

Free to Create

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Session on Artistic freedom of indigenous peoples

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Indigenous art is often an important aspect of indigenous people's freedom of expression. But what affects the artistic freedom of indigenous people today, and how can it be strengthened?

Contribution by Alexandra Xanthaki, Special Rapporteur in the field of cultural rights

Good morning. I am delighted to be here today.

The right to artistic freedom falls squarely in my mandate. As you heard, I am the UN SR in the field of Cultural Rights. My mandate is entrusted with ensuring the monitoring and further understanding of cultural rights. Artistic freedom was the focus of a study early on in the mandate, in 2013. Since then, a lot has changed; yet a lot unfortunately remains the same.

States are under the legal obligation to respect artistic freedom and to take specific positive measures to protect artistic freedom. This is particularly important for indigenous peoples, who are usually in the most marginalised people of the society.

Article 15 of the International Covenant of the Economic Social and Cultural Rights clearly states that everyone has the right to participate in cultural life. General Comment 21 (2009) of the Committee of this convention has specified that this is an individual and also a collective right. This article has to be interpreted in conjunction with the UN Declaration on the rights of indigenous peoples, an instrument that was adopted in 2007 with the very active participation, if not leadership, of indigenous peoples and the Sami Council.

Let me choose a few points that I think are important for our discussion:

Self-determination: The UNDRIP clearly recognises the collective right of indigenous peoples to self-determination. This means that indigenous peoples must be given the funds and resources to be in control of their art, to have their own institutions and their own priorities in developing and disseminating their art. I am looking forward to seeing how the right of self-determination is operationalised in Saamiland. I know of a couple of initiatives where the Saami have their own museums. Are they in charge of their budget? Are they in charge of their own priorities and visions about how Saami art will be represented?

In addition to having an autonomous system of art and control regarding indigenous art, indigenous peoples also have **not to be discriminated in participating in the art scene of the state**. Very often indigenous artistic products are not included in museums and art galleries, as they are seen as a separate system to be seen only in the indigenous areas. This can only have detrimental effects as the non-indigenous majority never comes across indigenous art. Very often when indigenous art is represented, it is done in a tokenistic manner, so the artist or the community feels almost that they have to express gratitude for being part of wider projects. OR they are expected to be folkloric and to fit the stereotype the majority has as indigenous art.

Of course, in talking about participation, we mean in all phases of each project, not only in the delivery or by one or two pieces. Participation is from the inception of the project to its final delivery. And of course, international law requires indigenous peoples to lead in matters that affect them, so I would expect that any interpretation of indigenous art would be made by the indigenous community itself.

And of course, we have the managing of **individual art** that comes from indigenous artists. Often, these artists feel the pressure only to engage in indigenous art, the pressure from funding bodies and the pressure from their own indigenous organisations to be 'true to the culture'. This is even more pertinent when it comes to indigenous women, where they feel that somehow their whole art has to be about obstacles they face as indigenous members or obstacles they face as women or relating to caring and romantic ideas of indigeneity. Women are always seen as the carriers of culture, so the expectations are pretty much heightened.

Finally, it is interesting, and at times difficult, to explore when indigenous collective art inspires and when it is **misappropriation**. International law does not really give very clear answers to this. When is the indigenous design on the coffee mug a testament to the power of the indigenous art, and when is it misappropriation? These are difficult questions only to be facilitated by Article 15.2 ICESCR (also legally binding to states) that recognises the right "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." Now we know that the provision applies to individual and collective notions and art. So I would really like to know more about initiatives where the Sami have benefitted from this provision. Have they received the benefits of their art being used?

Thank you