**International Congress of the Cultural and Creative Industries**

Hosted by the Ministry of Culture of the Government of the State of Jalisco, Mexico   
28-30 October 2020

**Cultural Rights in the face of the COVID-19 crisis**

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Distinguished Participants, Ladies and Gentlemen.

I thank the Ministry of Culture of the Government of the State of Jalisco (Haleesco), Mexico, for organizing this important International Congress on Cultural and Creative Industries. I particularly thank the organizers for doing so online to inspire our ongoing work in these vital sectors in the particular context of October 2020 when so much of the world is seeing a renewed spike in cases of COVID-19. Our virtual gathering strengthens our resilience and our resistance. It is a kind of cultural antidote to the moment we are all living, threatened by interruption of our work and isolation, as well as by disease, and so I am especially grateful to the organizers for making this happen, and happen safely. I am sorry we are unable to be together in person because of the pandemic, but I send my sincere virtual cultural solidarity to you all in these difficult times and I look forward to the day when we can meet again in person. Mexico is a world leader in cultural rights-based cultural policies and I learn so much each time I have the honor of visiting, so I truly hope that will be possible again soon.

I have been asked to address “Cultural Rights in the face of the COVID-19 crisis.” This is most opportune as my next report to the UN Human Rights Council in March 2020 will focus on this very topic. To provide some context, let me begin today with some general thoughts about the broader human rights impact of the pandemic and then focus on cultural rights which are a central part of that framework.

We must recognize thatCOVID-19 is a cataclysm and a foundational challenge for *all* human rights. The International Labor Organization has described the current pandemic as nothing less than the worst global crisis since the Second World War. As the Committee on Economic, Social and Cultural Rights [CESCR] noted, “the COVID-19 pandemic … is having devastating impacts throughout the world on all spheres of life.” The disease itself, and responses to it, together threaten nearly every human right guaranteed by international law nearly everywhere. In many contexts, marginalized groups who face structural inequalities, including indigenous peoples, minorities, older persons, and persons with disabilities, have been disproportionately represented among the dead, while at the same time the virus has also killed indiscriminately across all socioeconomic groups, ages and identities. The terrible dialectical reality of both the universal reach and the discriminatory impacts needs to be addressed in a holistic human rights analysis. They are not counterpoints, but vital complements.

An additional issue to consider consists of how histories of bad human rights policies made COVID-19 even more deadly. Austerity measures weakened health care systems. Deficiencies in implementation of the rights to adequate housing and sanitation meant that millions could not stay home or wash their hands. Failure to enforce norms prohibiting violence against women condemned thousands to quarantine with their abusers. All this underscores the ongoing relevance of implementing the entire human rights framework as part of pandemic response and recovery.

In the words again of the UN Committee on Economic, Social and Cultural Rights, COVID-19 “vividly illustrates the importance of the indivisibility and interdependence of all human rights.” A pandemic requires nothing less than a pan-normative approach. This means actually taking into consideration the full range of rights: civil, cultural, economic, political and social, while also recognizing what the Human Rights Committee has termed the centrality of the right to life. It will also be essential to take as seriously the issue of accountability for willful violations of economic, social and cultural rights, as of civil and political rights, during the pandemic. Connections between all categories of rights are critical to consider.

In these challenging times, I know that we all mourn the more than 1.1 million people around the world, including more than 89,000 in Mexico, who have now died from COVID-19. By the time you watch this speech, I regret that those numbers will be even higher. A long term task to which the cultural fields can make a significant contribution will be to memorialize all these victims, both to commemorate these painful losses and to spark improved policies. To borrow the words from a Middle Eastern documentary about armed conflict: “The dead do not sleep. They are watching us lest we should sleep.”[[1]](#footnote-1) Those words are perhaps especially relevant as we approach the Day of the Dead, Día de Muertos when lost loved ones are especially remembered. Remembering all of those lost must give us a sense of urgency about finding more effective and right-respecting responses.

We have lost leading artistic and cultural figures to the virus in every region including in Mexico, such as the film actress Cecilia Romo who was known for playing rebellious characters and protest singer Oscar Chávez, and there have also been terrible cultural losses in other regions such as Chinese film director Chang Kai who died at home along with 3 family members in Wuhan on Valentine’s Day. Ronald Lewis, 68, an African-American transit worker and cultural historian of New Orleans who wrote "House of Dance and Feathers," considered the most detailed map of the Big Easy’s culture, fell to coronavirus in early April. Cameroonian musician Manu Dibango likewise perished and too many others to count. We must honor their memories by continuing to promote a nourishing cultural life for everyone. Culture is the heart of our response to COVID-19.

While we must be separated by physical distancing, arts and culture can still bring us together safely and allow us to maintain and even strengthen our connections with one another when we need them the most. I thank all the artists and cultural practitioners around the world, all those in the cultural and creative industries, who are making our lives better and strengthening us through their work during this challenging season. I pledge that we will stand with them now as their livelihoods are massively threatened and their abilities to express themselves are limited, and, we will stand with them going forward, to work together to preserve and protect and rebuild cultural life, and the institutions and spaces which enable their work, in accordance with the dictates of public health. Indeed, arts and culture are core components of public health and vital to human well-being.

I also believe it is essential that we continue to raise our voices together in support of artists at risk in all regions of the world during the pandemic. We must remember that challenges to artistic freedom may involve threats not only to the civil and political rights of artists, but also to their economic, social and cultural rights. This is not a moment for silence but for thoughtful global engagement in support of artists and cultural rights defenders, including those facing persecution.

For example, I today reiterate my appeal, made jointly with 5 other UN human rights mechanisms, for the immediate release of Yahaya Sharif-Aminu, a 22-year-old singer sentenced to death on August 10th by a Sharia court in northern Nigeria over an allegedly blasphemous song shared in a WhatsApp group. I ask artists and cultural rights defenders everywhere to speak up in support of this young artist. Artistic expression of opinion and beliefs, through songs or other media – including those seen to offend religious sensibilities – is protected in accordance with international law and that is just as true during a global health crisis. The criminalization of these expressions is unlawful. Music is not a crime.

One of the cultural values we must emphasize going forward is solidarity which is critical to pandemic responses. This is a moment to emphasize provisions such as article 15(4) of the International Covenant on Economic, Social and Cultural Rights which recognizes the importance of transnational cooperation in achieving cultural rights, including the rights to take part in cultural life, and the right to benefit from scientific progress, which is essential for securing the right to health.

Cultural rights are an indispensable part of a human rights respecting response to the pandemic. The UN Human Rights Council has now regularly reiterated that, “cultural rights are an integral part of human rights, which are universal, indivisible, interrelated and interdependent.” In recent years, in part due to the efforts of the mandate, cultural rights have gained in legitimacy. For me as a professor of international law, it has been important to regularly reassert the international legal grounding of these rights which is strong and unquestionable. Cultural rights are not a nicety. Their implementation is legally required. Article 27 of the Universal Declaration of Human Rights states in part that

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

Cultural rights are also guaranteed by a number of human rights treaty provisions, including most centrally Article 15 of the International Covenant on Economic, Social and Cultural Rights which today has 171 state parties, including Mexico.

***Article 15***

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;**

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

4. 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.

It is challenging to imagine a post-COVID era when the hope of getting beyond the pandemic sometimes seems remote. However, it is clear that going forward requires a *cultural rights* perspective both to the question of how we survive this difficult today, and how we imagine a better tomorrow. The rights of everyone to take part in cultural life without discrimination, and to artistic and scientific freedoms, are guaranteed by international law. Everyone has a right to participate in and be consulted about policies to ensure these rights. All this remains true.

Even in these trying times, cultural rights are not a luxury. They remain key to the overall implementation of universal human rights and a crucial part of the responses to many current challenges, from discrimination and poverty to COVID-19 itself. Moreover, the safeguarding and promotion of culture contributes directly to many of the Sustainable Development Goals – safe and sustainable cities, the promotion of gender equality, and peaceful and inclusive societies.

Transformation in a post-COVID era from a cultural rights perspective should be envisaged across several time frames. In the short term, we must work with urgency to guarantee financial support for artists, cultural practitioners, cultural industries and cultural institutions. The centrality of culture as a coping mechanism in these times offers us a vital advocacy tool. Faced with the grave difficulties of the pandemic, we must remember, as the 2020 Rome Charter says, that culture sometimes is the solution, and sometimes can help us to find other solutions.[[2]](#footnote-2) I also appreciate the Charter’s emphasis on sharing cultures and creativity so as to strengthen social and democratic life. Taken together, all this means we need nothing less than a global cultural plan to keep alive the cultural life which helps keep us alive. It should be locally driven, and globally supported and coordinated, and cultural rights based.

In the short and medium term we must continue to safely reconfigure public cultural life, including in digital spaces, with offerings for all sectors of society, including persons with disabilities, and in a diversity of languages. Human rights guarantees apply online and public powers need to ensure access to cyberspace for all. Inequality in access to the internet and also in computer literacy have had a huge impact on how effectively people can protect themselves from the pandemic, and also on their capacities for resilience. This must all be addressed. Moreover, essential human rights commitments to non-discrimination and inclusion of diverse voices in all spheres of cultural life must be maintained even in the face of crushing budget cuts.

From the medium to the longer term, we will also be watching for safer times when more public cultural life and greater shared use of public spaces will become possible again. We must commit to supporting that renaissance, emphasizing that as important as digital cultural life may be it is a complement, not an alternative, to a shared public cultural life in public spaces when that becomes safer again. Such efforts must, of course, be shaped by public health expertise. It is essential that bridges be built NOW between cultural rights experts, cultural practitioners, those in the creative industries *and* relevant scientific and public health experts so as to best guide our approaches.

Whatever the time frame, we must not give up on the dream of a better tomorrow based on *new* construction, not just re-construction, in which we consider, for example, more climate friendly ways to do our cultural work in future. On this point, let me mention that my current report for the UN General Assembly which was presented on October 22 focuses on climate change and cultural rights. In the report I emphasize the positive potential of cultural rights to serve as critical tools in responding to the climate emergency. I call for the integration of the arts, artists, culture and cultural rights defenders into climate efforts through sustainable funding and recognition.

Indeed, we must recognize that we face interconnected crises, including the pandemic, a resulting economic recession, devastating climate change and extreme inequalities. This means as I already suggested that we need holistic, comprehensive approaches and solutions. Responses to the pandemic should be effective and employ a human rights approach, with careful assessment of possible discriminatory impacts of the measures especially on persons already more vulnerable, either due to their health, their disability or their socio-economic situation. That human rights approach must emphasize cultural rights. Cultural rights in particular provide the space for exploring the type of development and the kind of society that we wish to have, or to build for ourselves and others during and after the pandemic. Cultural life is the space where interactions about such questions can take place. Each cultural sector maintains and develops knowledge that is necessary to allow us to understand who we are, who others are, how we can relate to them, experience empathy and solidarity and envisage a better future. Such efforts are essential now.

Cultural expressions allow us to give creative voice to concern and vigilance about today but also to optimism for tomorrow, to remind ourselves that equipped with human rights to guide us, and with our cultures to sustain us, working in solidarity and with determination, even in the surreal moment known as 2020, humanity will prevail.

Cultural sectors and industries are some of the most important sources of these needed messages and must be fully supported during these times. You keep us from sleeping when we should be vigilant, and keep us from despairing when we should have hope. And so, I thank you and wish you an excellent conclusion to your meeting and a successful continuation of your vitally important cultural work. It has never been more important than it is today.

Thank you.

1. Beneath the Rubble, *supra* note 1. [↑](#footnote-ref-1)
2. www.2020romecharter.org/charter/. [↑](#footnote-ref-2)