

Karima Bennoune  
Special Rapporteur in the field of cultural rights

20 May 2019

### **Submission: Cultural rights and public spaces**

Dear Special Rapporteur,

Culture is considered by UCLG members as the core of local identity and freedoms of citizens, a strand of global fraternity, a vector for peace and human rights and a key asset in any strategy for local development. In order to develop this vision, the UCLG Committee on Culture has produced conceptual policy documents (such as the "[Agenda 21 for culture](#)", "[Culture is the Fourth Pillar of Sustainable Development](#)" and "[Culture and Peace](#)") as well as practical toolkits and guides, such as the "[Culture 21 Actions](#)" and the "[Culture in the SDGs: A Guide for Local Action](#)".

The UCLG Committee on Culture facilitates the organization of the biennial [International Award "UCLG – Mexico City – Culture 21"](#), a [database of good practices](#) on "culture in sustainable cities", and the UCLG [Global Summit on Culture](#). It runs programmes to support the elaboration and implementation of cultural policies (with [Leading Cities](#), [Pilot Cities](#) and [Culture 21 Lab](#)) and it takes part in international [advocacy campaigns](#), advocating, among others for culture in the UN Agenda 2030 and the Sustainable Development Goals. The Committee on Culture is co-chaired by Buenos Aires, Lisbon and Mexico City and vice-chaired by Barcelona, Bilbao, Bogotá, Jeju, Porto Alegre and Rome. The Committee has a Secretariat located at the premises of UCLG World Secretariat in Barcelona.

Based in our programmes, it is with honour that we have elaborated this Submission on "Cultural rights and public spaces". It explains in detail how cities and local governments consider this is a key relation in their urban policies. We trust it will be useful for your forthcoming thematic report to the General Assembly. We have not any objections with regard to our reply being posted on the OHCHR website.

This Submission also illustrates our commitment to your mandate. We wish to thank your leadership and to confirm our cooperation on all issues related to your mandate.

Yours sincerely,

The UCLG Committee on Culture

## QUESTIONNAIRE ON CULTURAL RIGHTS AND PUBLIC SPACES

- 1. What are the various existing definitions of “public spaces” used in national legislation or proposed by international mechanisms, experts and civil society organizations? Are other terms used such as “civic space” and “public domain”? What is the scope of the concept of such public spaces?**

Public space is a central component of the approach to culture as integral to local sustainable development that the Committee on Culture of the world association of United Cities and Local Governments (UCLG) promotes since its establishment in 2004. The Committee’s founding document, the [Agenda 21 for culture](#) (2004), suggests that ‘Public spaces are collective goods that belong to all citizens’ and, by arguing that ‘No individual or group can be deprived of free use of them, providing they respect the rules adopted by each city’ (para 16), it reinforces the understanding that access to public spaces is part of human rights and that it should be exercised free from discrimination, whilst also stressing that local governments have a role in managing policies in this area. This is reinforced later, as the Agenda 21 for culture establishes an undertaking ‘To promote the existence of the public spaces of the city and foster their use as cultural places for interaction and coexistence. To foster concern for the aesthetics of public spaces and collective amenities.’ (para 27)

From the perspective of cultural policy and sustainable development, our understanding today is that the scope of public space includes not only physical but also virtual, online spaces, as stated in [Culture 21 Actions](#), the toolkit on culture and sustainable cities adopted by UCLG in 2015, which can be seen as a unique document at global level, providing operational guidance on the connection between culture and sustainable developments. The document goes on to request that the public nature, and the opportunities to develop cultural practices offered by both physical and virtual public spaces, should be guaranteed (para 15).

Culture 21 Actions devotes one of its nine ‘Commitments’ or thematic sections to the nexus of culture, urban planning and public spaces. The introduction to this section argues that ‘Cultures are a powerful instrument for the construction of spaces in which citizens can understand themselves and each other and freely embark on their life projects.... Urban planning and public spaces are essential in the transition to sustainable cities and regions.’ References to public space are also included in other sections. Some of the specific recommendations derived from this toolkit have been included under question 7 below.

In the understanding of the UCLG Committee on Culture, there are close links between cultural rights and public spaces, as public spaces provide one of the foremost contexts in which the particularly collective dimension of the right to take part in cultural life can be exercised, and where forms of cultural interaction can be fostered (see e.g. Culture 21 Actions, Commitment 7, g). Restrictions to the free, universal use of public space can by contrast become major impediments to the exercise of cultural rights. In addition to physical and virtual public spaces as the setting where cultural rights can be tangibly exercised, it is also important to recognise that public spaces (particularly physical *places*) may have a

symbolic value, and as such they require safeguarding and formal recognition (Culture 21 Actions, 7, h). The aesthetic dimension of public space, including aspects like urban design and public art, is also important in terms of wellbeing and access to culture, as well as in the expressive and economic opportunities it provides to artists and other cultural and creative professionals.

The connection between cultural participation and other dimensions of sustainable development and human rights becomes particularly visible at the local level, in cities and towns. In this respect, as highlighted by Culture 21 Actions, there are strong connections between the cultural relevance of public spaces and progress in areas including the right to education, access to information and knowledge, social inclusion and cohesion, and the fight against discrimination.

**2. What are the diverse legal frameworks, trends and practices at the national level that either promote or impede actors from across the cultural ecosystem, including women and persons with disabilities, from accessing and using public spaces? What strategies are most useful in overcoming such challenges?**

In line with its mandate of representing cities and local governments and fostering innovative policies at this level of governance, the UCLG Committee on Culture is particularly concerned with the policies and practices that enable or hinder cultural uses of public spaces at the local level. With regard to how cities can facilitate exercise of cultural rights in public spaces, the [Obs database of good practices](#) collects relevant examples in areas including the following:

- **Public spaces as the setting for the organisation of festivals, events and decentralised cultural activities that enable inclusive access to culture**, as shown by the [cultural policy of Barcelona](#), the [cultural policy of Bilbao](#), the [‘Your neighbourhood on stage’ project in Córdoba](#) (Argentina) and the [‘Culture and citizens connected to public spaces’ project in Canoas](#) (Brazil), among others. Particular attention should be paid to the inclusive nature of activities, as well as opportunities for citizen participation in determining the range of cultural activities to be shown, as well as in managing such activities where possible.
- **Public spaces as the setting for contemporary creativity**, particularly through the initiatives of urban and street art conducted in [Bogotá](#), [Lisbon](#), and other cities, as well as other measures in the field of public art. Particular attention should be paid to the diverse nature of cultural expressions represented in public space. The [City of Rome](#) is implementing local policies in the frame of the universal right to participate in the cultural life of the community.
- **Public spaces as the setting for collective, participatory cultural activities enabling social and cultural interaction**, as shown by [Arena da Cultura programme in Belo Horizonte](#), the [cultural policy of Mexico City](#), the [Mosaic parade](#) and the [Je Suis... project](#) in Vaudreuil-Dorion, the [Johannesburg Carnival](#), and [‘La Carrera del Gancho’ in Zaragoza](#), among many others.

- **Public spaces as the setting of participatory processes which aim to reconsider the uses of the city and its urban planning**, as exemplified by the [Kaunas Šančiai cabbage field project](#), the [School of the Commons project in Dakar](#), and the [Global Youth Culture Forum of Jeju](#), among others. Particular attention in this area needs to be paid to the effective opportunities for participation in discussions, as well as the involvement of public authorities, citizens (on an individual or collective basis), and private actors where relevant, while ensuring that public interest and a rights-based approach to urban planning prevails.
- **The consideration of public spaces as privileged settings for cultural life, in terms of access and participation as well as heritage preservation, when urban planning and other strategic instruments are adopted**, as in the examples of [Baie-Saint-Paul](#), [Busan](#), [Porto Alegre](#) and [Tunis](#), among others. This approach should also be translated in effective operational tools, including mechanisms for the preservation of tangible and intangible cultural heritage in the context of urban development initiatives, as well as appropriate cross-departmental working groups, training and awareness-raising.
- **Public spaces as the places where valuable tangible and intangible heritage is recognised, and where symbolic aspects of the past are duly acknowledged**, as shown by the [Remembrance Park in Buenos Aires](#), among others.
- **The promotion of virtual public spaces as sites for inclusive access to knowledge and for the co-creation of new narratives**, as exemplified by the [Open Commons Linz](#) project, among others.

At a more general level, the 2016 [UCLG Public Space Policy Framework](#) suggests that local governments can adopt four roles as regards public space, including as funders, regulators, implementers and facilitators, each involving different forms of engagement with communities and the private sector (see pp. 9-10).

Among the factors that may impede accessing and using public spaces particularly for cultural purposes are the following (this is a non-exhaustive list):

- legislative restrictions to freedom of expression and assembly;
- the ‘privatisation’ of public spaces through restrictive uses (e.g. by shops, bars and other private concerns) and advertising;
- urban regeneration and redevelopment plans and programmes that openly or inadvertently impact on the capacity of public spaces to be sites of cultural activity;
- poor preservation, design and care of the physical environment, including its not being pleasant, or accessible for everyone, as well as aspects like poor lighting and negligent design;
- concerns about security and discrimination, including the perception that women, children, minorities and other groups may be subject to discrimination in physical or virtual public spaces.

There is a role for public authorities, including local governments wherever they hold the relevant competences, to take measures in these areas in order to ensure universal access to public spaces. These may include the adoption of cultural impact assessment mechanisms

before the adoption of policies or measures that could affect the cultural dimension of public spaces.

**3. What are the specific characteristics of public spaces that either are conducive to the realization of cultural rights, including of women and persons with disabilities, or are an impediment to them, including in relation to issues of discrimination, equal access, accessibility, availability, and adequacy?**

In order to enable the exercise of cultural rights, public spaces should be open and accessible (in physical, sensorial and symbolic terms), as well as inclusive of everyone. They should be open to different forms of expression and enabling of interaction, while being symbolic where relevant of meanings and narratives that are culturally relevant.

As regards the characteristics of public spaces that may become an impediment to the realisation of cultural rights, please refer to the list of negative factors outlined in question 2 above.

Where the cultural purposes of public spaces may be threatened, public authorities should adopt measures to recognise its relevance, as well as to protect the cultural dimension of public spaces.

**4. What could be the contents and contours of a possible “right to public spaces”, and of legitimate restrictions that could be made to it, in accordance with international standards? Is this concept employed in your country or in your work? Is it helpful?**

While we are not aware of a formal or informal recognition of the ‘right to public spaces’ as such, there are some connections with the notion of the ‘right to the city’, as described e.g. in the [2005 World Charter for the Right to the City](#), which recognises that ‘[the] city is a culturally rich and diversified collective space that pertains to all of its inhabitants’ and defines the concept of city as including both a physical character as well as a public space (article I, para 3 and 4).

In the view of the UCLG Committee on Culture, a possible recognition of the right to public spaces should adopt an inclusive, comprehensive approach, aware of the diverse meanings and implications that public spaces, in their physical, symbolic and virtual dimensions, may have. The right to public spaces should particularly recognise the cultural relevance of the term, including its connotations as regards the right to take part in cultural life (i.e. public spaces as the site of cultural activity) as well as the symbols, identities and narratives that may be attached to public spaces. It should acknowledge both the potential role of public spaces as heritage spaces and the dynamic nature of public spaces as changing environments. It should also acknowledge the right for citizens and communities to take part in decisions regarding the planning and uses of public spaces, including for cultural purposes, through democratic means. It should also establish a responsibility for public authorities to guarantee universal, non-discriminatory access to public spaces, which should be decentralised and

accessible to everyone, and to take measures to protect public spaces, including their cultural dimensions and uses, where this is threatened.

**5. What is the role of cultural rights in ensuring the existence, availability, accessibility, and adequacy of public spaces that are conducive to widespread participation in cultural life, the realization of citizenship, cultural democracy, as well as the realization of other human rights?**

Cultural rights provide legitimacy for public policies that recognise the cultural dimension of sustainable societies. This includes urban planning and the design and availability of public spaces. In the view of the UCLG Committee on Culture, this connection is particularly relevant at the local level, because it is in streets, squares and neighbourhoods where many people can make the right to take part in cultural life effective. In this respect, recognising the competence of local governments in designing and implementing urban planning policies that take culture into account, as well as transferring resources and building capacities in cities and local governments, is critical in order to maximise the realisation of cultural rights and to identify the obstacles that may prevent them. The exercise of cultural rights should include opportunities for effective participation in decision-making on cultural policies and programmes, and this can be seen as conducive to and closely connected with the realisation of citizenship and democracy.

**6. What is the impact on the enjoyment of cultural rights of trends regarding privatization, which may affect a variety of public spaces?**

Privatisation of public spaces and, more generally, of urban areas is indeed a threat to the exercise of human rights, including cultural rights. This may be expressed in a range of ways, including the closing of specific areas for commercial purposes on a temporary or permanent basis, as well as the creation of closed precincts, gated communities and similar forms of planning which limit social and cultural interaction and which prevent citizens and communities from having full access to the management of cities and other lived spaces.

It is worth stressing that cultural initiatives themselves may reproduce forms of privatisation and be thus complicit with restrictions to the exercise of cultural rights. In the physical sense, this could take the form of festivals and other events with prices or other barriers that may prevent some citizens from actively taking part. In the virtual sense, the development of digital platforms increasingly raises concerns about the 'discoverability' of some contents as well as the capacity of minority cultures and expressions from having a place, and this can become an obstacle to the right to freedom of artistic expression, as well as the right to have access to diverse cultural expressions. More broadly, where privatisation involves undue influence of private actors in decision-making affecting cultural life, this can also become a hindrance to cultural rights, including the ability of public spaces to be sites where to exercise them.

## **7. What recommendations should be made to States and other stakeholders concerning these topics?**

The Culture 21 Actions toolkit provides guidance to local governments wishing to strengthen the cultural dimension of local sustainable development. Relevant measures in this respect include the following:

- To explicitly recognise public spaces as key resources for cultural interaction and participation.
- To consider some public spaces, thanks to their symbolism, as public goods.
- To facilitate and promote citizen initiatives for the sustainable use of public spaces.
- To explicitly recognise the importance of cultural issues and resources in local urban planning or urban master plans.
- To develop reference guides or other mechanisms on ‘cultural impact assessment’, which should be used in urban planning policies and other relevant local policies.
- To promote and manage the development and preservation of public art.
- To develop policies and programmes that promote people’s active participation in urban planning and regional development, including in urban design, architecture, and public art.
- To analyse the obstacles to accessing and using information and communication technologies for cultural purposes.
- To establish policies and programmes on digital creation, production and distribution that are centred on citizens and promote cultural democracy.
- To ensure that cultural institutions that receive public support develop debates on information and knowledge and provide consistent support for valuing culture as a common good.

Whereas these measures are particularly meant for local governments and other local stakeholders, diverse constitutional arrangements and shared competences in many areas (e.g. cultural policy) mean that some of them could apply to national governments and other tiers of authority in many countries. Furthermore, national governments tend to hold competences in areas like the protection of human rights and fundamental freedoms, which are also critical as regards the potential of public spaces to be sites for the realisation of cultural rights.

Additional information can be found in the [Culture 21 Actions](#) toolkit, particularly Commitment 7 (Culture, Urban Planning and Public Spaces) and Commitment 8 (Culture, Information and Knowledge).