestrovic (2004) states that *“the third sector is a space where many people learn for the first time to practice democratic participation”* and Boccacin (2004) acknowledges that the third sector / civil society agents deserve a special attention for their ‘societal’ role: a new participatory way of social construction based on creation, care and strengthening of community relationships.

There is a need to know more about the needs and necessities of people at the local level, and carry out more participatory actions. The Interarts Study from 2004 on local and regional understanding on cultural rights whose that people in general have little faith in legal instruments and standards and their implication in the ‘real life’ and fulfilling of cultural rights. The study aim at mapping out the needs and necessities that people have in order obtain a clearer picture if regional, local and individual perceptions on cultural rights and the right to take part in cultural life. According to this study the main elements are found to be

- equal opportunities ensured by local authorities
- the right of the individual to participate in her / his culture
- rights of minorities and indigenous people to maintain cultural autonomy
- economic access to cultural services and sites
- preservation of national and international cultural heritage
- responsibility to protect minorities, indigenous people and other vulnerable groups and their access to culture
- use of minority languages

Interarts is currently carrying out a Study on the Access of Young People to Culture in Europe for the Education, Audiovisual and Culture Executive Agency of the European Commission. The objective of the study is to have a larger picture of the European field as regards the access of young people to culture and cultural life to carry out a collection and full analysis of existing national practices. The aim is to map the European landscape of opportunities of, impact of and obstacles to the access and participation of young people in culture. The ultimate aim is to produce a set of conclusions for a better understanding and recommendations for concrete actions that reflect the demands, necessities and needs of young people in Europe. The more satisfactory part, however, or the study has been to put in contact the 27 national

correspondents that are young researchers and cultural managers in all the Member States. In May we had the chance to run a workshop with some of them and guests from European youth organisations and the real-life experience of sharing, comparing and observing was probably even more important than what comes out in the final publication of the process.

Global agenda

Culture, in the end, is about human relationships. We tend not to build cultures alone and we tend to identify ourselves through belonging to a group even though in an ideal stage also through maintaining our personal experience and growth as a building stone in understanding who we are – and what makes us so unique.

We can agree or disagree upon the fact that cultural participation may or may not give a deeper meaning to our lives or equip us with possibilities to have a say on the decisions that affect our opportunities in life. We might be able to think that access to culture and participation in cultural life enlarge our sensation of being part of a community and give an emotional meaning to our social interaction. We might need more information on who constitutes the culture we live in and how we ourselves participate in its constitution. As we know, culture is not a static fact but a living organism and therefore our ways of participating also go through changes. What we probably all agree on is that we should be given the opportunity to access, we should be able to choose whether or not to participate and that all this should have a normative basis that assures these possibilities in any given circumstances and to everyone. And that public policies, especially cultural policies, should reflect on that that contribute to the construction of an enabling environment where the rights to access to and participation in cultural life are covered.

“In a nutshell this means that every citizen, whether a member of a majority or a minority, has the same rights to access and participate in cultural life. In practice, however, the power that many international treaties have may turn out to be quite modest when drafting actions in practice. But international law does provide some of the most important parameters that have a bearing on the realisation of access and participation in cultural life. They reflect a consensus of the international community on these issues and therefore it is important that countries participate in international processes. The real test, however, always come at the home front and how international (and national) regulations are turned into inclusive policies.” (Laaksonen 2009)

“The cultural sector is very vulnerable to budget changes and when times get rough countries tend to cut from cultural resources. Making successful policies is many times about time, resources and money the lack of financial resources is an easy way to explain that there is no really lack of interest but that other priority issues run over cultural participation in the list of immediate actions. Few can argue that cultural participation is more important than assuring a

functioning social security system or that cultural rights are more important than social rights such as right to housing, health care or education. Cultural rights seem an easy target in these confrontation situations even if there is no real conflict between different issues. Keeping cultural rights in the margin of human rights and keeping culture in the margin of the development of participatory policies means maintaining an elitist vision of culture that expression, creativity and enjoyment of cultural offer is a privilege of well-educated well-earning citizen. There is a lot of grass-root work done on cultural rights, access and participation and this work deserves not only a good legal support system but also better resources, visibility and official forums.” (Laaksonen, 2009)

When we are working with civil society actors it comes clear – not very surprisingly – that there is a need to connect the macro-level (international instruments, processes and follow-up systems) with the micro-level (everyday cultural interaction). To secure cultural rights – and the right to participate in cultural life in particular is really a ground work of many actors.

In my opinion not only we need to know more about each other but we would also need:

- ⇒ Ratification of international legal instruments and inclusion of different cultural rights in national legislations
- ⇒ Local and regional cultural norms based on participatory consultation with the local public (within the human rights and values framework)
- ⇒ Engaging local people in decision-making processes and offering channels for this, with special emphasis groups with special needs
- ⇒ More information on civil society actions in this field; actors, processes, results as well as local values, beliefs and norms and how to link them into a human rights and cultural rights framework
- ⇒ More research on access, participation and the different levels of involvement in cultural life
- ⇒ Policies based on gathered information on actors, needs and involvement
- ⇒ Activities addressed to young people and designed by them in order to foster their participation in the public [and cultural] life and becoming citizens of full rights (and responsibilities)
- ⇒ Visibility of existing examples in different countries -> documentation, data banks, collaboration with artists
- ⇒ Capacity-building and awareness-raising of people working in the cultural sector on human rights, diversity and
- ⇒ Capacity-building and awareness-raising of people working in other related sectors (health, education, social sector) on human rights, diversity and
- ⇒ Follow-up systems: mapping, databases, national reports, basic indicators, networking

- ⇒ Interdisciplinary (international, intersectorial and interinstitutional) collaboration between different actors on different level
- ⇒ Long-term thinking and planning
- ⇒ Funding and information on how the lack of/access to funding affects the right to participate in cultural life
- ⇒ Awareness-raising and mobility on access and participation in culture
- ⇒ Updates on specific rights such as linguistic rights, access to cultural memory/heritage, etc.
- ⇒ More information on the number and nature of NGOs and other organisations (voluntary organisations, associations, amateur artists groups) active in the field, evaluation of their actions
- ⇒ Specific actions in the cultural sector: revision of priorities, infrastructures, mobility and exchange and international cooperation

Who must promote the culture of human rights?

Given that the culture of human rights must be extended, it is the mission of **Governments and citizens**, institutional and personal, to construct it; unitedly moving forward together along the same path.

GOVERNMENT: To fulfil this task, governments must:

- Promote *State models* which respect human rights, avoiding the adoption of measures which impede, hamper or restrict their full enjoyment
- Establish the *mechanisms and means* necessary to protect these rights, thus preventing other from interfering with, hampering or preventing their full enjoyment
- Adopt measures to *guarantee* that all citizens, especially the most disadvantages groups, are able to exercise them
- Within the State, promote uncorrupt and *transparent institutions* which respect human rights.
- Penalise public servant for corrupt actions and the breach of any right
- Draw up public policies which are participative and inclusive and which incorporate the *rendering of accounts* as mechanism for transparency
- Provide citizens with *information* on the content and scope of human rights, and the instruments for protecting them

CITIZENS: For their part citizens are responsible for:

- Respect for the *rights* of other citizens
- *Not violating* human rights

The Culture of Human Rights, Spanish Agency for International Cooperation for
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