UNESCO & Human Rights:
Geneva Dialogues for Enhancing Cooperation and Effectiveness

BRINGING FORWARD CULTURAL RIGHTS: WHAT'S NEXT AFTER MONDIACULT?

Main Outcomes of the Third Thematic Dialogue

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Peter Bille Larsen, Chair of organizing group

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Background

In 2021, the Swiss Commission for UNESCO, the UNESCO Geneva Liaison Office and the University of Geneva, in partnership with the OHCHR (Office of the High Commissioner for Human Rights) and the REGARD NGO platform, launched a new Dialogue series aiming to scale up learning about human rights-based approaches and partnerships in different areas where UNESCO (United Nations Educational, Scientific, and Cultural Organization) is active.

These Dialogues offer creative platforms for in-depth discussions about recent trends, current challenges, and ways to ensure more robust and coherent cooperation with regional and universal human rights mechanisms, between UN Agencies as well as with civil society. In order to ensure meaningful participation, the Dialogues are held under the Chatham House Rule, adapted here to mean that insights and results are summarized without attributing insights to specific speakers. Dialogue summaries are meant to capture a cross-selection of key issues and recommendations raised.

Cultural Rights were selected as the subject for the third thematic Dialogue held in Geneva in April 2023. The dialogue described in this brief report underlined these intersections and the value of a cross-sectoral thrust at UNESCO. The event gathered UN officials, NGOs, Special Rapporteurs and academics in an open-ended discussion structured in two days: the first day was focused on discussing the core subject and the second day, on establishing key messages and recommendations.

On behalf of the co-organizers, the event was opened by Ernesto Ottone, Assistant Director-General for culture, UNESCO, Nada Al-Nashif, United Nations Deputy High Commissioner for Human Right, OHCHR and Muriel Berset Kohen, Ambassador, Permanent Delegate of Switzerland to UNESCO. The following pages summarize collective insights from the dialogue process.

Summary of Geneva dialogue on cultural rights

Introduction

Cultural rights protect the rights of each person, individually and in community with others, as well as of groups of people, to develop and express their humanity, their world view and the meanings they give to their existence and their development through, inter alia, values, beliefs, convictions, languages, knowledge and the arts, institutions and ways of life. The MONDIACULT Declaration, adopted by 150 States, represents a major global commitment and call for action to promote and protect cultural rights.[1] Considering the existing foundations in international human rights law and the recent impetus provided by MONDIACULT, this 3rd Geneva Human Rights Dialogue sought to catalyse cutting-edge knowledge, inform Member States' implementation of their obligations regarding cultural rights and identify opportunities for the implementation of the Declaration as well as other possible policy avenues to support cultural rights.

What do we mean by cultural rights?

By adopting various international human rights instruments,[2] States commit and take on obligations to respect, protect and fulfil the rights and freedoms related to cultural rights, inter alia: (a) human creativity in all its diversity and the conditions for it to be exercised; (b) the free choice, expression and development of identities, which include the right to choose not to be a part of particular collectives and to take part on an equal basis in the process of defining it, as well as the right to exit a collective; (c) the rights of individuals and groups to participate, or not to participate, in the cultural life of their choice; (d) the right to interact and exchange, regardless of group affiliation and of frontiers; (e) the right to enjoy and have access to the arts, to the benefits of science and its applications, to knowledge, including scientific knowledge, and to an individual's own cultural heritage, as well as that of others; (f) the right to participate in the interpretation, elaboration and development of cultural heritage and in the reformulation of one's cultural identities; and, (g) the right to participate in the definition and implementation of policies and decisions that have an impact on the exercise of cultural rights and the related right to information.[3] These are transversal obligations that need to be implemented across all policies of States.

1 www.unesco.org/sites/default/files/medias/fichiers/2022/10/6.MONDIACULT_EN_DRAFT%20FINAL%20DECLARATION_FINAL_1.pdf

2 Inter alia, the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), the United Nations Declaration on the Rights of Indigenous Peoples (2007) and the Convention concerning Indigenous and Tribal Peoples in Independent Countries (1989), as well as all instruments aimed at specific groups concerning non-discrimination in the exercise of the right to take part in cultural life; at UNESCO, the Universal Declaration on Cultural Diversity (2001), the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) are the main general instruments, together with the many Conventions relating to heritage.

3 A/HRC/31/59, para.9, A/74/255, para.2 and A/HRC/20/26, p.1, combined.

The impetus of MONDIACULT for cultural rights

While cultural rights are a core component of human rights – as outlined notably by the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights – new challenges in their effective implementation have arisen over the past decades, particularly in relation to the impact of the digital transformation, and the rise in migration and protracted conflicts. Thus, there is a need for strengthened policy investment at both global and national levels towards fostering an enabling environment conducive to the respect and exercise of cultural rights for all.

In that context, the Declaration of the UNESCO World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022,[4] endorsed in September 2022 by 150 Ministers of Culture, represents a major step forward. It outlines a comprehensive approach to the broad spectrum of cultural rights for the development of cultural policies, encompassing notably: (i) inclusive access to culture and participation in cultural life; (ii) economic and social rights of artists, cultural professionals and practitioners, including issues related to the status of the artist and intellectual property; (iii) artistic freedom; (iv) the protection of cultural and linguistic diversity, including in the digital environment; and, (v) the right to cultural identity and heritage, including for indigenous peoples, and encompassing the restitution of cultural property.

The MONDIACULT Declaration reflects a renewed commitment to foster conceptual reflection and strengthen national and global policy frameworks designed to enhance the implementation of cultural rights across the different components of the cultural sector. In February 2023, a workshop in the context of the 75th anniversary of the Universal Declaration of Human Rights and the 30th anniversary of the Vienna Declaration and Programme of Action, a workshop demonstrated the strong consensus on the universality, indivisibility, interrelatedness and interdependency of all human rights, and provided concrete examples of why it is vital to ensure that economic, social and cultural rights are given the same priority and emphasis as civil and political rights. In his opening remarks, the High Commissioner recognized that cultural rights, in particular, have not received sufficient attention, and he underscored the centrality of economic, social and cultural rights in addressing the global crisis.

Drawing from these global commitments, renewed efforts will be needed in the coming years to provide a global platform for enhanced dialogue, and to foster knowledge building and policy engagement, with a view to supporting Member States in strengthening their national policy frameworks pertaining to cultural rights, as well as advancing critical areas of policy investment for the future, notably as regards the framing of collective cultural rights and the regulation of the digital environment.

The 3rd Geneva Human Rights Dialogue brought together multilateral actors, experts and civil society organizations to explore trends and patterns and review the effectiveness of existing human rights mechanisms as well as synergy opportunities across four key areas central to cultural rights, in general, and the MONDIACULT Declaration in particular:

1. Ensuring the fundamentals of cultural rights: inclusive access and participation;
2. Protecting artists' and practitioners' rights and freedoms;
3. Protecting cultural diversity, linguistic diversity and the right to cultural identity in public policies; and,
4. Reinforcing the rights of peoples and communities to cultural identity and cultural heritage, including the restitution of cultural property.

The aim of the dialogue was to present cutting-edge knowledge to inform Member States' implementation of cultural rights, by: 1) taking stock of global challenges impeding the effective implementation of cultural rights; 2) contributing to a community of practice for in-depth discussions about recent trends and current challenges, while also providing a sustained platform for further exchanges; 3) identifying opportunities for the implementation of the MONDIACULT Declaration, as well as other possible policy avenues that need to be invested in in the field of cultural rights, building on existing mechanisms and workstreams; (4) strengthening partnerships and cooperation between UN agencies, civil society, academia, and the public and private spheres, in the area of cultural rights; and, (5) fostering more robust inclusion of cultural rights within regional and international human rights mechanisms, including within the Universal Periodic Reviews.

The aspiration of the Geneva Human Rights Dialogues

Since 2021, the Swiss Commission for UNESCO, the UNESCO Geneva Liaison Office and the University of Geneva, in partnership with the Office of the High Commissioner for Human Rights and the REGARD platform, have conducted a series of dialogues aiming to scale up learning about human rights-based approaches, mechanisms, and partnerships in different areas where UNESCO is active (education, sciences, culture and communication). Each dialogue involves open-ended discussions around emerging issues and current challenges, lessons from existing mechanisms, and partnerships. In order to ensure meaningful participation, the Dialogues are held under the Chatham House Rule, adapted here to mean that results are summarized without attributing insights to specific speakers.

4 The UNESCO World *Conference on Cultural Policies and Sustainable* Development – MONDIACULT 2022 was convened by UNESCO on 28-30 September 2022 with a view to promoting global reflection on cultural policies in the wake of global challenges, thus laying the foundations to shape a more robust and resilient cultural sector.

Key Messages and recommendations

This report underlines the importance of deepening our understanding of recent trends that affect Cultural Rights, as well as enhancing strategic collaborations around existing human rights mechanisms, partnerships and other forms of cooperation.

KEY MESSAGE 1: Recognizing the indivisibility, interdependence and universality of cultural rights as fundamental enablers of other rights.

KEY RECOMMENDATION 1: Underscore cultural rights as a foundational principle of public policy in line with the MONDIACULT commitments with clear implementation guidance for duty bearers.

KEY MESSAGE 2: Beyond narrow interpretations of culture: the need to create shared language around cultural rights.

KEY RECOMMENDATION 2: Adopt a comprehensive shared definition and statement of coverage for cultural rights.

KEY MESSAGE 3: Cultural rights violations often fly under the radar and are often underreported.

KEY RECOMMENDATION 3: Propose a monitoring methodology and report mechanism specifically on progress in monitoring the implementation of cultural rights within the culture conventions and as part of the Global Report called for by MONDIACULT and due to be published by 2025.

KEY MESSAGE 4: There is a lack of systemic engagement and accountability mechanisms connected to cultural rights.

KEY RECOMMENDATION 4: Enhance effective accountability mechanisms, including reinforcing civil society participation approaches in the UNESCO international culture conventions, in line with the MONDIACULT commitments.

KEY MESSAGE 5: The need to bridge the implementation gap in volatile landscapes: harnessing partnerships and coalitions for cultural rights.

KEY RECOMMENDATION 5: Use MONDIACULT as impetus to harness cross-sectoral partnerships for cultural rights in conflict situations and humanitarian crises.

KEY MESSAGE 6: Making room for diversities and the essential fundamentals of participation.

KEY RECOMMENDATION 6: Enhance diversities through strengthened participatory mechanisms both within and across existing mechanisms.

KEY MESSAGE 7: Informing policies on culture as a global public good from a cultural rights perspective.

KEY RECOMMENDATION 7: Inform MONDIACULT policy discussions on culture as a global public good with cultural rights and common good perspectives.

KEY MESSAGE 8: Digital space and cultural rights: risks and opportunities in need of attention.

KEY RECOMMENDATION 8: Analyse how cultural rights can inform policy dialogues and principles for the governance of digital sphere on topics such as AI and social media.

KEY MESSAGE 9: The world is experiencing an overall setback in the exercise of artistic freedoms and rights, yet data is deficient, and many countries lack data.

KEY RECOMMENDATION 9: Strenghten participatory data collection and systematic monitoring mechanisms on artistic freedoms and conditions in the follow-up to MONDIACULT, including as part of the relevant culture conventions and recommendations.

KEY MESSAGE 10: Existing ratification records and reporting required under the 2005 Convention do not reveal the full picture.

KEY RECOMMENDATION 10: Contribute quality criteria for a monitoring framework of rights under the relevant UNESCO culture conventions and recommendations, in line with the recommendations of the UNSR on cultural rights.

KEY MESSAGE 11: Protection mechanisms exist for some artists, but not for all; the need for expansion.

KEY RECOMMENDATION 11: Strengthen protection mechanisms related to the diversity of artists' and cultural practitioners' needs.

KEY MESSAGE 12: Cultural rights is a growing field of public policy, practice and experimentation.

KEY RECOMMENDATION 12: promote the use of public policy self-assessments on cultural rights in line with the principles of the MONDIACULT Declaration.

KEY MESSAGE 13: Cultural rights can play a key role in repairing and building inclusive societies after conflict.

KEY RECOMMENDATION 13: Harness the role of cultural rights frameworks in wider normative discussions on peace building and post-conflict reconciliation.

KEY MESSAGE 14: Existing heritage restitution approaches raise multiple questions regarding the need for further global cooperation and normative development.

KEY RECOMMENDATION 14: Facilitate policy dialogue and global policy development on restitution and repatriation building on a cultural rights framework.

KEY MESSAGE 15: Protecting cultural rights defenders under threat is an urgent priority.

KEY RECOMMENDATION 15: Include the effective protection of cultural rights defenders as an explicit performance indicator in the follow-up to MONDIACULT.

KEY MESSAGE 16: Mainstreaming cultural rights across cultural conventions remains fragmented.

KEY RECOMMENDATION 16: Build a cross-convention implementation standard for cultural rights.

Segment 1: Ensuring the fundamentals of cultural rights

Cultural rights designate the rights, freedoms and responsibilities of a person, alone and in community, to choose and express their identity, and to participate in and benefit from the cultural references and resources that are required throughout life in processes of identification, communication and creation.[5]

The first segment focused on the very fundamentals of cultural rights, namely that of inclusive access and participation of all, as established in article 27 of the Universal Declaration and further developed by the two Covenants. The aim was to better grasp evolving normative developments and understand contemporary trends and challenges while, at the same time, taking stock of efforts to enhance inclusivity and participation in order to shape action opportunities in the follow-up to MONDIACULT. Deepening knowledge about cultural rights includes acknowledging themes that need further clarification, such as the links between rights to science, cultural rights, copyright and intellectual property rights, the obligations linked to article 15.2 and 15.3 of the International Covenant on Economic, Social and Cultural Rights, the measures necessary for the maintenance, development and dissemination of science and culture, and the freedoms essential to scientific research and creative activities. Specifically, a number of themes stood

out.

KEY MESSAGE 1: Recognizing the indivisibility, interdependence and universality of cultural rights as fundamental enablers of other rights

Cultural rights are not simply 'nice to have', but are at the centre of human dignity and the practice of other human rights. With a clear set of obligations to respect, protect and implement by both States and non-State actors, the Dialogue highlighted the importance of recognizing the gravity of violations directly affecting human dignity, on the one hand, and the power, on the other, of cultural rights to enable other human rights. Recognizing the indivisibility, interdependence and universality of cultural rights is the very basis for a systemic approach to inform such conversations. Cultural rights are not always considered as fundamental as other human rights. The Dialogue, in contrast, highlighted their fundamental nature in the realization of human dignity, sustainable development and lasting peace. Participants observed the common disconnect between cultural rights and contemporary debates around intersectionality, cancel culture and collective rights. This prompted the need for clear implementation guidance on cultural rights as a follow-up to the MONDIACULT declaration.

KEY RECOMMENDATION 1: Underscore cultural rights as a foundational principle of public policy in line with the MONDIACULT commitments with clear implementation guidance for duty bearers.

5 After P. Meyer-Bisch and M. Bidault (2010), *Déclarer les droits culturels. Commentaire de la Déclaration de Fribourg*. Zurich, Bruxelles, Schulthess.

KEY MESSAGE 2: Beyond narrow interpretations of culture: the need to create shared language around cultural rights

"Cultural rights are centred around people, connections, and activities: cultural life, meaning and identity. They can't be reduced to the arts and heritage"
(Dialogue participant).

A recurring challenge concerns the commonality of narrow definitions of culture and cultural rights. Cultural rights as a general framework are therefore easily lost in translation between deficient monitoring mechanisms, conventions and theme-specific reporting. Acknowledging such risks recognizes cultural rights as a broad field and transversal dimension of public policy across all sectors rather than merely limiting attention to 'culture' in a narrow sense. To address such hurdles, the Dialogue underlined addressing both processual and substantive aspects. Recognizing the processual dimension of culture involves working with individual and collective identities, practices, knowledges, and languages and their development, transmission and transformation. At the heart of cultural rights are ways of knowing in all their forms and the expression of human creativity as outlined in the Declaration on Cultural Diversity. We need to explore ways of avoiding the compartmentalization of knowledge in cultural domains – including hard divides between traditional vs. scientific knowledge – and of maintaining the continuity of the process between access to the various resources that nourish and inspire interlinked dynamics of participation, practice, active exploration and creation. Considering that cultural rights face a double risk of being narrowed down, whether through narrow concepts of culture or rights, or through specific Conventions inadvertently limiting rights, the meeting recognized the importance of reinforcing shared language and concepts regarding cultural rights between key agencies such as UNESCO and OHCHR in dialogue with relevant treaty bodies. Building shared language and concepts based on the work by Special Rapporteurs and the Cultural Rights Observatory is essential for the cultural rights agenda of MONDIACULT and beyond.

KEY RECOMMENDATION 2: Adopt a comprehensive shared definition and statement of coverage for cultural rights.

KEY MESSAGE 3: Cultural rights violations often fly under the radar and are often underreported.

Although there is a common perception of significant setbacks in relation to cultural rights, there was wide consensus that infringements remain systematically underreported in the existing reporting and monitoring mechanisms. In a global landscape where the instrumentalization of rights for divisive purposes is rampant, this highlights a major systemic problem. MONDIACULT offers an important opportunity to harness comprehensive monitoring mechanisms and approaches to bridge this gap, notably as part of the Global Report on Cultural Policies and Sustainable Development called for within the Declaration to monitor progress in the implementation of the MONDIACULT commitments, due to be published by 2025 and which is planned to include a section on cultural rights. This will, however, require going beyond merely drawing data from the existing periodic reporting of extant mechanisms – suggesting the need for State Parties to engage with a targeted data collection process and monitoring report for cultural rights.

KEY RECOMMENDATION 3: Propose a monitoring methodology and report mechanism specifically on progress in monitoring the implementation of cultural rights within the culture conventions and as part of the Global Report called for by MONDIACULT and due to be published by 2025.

KEY MESSAGE 4: There is a lack of systemic engagement and accountability mechanisms connected to cultural rights.

Cultural rights share the same foundations as other human rights. States are responsible as duty-bearers and should be held accountable. From a cultural rights perspective, this includes the duty to engage with people and communities facing infringements, the duty to listen and respond to the most serious violations, and ensure effective mechanisms of participation. A major topic of discussion concerns how to reinforce civil society participation through dialogue measures and engagement in the implementation of the MONDIACULT commitments. The Dialogue revealed considerable potential in engaging civil society more systematically in highlighting emerging trends and shaping adequate monitoring indicators and mechanisms, including as part of the implementation mechanisms of the UNESCO culture conventions and recommendations more broadly. While some participants stressed institutional limitations, others highlighted the role of the MONDIACULT Declaration and other agendas in creating new spaces and opportunities for civil society participation and strengthening accountability mechanisms.

KEY RECOMMENDATION 4: Enhance effective accountability mechanisms, including reinforcing civil society participation approaches in the UNESCO international culture conventions, in line with the MONDIACULT commitments.

"The growing instrumentalization of culture creates fragmentation" (Dialogue participant).

KEY MESSAGE 5: The need to bridge the implementation gap in volatile landscapes: harnessing partnerships and coalitions for cultural rights.

The Dialogue stressed the growing challenges of cultural rights being systematically infringed upon in socio-politically volatile landscapes, not least in conflict situations and humanitarian crises. There was also wide recognition that the integration of cultural rights in wider development agendas is yet to be fully addressed. It will require sustained collaborative cross-sectoral partnerships both within and beyond existing conventions. Participants also noted how multiple calls for a coalition in favour of cultural rights by Special Rapporteurs and civil society has been challenging to put into practice. In a context of fragmented multilateral processes, the MONDIACULT Declaration offers a promising vision, providing a mix of carrots and sticks to incentivize further take-up and harness such partnerships.

KEY RECOMMENDATION 5: Use MONDIACULT as impetus to harness cross-sectoral partnerships for cultural rights in conflict situations and humanitarian crises.

KEY MESSAGE 6: Making room for diversities and the essential fundamentals of participation.

Discussions about the importance of cultural diversities in the plural rather than diversity in the singular concurred. In the current global context of multiple threats to democratic values, affirming the importance of allowing the expression of diversity seems more important than ever. The tension between majority and non-majority voices is real and constant, and requires regular questioning. Who is being heard and on what conditions? What perspectives guide cultural policies and whose voices risk being left out? How to organize debates to allow for a diversity of positions, but without losing objectivity? Who benefits from the (lack of) recognition in the current arrangements? It is, firstly, about recognizing the diversities of people, all of whom must have the right to and possibility to participate equally in cultural life, in what makes culture and ultimately what makes up society. Secondly, the Dialogue highlighted the importance of increasing spaces and opportunities for interaction with civil society, local communities and affected groups. More can be done to work with the diversity of representative organizations and to create more open spaces, both within and outside the organizational spaces within existing Convention-specific mechanisms as well as across them.

KEY RECOMMENDATION 6: Enhance diversities through strengthened participatory mechanisms both within and across existing mechanisms.

KEY MESSAGE 7: Informing policies on culture as a global public good from a cultural rights perspective.

MONDIACULT recognizes culture as a global public good with intrinsic values that should be integrated into future development agendas, specifically highlighting cultural rights as a "strategic area of policy engagement for the future".[6] While certain participants raised the risks of culture as a public good enabling state capture and control, others emphasized the relevance of a public good discourse as a necessary bulwark against risks associated with the privatization and commodification of culture. The Dialogue highlighted, in complimentary terms, cultural rights as a common good. This does not contradict the idea of culture as a public good, but it does prompt the need for additional policy discussions about the respective role of States and communities in terms of ownership, stewardship and management of culture. The complexity is evident in the case of knowledge and know-how straddling questions of control, commodities and intellectual property, on the one hand, and matters of sharing, transmission and respect, on the other. Cultural rights can play a key role in informing and mediating such discussions, helping to avoid the pitfalls of narrow definitions of culture and mitigate the risks of appropriation.

KEY RECOMMENDATION 7: inform MONDIACULT policy discussions on culture as a global public good with cultural rights and common good perspectives.

KEY MESSAGE 8: Digital space and cultural rights: risks and opportunities in need of attention.

Can cultural rights help to strike a balance in a rapidly transforming digital environment which includes new technologies such as AI? On the one hand, the growing possibilities to access and share knowledge and expressions across borders represent new opportunities. On the other, the standardization of modes of communication also leads to new risks of flattening diversity, potentially reducing the diversity of forms, languages and means of expression. Digital environments may bring people together as they can create new platforms and outreach for extremism and xenophobia. Artists and practitioners are often at the frontline of shrinking civic spaces, confronting controversy and control on topics such as LGBTQ+, religion and politics. Such challenges are often exacerbated in the digital sphere. From challenges related to AI to harassment and censorship, the digital sphere raises multiple and complex challenges.

Cultural rights are a key ingredient in shaping rights-based principles for on-going policy dialogues to strike a new balance in the digital sphere.

KEY RECOMMENDATION 8: Analyse how cultural rights can inform policy dialogues and principles for the governance of digital sphere on topics such as AI and social media.

Civil society monitoring of artistic freedom

https://freemuse.org/ (accessed 22.5.23)

6 UNESCO (2023): 216 EX/11 Executive Board, 216th Session, PARIS, 23 March 2023 Original: English, Item 11 of the Provisional Agenda, UNESCO World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022.

Segment 2: Protecting artists and practitioners: rights and freedoms

At the heart of the cultural and creative industries are people. Artists and creators who innovate, challenge norms, inspire and entertain.[7]

The right to artistic expression and creativity is an important cultural right that applies to all. For all to have access to creative expressions and to experiment with artistic disciplines, it is important to foster the conditions for artists to thrive and, equally offer equitable access to and enjoyment of creative practices. The second segment focused on the challenging field of protecting the rights, interests and freedoms of artists and practitioners. The aim was to highlight both emerging trends and challenges affecting artists and practitioners as well as taking stock of lessons in enhancing their rights through both human rights mechanisms and other collaborative efforts. The segment also considered the critical emerging trends and challenges affecting the rights and freedoms of artists and practitioners as well as considering relevant policies and measures that local, regional and national governments can take to ensure that the rights of artists and practitioners are better respected and protected. It considered lessons from human rights mechanisms and other means in seeking to identify new opportunities and critical directions for public policy action.

Although human rights mechanisms have historically only been mobilized to a limited extent, the Dialogue cemented the importance of addressing the conditions of artists and access to artistic production as mutually supportive and connected. These are not rights to be considered in isolation, but must be considered essential to democratic spaces and practices. Several reports (2013, 2018, 2020) by Special Rapporteurs have fleshed out these rights alongside UNESCO reporting on artistic freedom since 2015. Although there is a robust conceptual framework and increased policy attention being paid to artistic freedom, scaling up tangible results to secure artistic freedom and protection is urgently needed.

Artistic freedom under attack
"In 2020, 26% of all documented restrictions of artistic freedom took place in Europe, followed by 22% in North and South America, 19% in the Middle East and North Africa, 15% in Asia and Pacific, 9% in Africa and 9% Online.

74% of all documented imprisonments of artists concerned criticising government policies and practices, with 44% of all imprisonments happening in the Middle East and North Africa. Politics was the main rationale of 71% of detentions of artists".[8]

7 https://www.unesco.org/creativity/sites/default/files/medias/fichiers/2023/01/371790eng.pdf
8 https://freemuse.org/resource-list/the-state-of-artistic-freedom-2021/, accessed 22.05.2023

KEY MESSAGE 9: The world is experiencing an overall setback in the exercise of artistic freedoms and rights, yet data is deficient, and many countries lack data

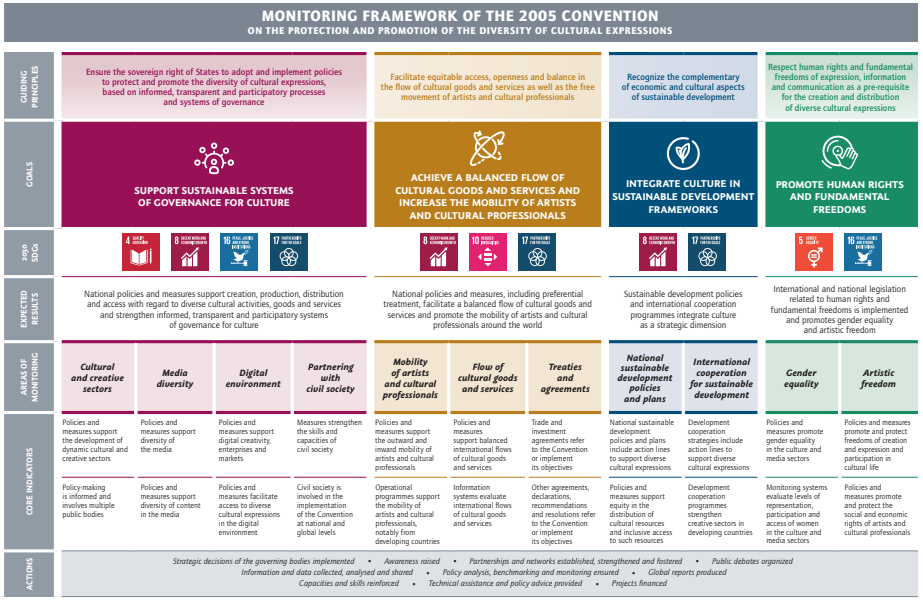
"We don't know how enormous the problem is when it comes to repression and violations of artistic freedom" (Dialogue participant).

It is widely held that artists and practitioners, globally, are facing a major setback in terms of their freedoms as well as infringements of their labour rights and working conditions. The lack of political will to guarantee artistic freedom in many countries needs urgent global attention. In the context of MONDIACULT, whether a comprehensive approach can be taken to artist and practitioner rights on the ground depends on the availability of data, not just about artistic freedom, but also about the conditions artists and cultural practitioners need to thrive.

The Dialogue made it clear that neither knowledge about major trends affecting artistic rights and freedoms, nor concerning the effectiveness of public mechanisms is adequate or satisfactory. Trends indicate not only increasing levels of censorship from governments, but also attacks by civil society driven by populism, self-censorship and xenophobia. Many artists and specific country dynamics simply do not appear on the radar in terms of monitoring. From the civil society perspective, monitoring remains poorly funded compared to similar initiatives and campaigns on topics such as press freedom or freedom of expression, leaving attacks against artists in several regions and countries under-documented. There needs to be more proactive and systematic engagement with artists, practitioners, and their associations as well as trade unions in order to strengthen the monitoring of their working conditions. Also, there are important opportunities to combine media and artistic freedoms, the latter needing further explicit attention in art schools' curriculum development.

KEY RECOMMENDATION 9:
Strenghten participatory data collection and systematic monitoring mechanisms on artistic freedoms and conditions in the follow-up to MONDIACULT, including as part of the relevant culture conventions and recommendations.

Existing 2005 Convention monitoring framework



https://www.unesco.org/creativity/sites/default/files/medias/fichiers/2023/01/2018gmr-framework-en.pdf

KEY MESSAGE 10: Existing ratification records and reporting required under the 2005 Convention do not reveal the full picture.

"Cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed" (2005 Convention).

Since 2019, monitoring frameworks that address human rights and fundamental freedoms have been developed in the context of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expression with 152 States Parties, as well as within the 1980 Recommendation on the Status of the Artist. This offers a basis for a global framework, but without a clear qualification of progress and gaps in implementation practices, the current system offers neither adequate carrots nor sticks to incentivize improved action by States Parties.

Given that policy monitoring platforms are in place, with many States reporting on the existence of mechanisms, further engagement with civil society institutions and academia is a critical avenue of action and scrutiny about the quality and effectiveness of such mechanisms. Monitoring gaps are yet to be filled by other human rights mechanisms. While there are examples of UN mechanisms being mobilized such as the Universal Periodic Review mechanisms and The Committee on Economic, Social and Cultural Rights (CESCR) in relation to Article 15, and the Working Group on Arbitrary Detentions, more systematic information flows that look at implementation with clear outcome criteria are urgently needed. Activating existing frameworks to better monitor violations of cultural rights and artistic freedom was also strongly called upon, notably as regards the UNESCO Committee on Conventions and Recommendations and its 104 procedure, as well as the UNESCO Committee on Conventions and Recommendations (CRE) and its 104 procedure, as well as a more strategic use of ILO supervisory mechanisms such as the Committee on freedom of association or the Committee of experts on the application of conventions and recommendations.

KEY RECOMMENDATION 10: Contribute quality criteria for a monitoring framework of rights under the relevant UNESCO culture conventions and recommendations, in line with the recommendations of the UNSR on cultural rights.

KEY MESSAGE 11: Protection mechanisms exist for some artists, but not for all; the need for expansion.

Moving on from the creation of and reporting on protective mechanisms and legislative framework towards effective protection is now critical. Whereas multiple artist-at-risk programmes have enabled the protection of some artists in the short and immediate term, the reinforcement of long-term mechanisms and institutional frameworks as part of States' obligations under international law and ratified instruments are of the essence to bridge the protection gap for other practitioners. The Dialogue identified lack of means, awareness and capacities at the national level in a highly fragmented and uneven landscape. Given the documentation and monitoring challenge described above, mechanisms in certain regions and for certain categories of artists and practitioners also remain underutilized. Whether jeopardized by the global pandemic or undermined online, the economic and social conditions of artists and practitioners is another major challenge highlighted by MONDIACULT. The Dialogue emphasized its importance and the need to build bridges between institutional realms of culture and those of labour and social protection.

KEY RECOMMENDATION 11: Strengthen protection mechanisms related to the diversity of artists' and cultural practitioners' needs.

Segment 3: Protecting cultural diversity in public policies: identities, languages and contents

Cultural rights and public policy: local government perspectives

a. Local cultural policies are explicitly based on cultural rights.

b. The local government has adopted a guideline text on cultural rights, freedoms, and cultural responsibilities.

c. The local government adopts measures to facilitate citizen participation, either individually or as representatives of civil society groups, in setting priorities, decision-making, and in the evaluation of cultural policies.

d. There are minimum service standards to ensure basic cultural services (for example, a minimum number of libraries/ books per inhabitant).

e. Detailed analyses of existing obstacles to citizens' access and participation in cultural life are undertaken.

f. There are policies and programs aimed at citizens' broader and more active involvement in cultural practices and cultural creation.

g. Cultural policies allow people to have access to, and transmit their own, cultural expressions, paying special attention to the most vulnerable groups and individuals.

h. Increasing the opportunities for women to participate in cultural life is one of the objectives of cultural policies, and measures are taken to eliminate gender discrimination.

i. Local civil society organizations working in human rights explicitly include cultural rights among their priorities.

j. There are policies and programs to increase the number of active members of civil society organizations devoted to culture.

(source: Culture 21 Actions, UCLG cultural-rights based toolkit: https://agenda21culture.net/sites/default/files/files/documents/multi/c21_015_en_2.pdf)

The MONDIACULT Declaration reaffirms States' commitments to protect and foster the diversity of cultural contents and linguistic diversity, and reminds them of their international human rights obligations to develop and ensure legal and public policy frameworks upholding the right to cultural identity and heritage. This segment sought to better understand current trends, learn from existing efforts in other frameworks, such as the Agenda 2030 for Sustainable Development and policy development as part of the COVID-19 recovery, and shape building blocks for strengthened implementation of the MONDIACULT commitments. The Dialogue highlighted the protection of cultural diversity as the heart of cultural rights and dignity, the importance of looking at legal and policy instruments in the context of restorative justice, memory and fighting multiple forms of intolerance in relation to individual and collective identities. A cultural rights framework is vital to such public policy discussions.

KEY MESSAGE 12: Cultural rights is a growing field of public policy, practice and experimentation.

Contrary to the commonly-held assumptions that cultural rights are simply neglected, the Dialogue revealed a myriad of initiatives ranging from civil society efforts to state-implemented initiatives that put cultural rights into practice. Work by organizations such as local governments demonstrate the very concrete and tangible ways of addressing cultural rights that are also made visible through the existence of tool-kits, model laws and new partnerships. Whether debated nationally, or in regional or global arenas such as the African Union or the G20, there was recognition of advances in addressing intercultural approaches even if much remains to be done. Addressing gaps such as a cultural rights agenda for the education for diversity is at the heart of public policy discussions. The Dialogue identified multiple themes where a consolidated 'MONDIACULT cultural rights agenda' is crucial to facilitate meaningful cultural policy development. Addressing individual and collective identity questions span several constitutional and sectoral regimes and are very often at the heart of changing societies, from matters of legal recognition (Indigenous Peoples being a case in point) to policies of inclusive education, participation and building tolerance. The MONDIACULT commitments offer an important opportunity to ask the right (cultural) questions. Significant public policy issues vary from matters of religious (in)tolerance and faith to language policy failing to ensure the effective transmission of linguistic diversity. Such diversity, in itself, prompts the need for the identification of country-specific priorities in an open and inclusive manner.

KEY RECOMMENDATION 12: promote the use of public policy self-assessments on cultural rights in line with the principles of the MONDIACULT Declaration.

Assessing performance on cultural rights

(source: https://agenda21culture.net/sites/default/files/files/documents/multi/c21_015_en_2.pdf)

Segment 4: Cultural rights in building peace: heritage, identity and restitution

The fourth segment focused on reinforcing rights-based approaches to cultural identity and cultural heritage as key resources to ensure sustainable peace. Ranging from shared cultural identities and living practices to heritage sites and moveable property, including the necessary discussions and actions relating to their restitution, cultural rights-based approaches cover a multitude of complex issues that can either strengthen mutual understanding and respect, or antagonise people and create tensions.

KEY MESSAGE 13: Cultural rights can play a key role in repairing and building inclusive societies after conflict.

The Dialogue highlighted multiple past and ongoing efforts to repair injustices, foster truth and reconciliation across the world in the aftermath of colonization, conflict and contested histories. From big UN conferences, such as Durban 2001, to bilateral initiatives to combat racism, the healing of wounds inflicted by colonialism and conflict remains a work in progress. Reconciliatory efforts, while present, are often outpaced by multiple sensitivities and rampant war with high human costs, massive refugee flows and growing military spending. Culture – or rather dehumanization – is often central to contested conflict narratives between victims and perpetrators. Communities are caught in the crossfire between warring parties and may also be left behind in times of peace. Indigenous Peoples across the world continue to experience challenges to their collective rights and traditional knowledge systems, despite global recognition of their relevance for environmental protection, sustainable food systems and landscape management and the fight against climate change.

KEY RECOMMENDATION 13: Harness the role of cultural rights frameworks in wider normative discussions on peace building and post-conflict reconciliation.

KEY MESSAGE 14: Existing heritage restitution approaches raise multiple questions regarding the need for further global cooperation and normative development.

"The local level is often forgotten in restitution processes. How can we push the MONDIACULT Declaration forward in this regard? Can we develop guidelines or a possible treaty? Could we build on paragraphs 10 and 17 of the MONDIACULT Declaration on inclusive dialogue and engaging with all stakeholders?" (Dialogue participant).

The restitution and repatriation of cultural objects, while increasing globally, raises multiple questions about how it is best done, with whom and under which conditions. Indeed, restitution practices are highly diverse, not only between countries but also within them, depending on policies, administrative procedures and sending State's priorities – yet such practices are rarely framed and assessed systematically from a cultural rights perspective. The matter is complicated by changing dynamics of appropriation, theft, armed conflict and illicit trafficking. Return of objects often takes place bilaterally between state institutions, prompting questions about owner- and stewardship, continuity with past communities and how to facilitate more equitable approaches in the long term. The Dialogue highlighted the diversity of approaches to restitution as well as the need to strengthen methods of repatriation, accelerate returns and take a contextual and decolonial approach.

Participants emphasized the necessity of promoting exchanges between practitioners and heritage communities on the importance of repatriation and restitution, highlighting the direct link between repatriation and restitution and the promotion of cultural diversity and rights. There is, in this sense, a need to develop a human rights-based approach to consultation regarding restitution issues. This, however, prompts another need – for normative developments to draw out good practice principles and address challenging issues.

KEY RECOMMENDATION 14: Facilitate policy dialogue and global policy development on restitution and repatriation building on a cultural rights framework.

KEY MESSAGE 15: Protecting cultural rights defenders under threat is an urgent priority.

The serious challenges facing cultural rights defenders was highlighted in several presentations.

Discrimination as well as persecution and criminalization form part of the threats faced by people standing up for their cultural identities and practices. While, at first sight, the persecution and criminalization of, and violence against, representatives of Indigenous Peoples, and religious and ethnic minorities, may appear different from artists, authors and performers under threat due to their expression of ideas, identities and cultural production, both are often shaped by historical inequalities, deep-rooted racism, colonial legacies and authoritarianism. Further public policy attention to the protection needs of cultural rights defenders is an urgent priority in the follow-up to MONDIACULT. Indeed, in toxic environments effective cultural policies can only work if cultural rights defenders are protected and free to engage in policy dialogues both nationally and internationally. Although the topic has been highlighted by UN Special Rapporteurs in recent years, MONDIACULT stirs a global momentum to pursue this systematically as integral to cultural policy criteria and implementation.

KEY RECOMMENDATION 15: Include the effective protection of cultural rights defenders as an explicit performance indicator in the follow-up to MONDIACULT.

KEY MESSAGE 16: Mainstreaming cultural rights across cultural conventions remains fragmented.

A robust architecture of cultural conventions and recommendations designed to safeguard cultural heritage worldwide has been built over the last 75 years. However, despite an ambitious cultural rights agenda, implementation through this convention-based framework remains highly fragmented and complex in the context of fast evolving challenges and multidimensional threats. While the link between cultural heritage and the exercise of cultural rights is widely recognized, there is a major need to strengthen the implementation of cultural rights across the UNESCO cultural conventions and recommendations. There is still much to learn across the different generations of conventions and operational regimes – from the revision of codes of ethics, due diligence procedures and specific rights mechanisms such as Free Prior Informed Consent. A major lesson concerns the need for enhanced monitoring and accountability mechanisms, which are often absent or implemented 'lightly'. Another challenge is how to ensure that heritage conventions effectively respond to the needs and rights of Indigenous Peoples and local communities. 'Ticking boxes', as far as human rights are concerned, is likely to be counterproductive and hinder the effective implementation of the MONDIACULT agenda. Systemic cross-convention approaches are needed to effectively consolidate cultural rights as setting implementation standards.

KEY RECOMMENDATION 16: Build a cross-convention implementation standard for cultural rights.

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