

# *The Journal of* Law, Social Justice & Global Development

## Cultural Rights, local cultural policies and sustainable development: constructing a coherent narrative

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### Article Information

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**Issue:** 22: 2018: *Special Issue* Cultural Rights and Global Development, ed. Jonathan Vickery.

**This article was published on:** 2017.

**Keywords:** Cultural policies; cultural rights; local; sustainability; United Nations.

**Journal ISSN:** 1467-0437

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### Abstract

Cultural rights are the foundation of cultural policies, and the guarantee of their legitimacy and coherence. The various documents elaborated in the framework of the UN human rights system are an extraordinary source of inspiration. Yet cultural rights in practice is still regarded as problematic at a national level in terms of the formulation of domestic public policy, but are not so difficult to identify and be operationalised at a local level. This article will attempt to be pedagogical, and explain to the reader: (a) the contents of key documents by the UN human rights system – considering their consistency with the new ‘local sustainable development’ agenda; (b) the global guiding documents that interconnect cultural rights and local sustainable development; (c) examples of cities and local governments that are operationalizing cultural rights at a local level; and (d) a potential list of key issues to be considered by actors on local cultural policies based on cultural rights.

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<http://www2.warwick.ac.uk/research/priorities/internationaldevelopment/lgd/>

## The ‘right to participate in cultural life’

The international community has been very late the exploration of ‘Cultural Rights’. The beginning of this exploration arguably commenced in 1990,<sup>1</sup> when a group of academics and activists approached the UN Committee on Human Rights in order to elaborate a ‘General Comment’ on the Article 15.1 (a) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR); it recognizes ‘the right of everyone to take part in cultural life’.<sup>2</sup>

This international Covenant, (approved in 1966 and came into force in 1976), can be seen as the cornerstone of the UN work on cultural rights insofar as it is the only international legally-binding document that explicitly mentions ‘the right to participate in cultural life’.<sup>3</sup> It is foundational for any document on culture produced in the context of the UN human rights system.<sup>4</sup> In order to understand the relevance of

<sup>1</sup> The General comment (2009) mentions the first ‘day of general discussion’ of the Committee with representatives of international organisations and civil society took place in 1992.

<sup>2</sup> The exact wording of article 15 (source: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>) is as follows: (1) The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. (2) The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture. (3) The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity. (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.

<sup>3</sup> It is important to recall that the Universal Declaration of Human Rights, approved in 1949, is ‘just’ a declaration, with no legally binding provisions. Very often, human rights or cultural rights activists recall the wording of the Article 27 of the Universal Declaration of Human Rights which reads: (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. (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which (s)he is the author.

<sup>4</sup> This system includes: (a) the Human Rights Council (HRC), an intergovernmental body, to which the countries (or ‘parties’ once they have adopted the Covenant) have specific duties, such as periodically reporting on the activities implemented nationally in order to respect, protect and fulfil human rights, (b) the ‘Special procedures’, devoted to gather expert observations and provide advice and include individuals (called ‘Special Rapporteurs’ or

the ICESCR, one figure is worth highlighting: 165 countries have signed and ratified the ICESCR (and 5 countries more have only signed it).<sup>5</sup> This figure may be compared to the 144 countries that have ratified, accepted or accessed, the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.<sup>6</sup>

In order to be operational, the articles and paragraphs of the ICESCR need to be ‘explained’: the creation of a conceptual and operational frame, as clear as possible, mapping the reach of each human right, is essential. These ‘explanatory’ or ‘standard-setting’ documents are named ‘General Comment’ and written (and adopted) in order to explain exactly what is behind a specific right. In the area of cultural rights, the early work in the 1990s and the early years of 2000, guided mainly by academics and activists, led to the adoption in December 2009 of an important document: the ‘General Comment 21: Right of everyone to take part in cultural life’ (UN - Committee on Economic, Social and Cultural Rights, 2009). The numbering of the General Comments is chronological: as a reference, the General Comment 4 was adopted in 1992 and addressed the ‘right to adequate housing’; the General Comment 13 was adopted in 1999 and addressed the right to education, whereas General Comment 15, adopted in 2003, addresses the right to water.<sup>7</sup> It must also be acknowledged that Article 15.1 (c), which recognizes the right of everyone ‘to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which [she or he] is the author’ was also the object of a General Comment, number 16, adopted in 2006.

‘Independent Experts’ or are ‘working groups’, and (c) the Office of the United Nations High Commissioner for Human Rights (OHCHR) led by a High Commissioner.

<sup>5</sup> See <http://indicators.ohchr.org/>. Retrieved on 4 September 2017. See also wikipedia:

[https://en.wikipedia.org/wiki/International\\_Covenant\\_on\\_Economic,\\_Social\\_and\\_Cultural\\_Rights](https://en.wikipedia.org/wiki/International_Covenant_on_Economic,_Social_and_Cultural_Rights)

<sup>6</sup> Source:

<http://www.unesco.org/eri/la/convention.asp?KO=31038&language=E>

<sup>7</sup> More information can be obtained in the website of the UN High Commissioner on Human Rights:

<http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>.

The list of the General comments is directly accessible here:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11).

The 'General Comment 21: Right of everyone to take part in cultural life' includes a 'normative content', with accurate definitions of each one of the key concepts of the article (such as 'everyone', 'take part' or 'cultural life'). The General Comment also analyses 'special topics of broad application' as well as 'persons and communities requiring special attention'. An interesting example is paragraph 11, which relates culture to cultural life: 'culture is a broad, inclusive concept encompassing all manifestations of human existence'. The expression 'cultural life' is an explicit reference to culture as a living process, historical, dynamic and evolving, with a past, a present and a future'. The General comment further explains the 'states parties' obligations', in two different lists of areas: firstly, a detailed list is provided in paragraphs 48 to 54, with a total of 23 policy areas, according to the key concepts of 'respect, protect and fulfil' (with this 'fulfil' still unfolded in 'facilitate, promote and provide');<sup>8</sup> secondly, in paragraph 55, the General Comment summarises the right in five 'core obligations applicable with immediate effect'. These are as follows:

- (a) To take legislative and any other necessary steps to guarantee non-discrimination and gender equality in the enjoyment of the right of everyone to take part in cultural life.
- (b) To respect the right to identify or not identify themselves with one or more communities, and the right to change their choice.
- (c) To respect and protect the right of everyone to engage in their own cultural practices, while respecting all human rights which entails, in particular, respecting freedom of thought, belief and religion; freedom of opinion and expression; a person's right to use the language of his or her choice; freedom of association and peaceful assembly; and freedom to choose and set up educational establishments.
- (d) To eliminate any barriers or obstacles that inhibit or restrict a person's access to the person's own culture or to other cultures, without discrimination and without consideration for frontiers of any kind.

<sup>8</sup> It is impossible here to provide an in-depth analysis of the relevance of each one of these 23 policy areas to the policies, programmes and projects, developed by cities and local governments.

(e) To allow and encourage the participation of persons belonging to minority groups, indigenous peoples or to other communities in the design and implementation of laws and policies that affect them. In particular, States parties should obtain their free and informed prior consent when the preservation of their cultural resources, especially those associated with their way of life and cultural expression, are at risk.

These five 'core obligations' become a very useful list that provides a conceptual frame for cultural rights.<sup>9</sup> And the relevance of this for cities and local government will soon form a focus for this article.

### The work of the Special Rapporteur on Cultural Rights

The General Comment 21 was adopted in 2009 and, in parallel, the Human Rights Council created a new position, the 'Independent Expert in the field of Cultural Rights'.<sup>10</sup> The first person to be appointed as Independent Expert in the field of Cultural Rights was Ms Farida Shaheed, a Pakistani sociologist and activist. Three years later, in 2012, the Human Rights Council decided to 'upgrade' this mandate, which was given the status of 'Special Rapporteur in the field of Cultural Rights', and the mandate of Farida Shaheed was extended for a period of three more years. In 2015, this mandate was further extended for a period of three more years and a new Special Rapporteur was appointed Professor Karima Bennouna for this position.<sup>11</sup>

The two special rapporteurs on Cultural Rights have elaborated several thematic reports. Among others, reports have been published on cultural

<sup>9</sup> Certainly, as the reader will have noted, the 23 policy areas and the 5 core obligations go beyond a 'narrow' interpretation of the right to participate in cultural life to explicit the interdependence and interrelation among this right and many other human rights (freedom of expression, education, etc.).

<sup>10</sup> In the Human Rights Council, the 'Independent Experts' are part of the Special Procedures of the Human Rights Council and their mission is to examine the implementation of a specific human rights theme as well as to report on the situation of a specific country.

<sup>11</sup> The positions of 'Independent Experts' and 'Special Rapporteurs' are honorary. Experts are not United Nations staff. They are not paid for this work. See OHCHR, Fact Sheet N° 27: Seventeen Frequently Asked Questions about United Nations Special Rapporteurs: <http://www.ohchr.org/Documents/Publications/FactSheet27en.pdf>.

heritage (2011), the enjoyment of cultural rights by women on an equal basis with men (2012), freedom of artistic expression and creativity (2013), advertising and marketing (2014) and the intentional destruction of cultural heritage (2016). Several of these reports contain important considerations related to local sustainable development as well as useful observations on local cultural policies.

Also, the special rapporteurs have elaborated 'country reports', after investigatory visits to countries such as Brazil (2010), Morocco (2011), the Russian Federation (2012), Bosnia-Herzegovina (2013), Botswana (2014) and Cyprus (2016), among others. Again, in these reports similar considerations on issues that are significant for cities and local government can be found.

An in-depth analysis of the implications for local policies on culture to be found within all the reports (thematic and national) – the significant local 'relevance' of the 'acquis' on cultural rights produced in the last decade by the Special Rapporteurs – is beyond the scope of this paper.<sup>12</sup> In order to cross-analyse (in the next section) whether the work undertaken by the special rapporteurs on cultural rights is especially significant for local policies on culture, this paper has chosen to reference the last general report (A/HRC/31/59), written by Karima Bennouna in 2016. In this report, the Special Rapporteur...

– Reminds that 'the purpose of the mandate is not to protect culture or cultural heritage per se, but rather the conditions allowing all people, without discrimination, to access, participate in and contribute to cultural life in a continuously developing manner' (para 9).

– Understands 'cultural rights as protecting, in particular: (a) human creativity in all its diversity and the conditions for it to be exercised, developed and made accessible; (b) the free choice, expression and development of identities, which includes the right to choose not to be a part of particular collectives, as well as the right to

change one's mind or exit a collective, and indeed to take part on an equal basis in the process of defining it; (c) the rights of individuals and groups to participate – or not to participate – in the cultural life of their choice and to conduct their own cultural practices; (d) their right to interact and exchange, regardless of group affiliation and of frontiers; (e) their rights to enjoy and have access to the arts, to knowledge, including scientific knowledge, and to their own cultural heritage, as well as that of others; and (f) their rights to participate in the interpretation, elaboration and development of cultural heritage and in the reformulation of their cultural identities' (para 9).

– Announces the priorities for the mandate holder (para 33-44), to be the following: (i) the intentional destruction of cultural heritage, (ii) the impact of fundamentalism and extremism on the enjoyment of cultural rights, (iii) the situation of artists, scientists and intellectuals at risk; (iv) the right to artistic expression and creativity, including censorship and unemployment; (v) the cultural rights of refugees and migrants; (vi) public space; (vii) the cultural rights of children and youth, both girls and boys, and education about the importance of cultural rights and cultural heritage; (viii) the cultural rights of people with mixed or multiple identities, and (ix) the relationship between culture and new technology.

– Develops in some detail two areas as deserving special attention: (1) the relationship between individuals and groups, especially the use of the concept 'community' and 'communities' (para 10-19), and (2) the intentional destruction of cultural heritage (para 45-85).

These above initial two sections of this article have served to present the notable aspects of the UN human rights system in relation to cultural rights; the next sections will be devoted to the potential use of this 'acquis' by cities and local governments, particularly considering their consistency in relation to the 'local sustainable development' agenda, so central to many of the UN's Sustainable Development Goals and the broader aims of global sustainable development.

<sup>12</sup> It remains, though, an issue this author will develop in the near future.

## Cultural rights in the frame of sustainable development

The now global discussion on sustainable development (or sustainability) has run (almost) in parallel to the evolution of international debates on cultural rights. As Baltà and Dragičević Šešić (2017, 161) explain, ‘sustainable development has become a core component of international policy discussions since the late 1980s, notably upon the publication of the UN-commissioned ‘Our Common Future’ report, which famously defined it as ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’ (World Commission on Environment and Development, 1987). A few years after, the Rio de Janeiro Earth Summit (UN, 1992) enshrined as the paradigm of coordinated local, national and global development strategies the three pillars of the ‘economy’, the ‘social’ and the ‘environmental’. That the current ‘three-pillar’ paradigm simplifies a more complex reality is a well-known issue in the social and human sciences, and moreover, more ‘modelling’ is required for a wholesale social understanding and transformation.

A problem appears when such a paradigm becomes obsolete. The work of Thomas Kuhn (1962) and his now famous analysis of scientific revolutions, explains how paradigms are useful as far as they explain a current reality. The current paradigm, however, is being challenged arguably because it does not explicitly include now recognised essential values – values for each person in our world, such as dignity, well-being, happiness, balance, harmony and identity. These values lie at the core of the ‘human development’ concept, which has been taken shape with the work of, for example, Amartya Sen (1999), Arjun Appadurai (1996) or Martha Nussbaum (2001 and 2011), to name but a few. These values have always, arguably, been implicit to the development practiced by many traditional and indigenous people, and which now appear in new visions on development emerging in Bhutan (Ura, Alkire and Zangmo, 2013) or Latin America (Rivera Cusicanqui, 2010) or even in some Western countries (the ‘transition towns’ movement). All in all, the current three-pillar triangular paradigm of

sustainability has difficulties in explaining reality, because it does not include as explicit two key components in our global world: human rights and culture.

In the last years, several attempts to explicitly connect cultural factors and actors to the global debate on sustainable development have taken place. Only a few will be mentioned here because of lack of space.<sup>13</sup>

– The advocacy for culture to become the ‘fourth’ pillar of sustainable development, by a range of actors, commencing with a seminal paper by Jon Hawkes (2001) and the Manifesto of Tutzing (Kupoge, 2001), the early (discontinued) exploration by the UN in the Johannesburg Summit Rio+10 (UNEP and UNESCO, 2002) to the important support from organisations such as UCLG (2010) with the Policy statement ‘Culture: Fourth Pillar of Sustainable Development’, and the European Economic and Social Committee (EESC, 2016) with research under the rubric ‘Culture, Cities and Identity in Europe’. This discussion is certainly ongoing.<sup>14</sup>

– The pivotal UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO, 2005) recognises cultural rights as the basis of sustainable development, and stresses the connection between communities, identity, the cultural sector and sustainability. The Convention’s management and ongoing discourse has paid attention to issues related to human rights, governance and mobility, mediating a difficult balance between the expectations of the stakeholders of the cultural sector, civil society activists and member states – as illustrated in the recent report that celebrates the 10<sup>th</sup> anniversary ‘Reshaping Cultural Policies’ (UNESCO, 2015).

– Key research reports, widely distributed, have accurately analysed the place of culture (including cultural rights) in sustainable development. The works of Nancy Duxbury (2011), the final

<sup>13</sup> A more complete analysis can be obtained in the paper ‘Rio+20 and culture. Advocating for Culture as a Pillar of Sustainability’ (Pascual, 2013) and the article ‘Culture as a pillar in sustainability: the best is yet to come’ (Pascual, 2017).

<sup>14</sup> See Pascual (2009); Pascual and Hawkes (2015) and Hawkes (2016).

publication of the European COST Action 'Investigating Cultural Sustainability' developed in 2012-2015 (Dessein et alii, 2015) and the more recent paper of Baltà and Dragičević Šešić (2017), can all be regarded as essential landmarks in the new policy landscape.

– The global campaign 'The Future We Want Includes Culture', also known as 'Culture2015Goal', served to unite several global cultural networks (including civil society organisations, cities and national arts councils) in the advocacy for the place of culture (and cultural rights) in the UN Agenda 2030 and the Sustainable Development Goals (SDGs). The campaign produced four very concrete documents with proposals of a 'Culture Goal' (September 2013), culture-related targets (May 2014) and indicators (February 2015) as well as a 'closing document' with a self-explanatory title 'Culture in the SDG Outcome Document: progress made, but important steps remain ahead' (September 2015).

The adoption by the United Nations' General Assembly of the Agenda 2030, which includes the Sustainable Development Goals, has confirmed the central place of the term in global agenda-setting and policy-making (UNGA, 2015). This global Agenda of and for Sustainable Development Goals includes 17 goals and 169 targets, and will guide sustainable development policies and strategies in the next 15 years. This agenda can be regarded as a (more implicit than explicit) step forward, both in the recognition of culture as a dimension of sustainable development and in the acceptance that a human rights based approach to development<sup>15</sup> should be the approach to empower people and widen freedoms.

In the Sustainable Development Goals, the preamble and four of the targets explicitly mention culture, whereas other (secondary)

references can be found in other four targets;<sup>16</sup> the wording 'human rights' can be found 12 times in the Preamble, once in the 'Means of Implementation' chapter, and once in the 'Follow Up and Review'. And, it is a revealing 'coincidence' that the only target that makes human rights operational is target 4.7, which reads as follows: 'By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development'. All in all, it must be explicitly asserted that cultural rights do not appear in the UN Agenda 2030 and the SDGs. Some critical articles on (the lack) of culture in the SDGs have already been published; for example, Martinell (2015) or Vlassis (2015) analyse in detail why United Nations is not yet ready to seriously and consistently operationalise culture (and human rights) in the development agenda. Being aware of the difficulties, and building on the argument that 'all SDGs should be 'localized' – localizing development means taking into account subnational contexts in the achievement of the 2030 Agenda, from the setting of goals and targets, to determining the means of implementation and using indicators to measure and monitoring progress', UCLG (2017) is preparing a guide on 'Culture and the SDG' for all actors interested in strengthening partnerships, policies, projects and practices around the place of culture in the achievement of the SDGs. This guide is based on the explicit recognition of cultural rights and provides the evidences that culture as a fundamental dimension in the localisation and the implementation of the SDGs is already happening. Other complementary explanations of the direct connection between cultural rights and sustainable development can

<sup>15</sup> A human rights based approach (HRBA) to development is not based on 'needs' but on the 'capacities' of people. 'The purpose of a needs-based approach is to reduce the gaps with transfers while that of a human-rights-based approach is to increase the capacities of people. Each one of the human rights is a capacity to be developed, which makes effective the exercise of freedoms and responsibilities included in this right. A HRBA first targets the development of these capacities.' See Meyer-Bisch (2015, 2).

<sup>16</sup> The above mentioned 'Culture2015Goal' closing document affirms that 'when compared to the Millennium Development Goals', the Agenda 2030 'represents a significant step forward with regard to the acknowledgement of the role of culture in development processes' but it affirms also that 'the Outcome Document falls short of a full understanding and affirmation of the importance of culture to sustainable development'.

be found in the texts ‘Reflections on Culture, Sustainable Development and Cultural Rights’ by Farida Shaheed (2014) and in ‘Implementing Agenda 21 For Culture (and Cultural Rights) in Today’s World: the Perspective of the UN Special Rapporteur in the field of Cultural Rights’, by Karima Bennoune (2017).

As a summary of the place of cultural rights in the global policy framework of sustainable development, this article has chosen the paper written by Jordi Baltà and Dragičević Šešić (2017) as a seminal reference. It recognizes that ‘the discourse on cultural rights has increasingly entered discussions and approaches in the field of cultural policies, but the exact operational implications are not always made’, and suggests five policy domains (for national or local policies) that summarize ‘the implications for cultural rights from a perspective concerned with sustainable development and cultural sustainability’. The five policy domains are the following, and require a substantial recognition:

1. *Access to and participation in cultural activities.* This is the ‘most evident’ domain for a rights-based approach to cultural policy. The authors explicitly insist in the fact that this policy domain should not only include the ‘passive’ participation in cultural life (with the obvious ‘availability of venues, resources and activities’), but that ‘particular emphasis’ should be placed in the active participation of citizens in cultural activities (‘the ability of everyone to actively engage in creative processes, including individual and collective creation (or ‘co-creation’) of expressions, symbols, and narratives and the presentation of a wide range of individual and collective memories and heritages’. Therefore, the authors express a clear message on the need to balance passive and active participation.
2. *Participation in policy decision-making and management.* The second domain is closely linked to the first one, but it is identified as a different domain because of the importance of an explicit ‘policy perspective’ when the implementation of cultural rights is analysed; this perspective is

explicit in the General Comment (2009) when it explains the contents of the ‘contribution to cultural life’ (para 15.b). This second domain ‘involves the possibility to take part in decision-making processes as *regards* priority setting and resource allocation’. Programmes like participatory budgeting, the existence of cultural councils or deliberation bodies, as well as the representation of civil society in the management of cultural venues and facilities, are mentioned as examples.

3. *Addressing the obstacles that prevent participation in cultural life.* There are two main factors that lead the authors to identify this policy domain. The first one is explicit: the scientific evidence that ‘gender, age, educational level, ethnicity, social class and spatial segregation may influence trends in cultural participation’. The second is more implicit than explicit: rights-based policies always focus on those-who-are-in-need. The authors identify several possible policies in this domain: ‘improved communication of existing activities (including using a diverse range of languages and channels), outreach work, revised pricing strategies, partnerships with educational, social, and transport organisations, revised programming to cater to a diversity of interests and research on participation trends, enablers, and obstacles’.

4. *Protection of minorities and threatened identities and expressions.* The fourth domain is closely linked to the third one, but it is probably identified as a different domain because of the historic existence of nation-building ‘majority’ policies that threaten identities and expressions of minorities.<sup>17</sup> The principle of ‘non-discrimination and equal treatment’ that is a cornerstone of the protection and promotion of human rights (see General Comment 21, para 21-39) can be logically applied to cultural policies with these notions. Being this issue a very controversial one in cultural policy-making, the authors do not list a number of policies (such as quotas

<sup>17</sup> The use of the concept ‘minorities’ instead of ‘minorised’ may lead to accept a situation of imbalance and is not useful to deconstruct the narratives of the ‘majority’.

on the expressions of ‘minorities’ in cultural policy, or presence of indigenous languages in the media), but remind that ‘measures adopted to protect minority identities and expressions should in no way prevent individuals and communities from freely defining their identities and cultural practices of choice, nor prevent the ability of cultural expressions to evolve’.

5. *Protection of cultural resources, rights and activities which may be put at risk by policies in other areas.* The last policy domain refers to the analysis of ‘other policies’, those that are not related to culture, but that may negatively impact on cultural rights. The authors mention the free-trade agreements, the issues related to defamation of religion, and the restrictions to artistic freedom of expression.

### Cultural rights in the cities: the conceptual frame

Cultural rights has an obvious local dimension. The work of the UN human rights system is meant to be implemented by all layers of government, and this is made explicit as early as in the resolution 10/23 of the HRC that created in 2009 the position of ‘independent expert in the field of cultural rights’.<sup>18</sup> In fact, it is in the first ‘mandate’ in which the mention to local governments is explicit: ‘To identify best practices in the promotion and protection of cultural rights at the local, national, regional and international levels’. The third mandate is also explicit: ‘to work in cooperation with States in order to foster the adoption of measures at the local, national, regional and international levels aimed at the promotion and protection of cultural rights through concrete proposals enhancing subregional, regional and international cooperation in that regard’. It is clear that the ‘local’ dimension is relevant for the work of the UN human rights system in the

<sup>18</sup> Resolution 10/23. Independent expert in the field of cultural rights ([http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_10\\_23.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_23.pdf)). It is relevant to recall that the ‘Summary of thematic issues’ that appears in the page of the HRC devoted to Cultural Rights in September 2017 (<http://www.ohchr.org/Documents/Issues/CulturalRights/Summaryofthematicissues-2017-new.doc>) reproduces the same 6 areas of the initial mandate.

field of cultural rights. It is also worth stating that, although the UN human rights system has not yet elaborated a report on ‘cultural rights and local cultural policies’, this issue could deserve consideration by future mandate holders and become the central issue of a specific report in the future. Therefore, the next section of this article will make reference in those documents that have explicitly focused in the relation between culture, cultural rights and sustainable development.

#### *The Agenda 21 for culture*

The relevance of cultural rights for cities and local governments emerged explicitly at least since 2004, the year in which the Agenda 21 for culture was approved within United Cities and Local Governments (UCLG). This document was the first to address guidance and recommendations to cities and local governments around the world that wished to align their cultural policies (or their policies for culture) within the paradigm of sustainability. Some of the 67 paragraphs are explicitly related to cultural rights in the city, and it is worth to highlight the following:

*Article 3:* [Principle] ‘Local governments recognise that cultural rights are an integral part of human rights, taking as their reference the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the UNESCO Universal Declaration on Cultural Diversity (2001).

*Article 7:* [Principle] ‘Cities and local spaces are a privileged setting for cultural invention which is in constant evolution, and provide the environment for creative diversity, where encounters amongst everything that is different and distinct (origins, visions, ages, genders, ethnic groups and social classes) are what makes full human development possible’.

*Article 17:* [Undertakings] ‘To establish policies that foster cultural diversity in order to guarantee a broad supply and to promote the presence of all cultures especially minority or unprotected cultures, in the media and to support co-productions and exchanges avoiding hegemonic positions’.

*Article 19:* [Undertakings] ‘To implement the appropriate instruments to guarantee the

democratic participation of citizens in the formulation, exercise and evaluation of public cultural policies’.

*Article 22:* [Undertakings] ‘To promote expression as a basic dimension of human dignity and social inclusion without prejudice by gender, age, ethnic origin, disability, poverty or any other kind of discrimination which hinders the full exercise of freedoms. The struggle against exclusion is a struggle for the dignity of all people’.

*Article 63:* [Recommendation] ‘To the United Nations Committee on Economic, Social and Cultural Rights: include the urban dimension in its analysis of the relations between cultural rights and other human rights’.

Two years after the adoption of the Agenda 21 for culture (in 2006), the Committee on culture of UCLG published the document ‘Advice on local implementation of the Agenda 21 for culture’, and it included several considerations related to cultural rights.

This document affirms that ‘local implementation of the Agenda 21 for culture can be seen as an exercise of cultural planning’,<sup>19</sup> as an ‘opportunity for every city to create a long-term vision of culture as a basic pillar in their development’ and encourages cities and local governments to ‘considering the local characteristics (history, population, size, type of government, vitality of civil society, identity and characteristics of cultural sectors...)’ implement Agenda 21 for culture, offering 18 general principles and 4 tools: a Local Cultural Strategy, a Charter of Cultural Rights and Responsibilities, a Culture Council and/or a Cultural Impact Assessment system.

The recommendation on the Charter of Cultural Rights and Responsibilities reads as follows: ‘A local charter of cultural rights is a document that

<sup>19</sup> Although the ‘cultural planning’ has become widespread over the last 20 years, and it has been used to (a) develop local cultural policies based on the values (memory, creativity, critical knowledge, diversity, rituality...) that culture brings to individuals and communities, and (b) to underline the significance of culture in other local policies, such as employment and social inclusion, and to introduce cultural considerations into all public policies. The concept of cultural planning, though, is still difficult, because some actors still see ‘cultural planning’ as an exercise to limit freedoms and influence behaviours.

specifically defines the cultural rights and responsibilities of the inhabitants of a territory. Such a document would be based on the Universal Declaration of Human Rights and other recognized international texts that cover human rights and culture. The effective development of a local charter of cultural rights relies on active participation by the cultural agents of a territory, the citizenry, the administration and experts in human rights. The document would normally be approved by the municipal plenary and implies the creation of a person or organization to guarantee the fulfilment of the Charter and to be the mediator in the often complex situations related to cultural rights and responsibilities.’

Therefore, it is in 2006 when the global community (one year after the adoption of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, one year before the adoption of the Fribourg Declaration) has access to a guiding reference to cultural rights at a local level.

#### *The Fribourg Declaration*

The document entitled as the ‘Fribourg Declaration on Cultural Rights’, also known as the ‘Fribourg Declaration’, was launched on two consecutive days, on 7 May 2007 at the University of Fribourg (Switzerland) and on 8 May 2007 at the UN Palais des Nations in Geneva (Switzerland). The text was promoted by the Observatory of Diversity and Cultural Rights (whose headquarters are at the Interdisciplinary Institute of Ethnics and Human Rights at the Fribourg University) and written by a group of international experts ‘The Fribourg Group’, coordinated by Patrice Meyer-Bisch. The International Organization of the Francophonie and UNESCO appear as partners of this initiative. The Fribourg Declaration can be understood as a civil society initiative and is supported by a wide number of NGO, civil society organisations and activists on cultural and human rights.

The Declaration ‘groups together and defines rights that are already recognized, albeit in a dispersed manner in many instruments. Clarification is necessary to underscore the crucial importance of these cultural rights as well as the cultural dimension of other human rights.’

The Declaration has 50 paragraphs, grouped in an Introduction, 12 articles and a foreword named 'Why a Declaration on Cultural Rights?' The 12 articles develop the following issues: (a) Fundamental principles; (2) Definitions; (3) Identity and cultural heritage; (4) Reference to cultural communities; (5) Access to and participation in cultural life; (6) Education and training; (7) Information and communication; (8) Cultural cooperation' (9) Principles of democratic governance; (10) Integration into the economy; (11) Responsibility of actors in the public sector; and (12) Responsibility of international organizations.

The Declaration is addressed to 'people, communities, institutions and organizations that intend to work to ensure the development of the rights, freedoms and responsibilities it expresses' (Fribourg, page 12). More explicitly the Declaration is presented 'with a view to encouraging the recognition and implementation of cultural rights at the local, national, regional and universal levels'. The Declaration, therefore, has been used by many local governments, as an explicit reference, in the elaboration of local cultural policies (see section 6, below).

#### *The toolkit Culture 21 Actions*

In 2015, the organization of United Cities and Local Governments adopted the toolkit Culture 21 Actions in order to complement the Agenda 21 for culture adopted in 2004, 'making it more effective' and to 'to provide an international framework supported by commitments and actions that are both achievable and measurable' (UCLG, 2015: 5). This toolkit has 100 actions, grouped in 9 commitments that 'summarize the cultural dimension of a sustainable city' (UCLG, 2015: 16) and promote the existence of 'the public' as the field in which the state (in this case, the local governments) and the society meet, discuss and interact. Therefore, the connection between culture, cultural rights and sustainable development is not only explicit, but becomes the main purpose of the initiative.

The nine commitments are the following: (1) Cultural rights; (2) Heritage, diversity, and creativity; (3) Culture and education; (4) Culture and environment; (5) Culture and economy; (6)

Culture, equality, and social inclusion; (7) Culture, urban planning, and public space; (8) Culture, information, and knowledge; and (9) Governance of culture.

The initial 'commitment', devoted to cultural rights, is composed by an introduction and 10 actions. This commitment proposes that making cultural rights effective involves not only safeguarding every person's ability to access and take part in cultural life, but also devising governance arrangements which integrate diverse voices and allow them to take part in policy-making. Some of the most important characteristics can be summarized as follows:

- a. A dynamic conception of the identity, which 'has gone from being a starting point to a negotiable destination'.
- b. Human rights are seen as 'the basis and guarantee of the coherence and legitimacy of policymaking' and, therefore, cities are encouraged to explicitly refer to cultural rights as the 'foundation and guarantee of the coherence and legitimacy of [cultural] policies'.
- c. Rights, freedoms, and responsibilities are strongly connected.
- d. Local public policies are important, but citizens are recognized as the main actors in local cultural life. Local civil society organizations working in human rights should explicitly include cultural rights among their priorities.
- e. Local governments should aim to define basic cultural services as basic rights that are afforded to all citizens, especially the most vulnerable groups and individuals, with the purpose of guaranteeing the development of their cultural capacities (rights, freedoms, and responsibilities).
- f. Obstacles to citizens' access and participation in cultural life do exist. They cannot be hidden or masked. Obstacles should be identified and addressed.
- g. The active involvement in cultural practices and cultural creation by as many citizens as possible is one of the priorities of rights-based cultural policies.

- h. Cultural policies should pay special attention to the most vulnerable groups and individuals, including women.

The other 8 commitments of the Culture 21 Actions toolkit are full of interesting statements, sentences and prescriptions related (more implicitly, more explicitly) to cultural rights and have been included in the analysis that will be the focus of the following section.

### Cultural rights in the cities: analysing the potential of Culture 21 Actions

This section will focus in the cross-analysis between the Culture 21 Actions and the eight core areas of cultural rights. The aim of this section is to support with objectivity the capacity of the 9 Commitments and the 100 Actions of Culture 21 Actions to be considered as a useful document on the local implementation of cultural rights.

These eight areas are the ‘summary’ (avoiding overlaps) of the areas covered by cultural rights, as explicitly listed in (a) the five ‘core obligations applicable with immediate effect’ that appear in the paragraph 55 of the ‘General Comment 21’, which summarise the right to participate in cultural life; (b) the six areas listed by Karima Bennoune in her initial report (UN - Human Rights Council, 2016, para 9) as the core areas for the understanding of cultural rights; (c) the contents of the Fribourg Declaration (ordered in a preamble, 12 articles and a foreword); and (d) the article written by Baltà and Dragičević Šešić (2017) on the place of cultural rights in the frame of sustainable development. After a thorough

analysis, the total amount of more than 30 possible areas has been reduced to a manageable number of 8 core areas (avoiding the obvious overlaps):

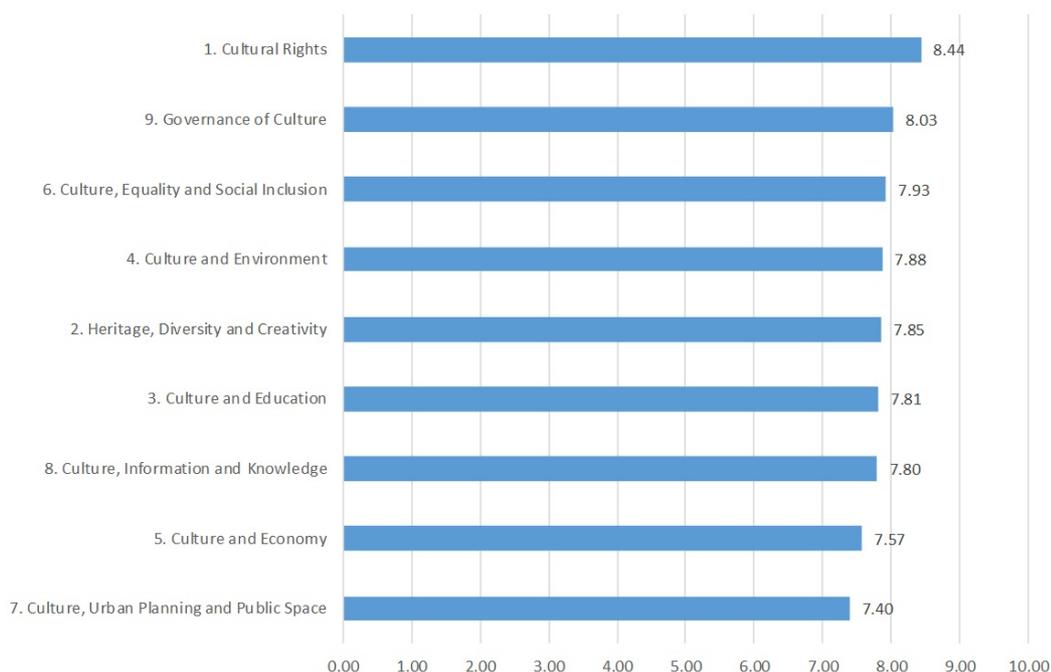
1. Access to and participation in cultural activities, including the rights of individuals and groups to participate – or not to participate – in the cultural life of their choice and to conduct their own cultural practices.
2. Human creativity in all its diversity and the conditions for it to be exercised, developed and made accessible.
3. Participation in the interpretation, elaboration and development of cultural heritage and in the reformulation of cultural identities, including the right to choose not to be a part of particular collective.
4. Participation in policy decision-making and management: governance of cultural policies, cultural institutions and cultural organisations.

Table 1. Analysis of Culture 21 Actions related to the eight core areas of cultural rights.

	Access to and participation in cultural activities	Human creativity in all its diversity	Participation in the interpretation, elaboration and development of cultural heritage	Governance: participation in policy decision-making and management	Addressing the obstacles that prevent participation in cultural life	Protection of minorities and threatened identities and expressions	Guarantee non-discrimination and gender equality	Cultural expressions, human rights and protection from policies in other areas	average
1. Cultural Rights	9.40	7.90	7.70	8.50	8.60	8.30	8.20	8.90	8.44
2. Heritage, Diversity and Creativity	8.25	8.58	8.25	7.58	7.92	7.83	6.67	7.75	7.85
3. Culture and Education	8.30	7.90	7.70	8.30	8.20	7.50	6.70	7.90	7.81
4. Culture and Environment	8.00	7.30	8.7	7.80	8.10	8.00	6.90	8.20	7.88
5. Culture and Economy	8.08	8.17	7.83	7.33	8.00	7.08	6.58	7.50	7.57
6. Culture, Equality and Social Inclusion	8.33	7.50	7.00	7.92	9.08	7.75	7.67	8.17	7.93
7. Culture, Urban Planning and Public Space	8.00	7.83	8.25	7.75	7.00	6.50	6.33	7.50	7.40
8. Culture, Information and Knowledge	8.73	7.64	7.09	7.82	7.73	7.27	7.18	8.91	7.80
9. Governance of Culture	9.00	7.36	7.36	9.09	8.64	6.91	7.09	8.82	8.03
average	8.45	7.80	7.77	8.01	8.14	7.46	7.04	8.18	

Source: Own elaboration

Figure 1. The nine commitments of Culture 21 Actions related to the eight core areas of cultural rights



Source: own elaboration

5. Addressing the obstacles that prevent participation in cultural life, including barriers or obstacles to the person's own culture or to other cultures
6. Protection of minorities and threatened identities and expressions
7. Guarantee non-discrimination and gender equality in the enjoyment of the right of everyone to take part in cultural life.
8. Cultural resources and activities: alignment with human rights and protection from policies in other areas that may threaten cultural freedoms

The result of this cross-analysis is shown in the tables and figures below. Table 1 shows the means of the estimate.<sup>20</sup>

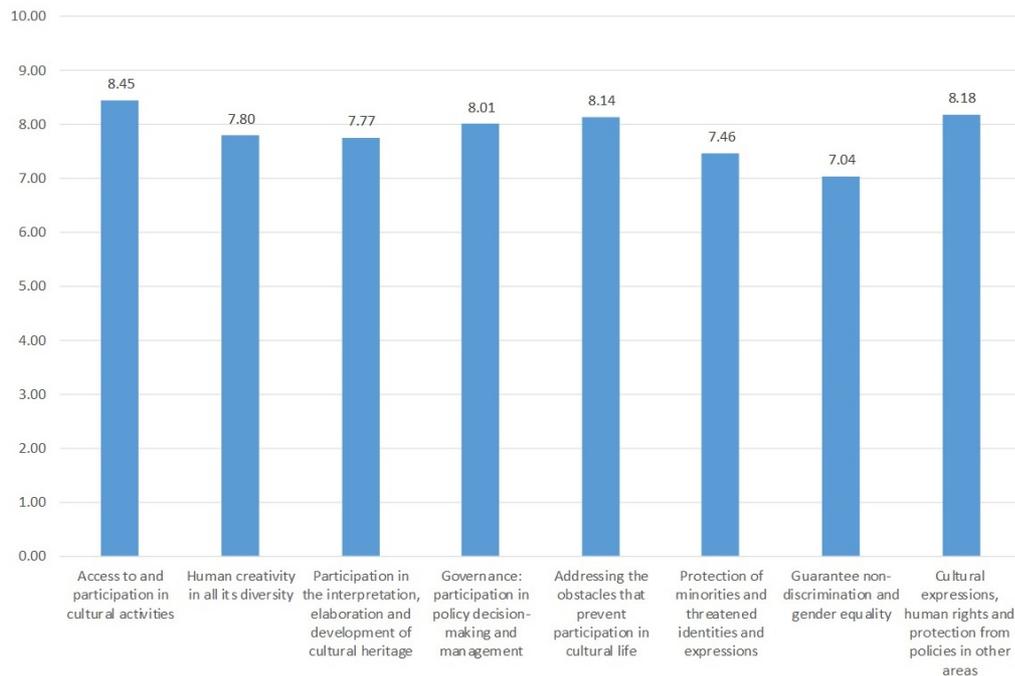
<sup>20</sup> The relevance of the 100 actions of Culture 21 Actions to each one of the 8 core areas on cultural rights in the city has been estimated with a quantitative mark, that is, a figure between 0 and 10. In other words: each 'action' has been marked eight times, once per 'core area'. In this quantitative analysis, a mark of 10 means 'the relevance is explicit and there is complete coincidence in the wording of the core area and the action', a mark of 8 or 9 meant 'the relevance is

When the data of the table are read horizontally, the reader observes the relevance of each one of the nine Commitments to the eight core areas of cultural rights. The analysis of the averages (last column) shows that the Commitment which is better aligned to eight core areas is the first one ('Cultural Rights'), followed by the Commitment on the 'Governance of Culture' (both with a mark over 8), whereas the Commitment which appears to be the weakest are 'Culture, Urban Planning and Public Space' (with a mark of 7.40) and 'Culture and the Economy' (with a mark of 7.50). Figure 1 illustrates, in a hierarchical way, these results.

When the data in Table 1 are read in vertical (last row), it shows which of the eight 'core areas of cultural rights' is better considered in the toolkit

explicit and there is a direct relation between the core area and the action', a mark of 6-7 meant 'the relevance is implicit and there is a possible relation between the core area and the action', whereas marks 4-5 meant 'there may be an implicit relation, but it is not clear' and marks 0 to 3 meant 'there is no relation at all between the core area and the action'. The resulting 800 marks have been statistically analyzed and the averages are shown in table 1.

Figure 2. Relevance of the eight core areas of cultural rights in the toolkit Culture 21 Actions



Source: own elaboration

of Culture 21 Actions. In this way, the core areas on 'the access to and participation in cultural activities', 'governance of culture', 'cultural expressions and other human rights', and 'obstacles' obtain a result over 8, whereas the core areas related to 'gender' and to 'minorities' obtain the lowest results (respectively, 7.04 and 7.46). Figure 2 illustrates, in a hierarchical way, these results.

Another significant conclusion of this analysis is that all the averages are over 7, a result that indicates that the toolkit Culture 21 Actions is a productive document to advance in the promotion of cultural rights at a local level.

Interestingly, the Committee on Culture of UCLG has designed, and is implementing, a range of capacity-building, learning and connectivity programmes based on Culture 21 Actions. The most relevant programmes are named as 'Leading Cities' and 'Pilot Cities'.<sup>21</sup> Each city is meant to

<sup>21</sup> The list of Pilot Cities include Baie Mahault, Chefchaouen, Chignahuapan, Ciudad del Carmen, Concepción, Córdoba, Cuenca, Eivissa/Ibiza, Elefsina, Escazú, Esch-sur-Alzette, Gabrovo, Galway,

undertake a local implementation of Culture 21 Actions, developing 5 activities with the support of an expert, or a team of experts. Some of the reports are already available, but for the time being, there is not yet an evaluation of the impact of these programmes. In the future, detailed analysis of the reports will be instrumental to assess the actual performance of Culture 21 Actions in the promotion of cultural rights at a local level.

This analysis is coherent with the statements of Philippe Teillet (2017) on the potential on Culture 21 Actions as an instrument to be used to promote the implementation of cultural rights at a local level: 'Culture 21 Actions suggests a series of concrete Commitments. The first is focused on cultural rights and includes ten actions which

Gijón, Izmir, Konya, La Paz, Leeds, Lisbon, Maastricht, Madrid, Mérida, Muriaé, Namur, Nova Gorica, Puebla, Rijeka, Santa Fe, Sinaloa, Swansea, the island of Tenerife, Terrassa and Timisoara. The list of Leading Cities include Angers, Barcelona, Belo Horizonte, Bilbao, Bogotá, Buenos Aires, Jeju, Lille-Métropole, Malmö, Mexico City, Paris, Porto Alegre, Talca and Vaudreuil-Dorion (UCLG, 2017, 10).

revisit the current cultural policies (...). The other eight suggest with several entry points, several actions that are likely to translate the defence of cultural rights in real acts.’

### Cultural rights in cities: the implementation

The work of the Special Rapporteur on Cultural Rights since 2009, as well as the Fribourg Declaration since 2007, and certainly the documents produced by UCLG under the Agenda 21 for Culture process since 2004, have influenced cities around the world in the elaboration of local documents to promote the right to culture in the city, or, in other words, policy documents aiming at operationalising cultural rights at a local level. In this section, some of these documents will be cited, and presented in chronological order.

In Montreal in 2002, a new cultural organisation was created – Culture Montréal. Its mission was to influence, as an independent civil-society network, the elaboration of cultural policies in the new governance of the city/metropolis. The originality of Culture Montréal lies in the fact that it grouped hundreds of people — artists, cultural workers, and citizens — who share the vision that a cultural policy must be people-centred, that is, based on the cultural rights of the people. A critical element is membership: Culture Montreal is open to any citizen that is interested in the progress of local cultural policies. This openness widens any local debate on ‘culture’, which is not any more restricted to artistic stakeholders. The birth of Culture Montreal was not easy: tensions between the ‘professional’ cultural sectors (represented by the local arts council) and the more community-based or people-oriented cultural organisations, rapidly appeared as its founder, Simon Brault, explained in his book *Le facteur C* (2009). Since that initial moment, the activities of Culture Montréal have contributed enormously to the cultural policies of the city of Montréal. Officially, Montréal was one of the first cities to endorse the Agenda 21 for Culture (in May 2005) and was the first in the world in 2011, for the Summit Rio+20, to recognize culture as a 4th pillar of sustainable development. More recently, the city has adopted a new cultural strategy (2017).

In France, the independent civil-society association ‘ReseauCulture21’ was founded by Christelle Blouët in 2009, based on the existence of the Agenda 21 for Culture and the Fribourg Declaration, in order ‘to think over the place and the role of culture in society through the development of diversity and cultural rights, the participatory processes and the transversality of culture in all of public policies’ (Paideia, 2014: 96). Since 2012, the association focused its work in cultural rights in partnership with the Fribourg Observatory of Diversity and Cultural Rights (led by Patrice Meyer-Bisch, the main promoter of the Fribourg Declaration) and a programme named *Paideia*. During these five years of ‘experimentation’ (2012-2017), and using the methodology of action-research ‘combining the theory with real implementation’, the programme has produced more than 80 seminars and 300 case-studies on cultural rights, involving civil society organisations and institutions in several French local governments, including the Departments of Ardeche, Nord, Manche and Gironde, as well as the City of Saint Denis and the ‘Territoire de Belfort’. The articles of Blouët (2017) and Meyer-Bisch (2017) provide with complete information of this programme.

Moreover, the analysis and the implementation of cultural rights in France is marked by the approval of two national laws: the Law on the territorial organisation of the Republic (NOTRe Law) and the Law on the freedom of creation, architecture and heritage (LCAP). Article 103 of the NOTRe Law, which is placed in the chapter devoted to the shared competences under the title of ‘Solidarity and equality of territories’, reads as follows: ‘The responsibility on cultural issues is jointly undertaken by the territorial collectivities<sup>22</sup> and the State, in the respect of the cultural rights stated by the [UNESCO] Convention on the Protection and the Promotion of the Diversity of Cultural Expressions’.<sup>23</sup> The impact of these two

<sup>22</sup> The term ‘territorial collectivity’ is not easy to be translated. It is ‘the generic name for any subdivision (subnational entity) with an elective form of local government and local regulatory authority. The nature of a French territorial collectivity is set forth in article 72 of the French Constitution. There are several types of territorial collectivity: municipalities, departments, regions, the collectivities with specific statute and the overseas collectivities.

<sup>23</sup> Own translation.

laws in the discussions on cultural policies of France has been very high. According to Jean-Pierre Saez (2017), the French legislative bodies that approved the laws chose to refer to cultural rights as a suitable notion 'as an interesting leverage to reinforce the participation of inhabitants in the cultural and artistic life, but also (...) as an alert on the noticeable weakening of public cultural policies'. In the same publication Philippe Teillet (2017, 23) identifies the key actors involved in the French debate, analyses the terms of the debate 'cultural rights are accused of spreading three risks: populism, communitarianism and individualism', and provides 4 scenarios for the future; while Jean-Michel Lucas (2017, 48) emphasizes the fact that the implementation of cultural rights is a matter of political will: 'the first challenge is to refocus cultural policies, from offering goods for consumption with miraculous sensitive and civilizational virtues to the relations among free people, in equal dignity (artists or not), which, on account of differences, have to bring their part of diversity along to the progress of our common humanity'.

The Cultural Strategy of Malmö (the most important city in the south of Sweden) was approved in 2014. It is a mid-term plan (the objectives should be valid until 2020), and it is unfolding with biennial plans of action. The Strategy is well aware of the current international frames on cultural rights (the work of UN human rights system) and sustainable development (the drafts of the SDGs and the Agenda 2030) and describes the commitment of Malmö's cultural actors to align their actions with these frames. The strategy states: 'Culture is a human right the city wants to afford all its inhabitants. Art and culture have an impact on every dimension of sustainable development. We endeavour to implement a cultural policy that provides people with a sense of purpose and influence and a cultural policy that reinforces all parts of our city in order to develop Malmö while also combating and diminishing the effects of segregation' (p. 4). Also, the strategy implicitly embraces the narrative of human development: 'Culture improves the ability of individuals and communities to confront life and the changes that come with it. Culture shifts

perspectives, gets people to question, re-evaluate and empathise, and it also creates context and meaning' (p. 5). The Strategy places great attention in issues related to (a) freedoms are the basis of policies ('freedom of expression, artistic freedom and everyone's right to culture are fundamental prerequisites of expression as a right and a precondition' (page 4), to (b) addressing the obstacles that prevent the participation of all citizens in cultural activities, including specific work in neighbourhoods ('to make the practicing of and participation in culture more equal throughout the entire city' (p. 11), and to (c) the involvement of the youth population as the starting point (p. 11).

The cultural strategy (namely, the 'Cultural Guidelines'<sup>24</sup>) of Saint Denis, a diverse working-class municipality in the northern metropolis of Paris, France, is explicitly 'articulated around two strong systems of values: cultural rights and the Agenda 21 for Culture' (p. 7). The strategy supports the idea that public policies should aim at 'building the commons', an endeavour that explicitly needs the consideration of the cultural resources needed by each one of the citizens (page 45). The strategy is very critical with top-down policies aiming at the 'democratization of culture' (they have been 'carried out for decades and have failed to reduce inequalities in access to cultural life') and announces a people-centred baseline: 'the starting point for this new policy builds on the recognition of people, their wealth, their intelligence, their ability to develop their resources with others' (p. 8). The Strategy focuses on (a) the governance of cultural policies, programmes and projects (it includes the idea of creating a 'Cultural Rights Council'), (b) the interpretation, elaboration and development of cultural heritages that are meaningful to the citizens living in the area, (c) the involvement stakeholders in the areas of culture, youth, health, education and public spaces not only in the elaboration of the strategy, but also in its implementation by 'cultivating the times and the rhythms', (d) an in-depth analysis of 'challenges, risks and problems' each one of the 7 guidelines needs to take into account to be truly owned by

<sup>24</sup> In French: 'Schéma d'Orientations Culturelles'

all the citizens of Saint Denis, and therefore, successfully implemented.

The City of Merida, the capital of the state of Yucatan, in Mexico, approved a Charter of Cultural Rights in September 2015. The Charter mentions the work of the UN human rights system, as well as the Fribourg Declaration and the documents related to Agenda 21 for Culture. It also mentions the UNESCO Convention on the Protection and Promotion of the Diversity of the Cultural Expressions (2005) as a source of legitimization. The Charter has three main chapters: a long preamble, the chapter of 'Rights' (at its time, with five sections) and a chapter on 'Responsibilities'. Almost all the eight core areas identified in this paper appear under the chapter of Rights, with an interesting emphasis on 'the creation of the conditions for peace', the 'cultural and artistic education', the 'whole city as a cultural space', and 'memories, heritage and spirituality'.<sup>25</sup> In the chapter of 'Responsibilities', the promoters of the Charter invite all actors in the city, including the 'Municipality of Mérida, the residents, the private sector, the promoters, the organisations of the civil society, the cultural and the political organisations, as well as the people in transit', in an interesting sign to involve tourists and visitors (and migrants?) in the dynamics of the city. Another interesting opening of this Charter is that it is jointly signed by the Mayor, the Dean of the University, the director of a theatre company, the President of the Local Chamber of Commerce and the President of the Local Chamber of Radio and Television.

In a similar process, Quito, the capital of the Ecuador, approved in July 2016 a 'Declaration of Principles to Locally Implement Cultural Rights in the City of Quito'. The document also refers to the work of the UN human rights system, to the Agenda 21 for Culture, and to the Fribourg Declaration, but also to the Constitution of the Republic of the Ecuador, one of the few that includes articles (concretely, nine articles) related to cultural rights. Thus, the Charter is presented as a logical local development of the national prescriptions. The Charter has 14 articles and

places emphasis in the following areas: (a) inclusion of all citizens in the cultural life of their choice and support to conduct their own cultural practices; the objective of gender equality and the special effort for the involvement of minorities is explicit, (b) the cultural use of public spaces and the importance of harmony between culture and natural areas; (c) the involvement of all in 'creative dialogues', fostering a people-centred and evolving understanding of identity; (d) right to cultural and artistic education and training, and (e) governance of cultural policies and programmes, with interesting mention to international cultural cooperation.

Wrocław, a historic city in Poland, was the European Capital of Culture in 2016. Normally, events related to the heritage, the arts, the communities and knowledge make up an intense year of activities. Capitals of culture do not normally include cultural research within their programme of activities. This is why the 'Culture and Human Rights: the Wrocław Commentaries' becomes an unprecedented initiative (and now a central handbook on the subject published by De Gruyter), existing because of the leadership of the Mayor, Mr Rafał Dutkiewicz, the agency ARcult Media and a group of academics and researchers. The Wrocław Commentaries handbook 'addresses legal questions and political consequences related to safeguarding human rights and cultural diversity, including freedom of, or access to, the arts, heritage and (old/new) media, questions of religious and language rights, the protection of minorities and other vulnerable groups'. This major text was commissioned to go beyond the present situation in the European Convention on Human Rights, with its 'declaratory' statements, and promote a way that 'public authorities be charged with specific duties' with regard to guaranteeing 'all citizens be given the opportunity to participate in cultural and artistic life'. The handbook is a compendium with detailed explanation of 123 keywords related to 'Culture and Human Rights', from the most obvious concepts of cultural policies such as 'arts education', 'languages of migrants' or 'press freedom' to other keywords that relate culture to other human rights (such as 'housing' or 'public spaces'). The document is a tool for law-makers

<sup>25</sup> The exception is the lack of explicit references to gender equality, and to minorities.

and policy-makers as well as others working in the field of culture and human rights.

The City of Mexico is also the Capital of a Republic. Both entities, the City and the Federation, have historically been associated to the progress of cultural policies; an example is Mundiacult (1982), perhaps the most influential international cultural policy Conference ever organized by UNESCO. The City of Mexico experienced a remarkable governance leap in 2016 with the elaboration of the first 'Constitution' of the City, marking the new status of the city, which evolved from being the 'federal capital' to a city-state within the federation. The elaboration of the chapter on Cultural Rights in the local constitution took place in 2015 and 2016, and the new constitution was approved in February 2017.<sup>26</sup> The Constitution includes a specific chapter (with 18 clauses) on 'Cultural Rights' within the article devoted to the 'City of Education and Knowledge'. The most remarkable characteristics of this are the following: (a) a strong commitment to guarantee access to and participation in cultural activities to all citizens; (b) the explicit recognition of freedoms of speech, opinion, artistic creation and information, while 'any kind of censorship is forbidden', and (c) the important contribution of communities, collective, autonomous and independent projects to the cultural richness of the city.

### **Conclusions: Cultural Rights are in the Agenda, but What's Next?**

This final section of the paper is an attempt to summarise its main findings, and also become a list of key issues to be considered by actors on 'local cultural policies based on cultural rights'.

- a. The current global debate on cultural rights has taken shape with inputs from different actors. Firstly, the UN, with the work undertaken by the Human Rights Council as well as by the Special Rapporteur on Cultural Rights. The General Comment on the 'right to participate in cultural life', issued in 2009, as

<sup>26</sup> Interestingly, some days after the approval of the Constitution of the City of Mexico, the national Parliament began the elaboration of a national General Law on Culture and Cultural Rights, which was approved in July 2017.

well as the reports consecutively elaborated by Farida Shaheed and then Karima Bennoune, are fundamental documents. Secondly, civil society organisations and activists have also elaborated key documents (the Fribourg Declaration being principal) and is providing practical substance to cultural rights (Culture Montreal or ReseauCulture21, for example). Thirdly, new institutional actors have forged cultural policies on cultural rights, the best example is arguably the work undertaken by UCLG with the Agenda 21 for Culture. Fourthly, there is an interesting impact of the work on cultural rights of the above mentioned actors in other key institutions with global responsibilities on cultural policies, especially the UNESCO, who has so far provided limited ground to cultural rights (with the exception of the Convention on the Diversity of Cultural Expressions).

- b. The current debate on the understanding and the implementation of cultural rights is not disconnected from debates on sustainability or sustainable development. In the documents that have sustained the narratives of cultural rights, as well as in the policies and programmes implemented by cities and local governments, there are explicit connections between cultural rights and other public policies. Probably, the best example is the toolkit 'Culture 21 Actions', as the quantitative analysis performed in this paper shows. These connections will hopefully grow if the localisation, the implementation and the evaluation of the UN 2030 Agenda and the Sustainable Development Goals are explicitly connected to local groups related to culture and human rights.
- c. The local implementation of cultural rights is not an easy issue. There are many conceptual misunderstandings and myths that need to be explicitly addressed, with explicit counter-narratives. An analysis of 'myths and counternarratives' on the place of culture in the sustainable development of cities was recently undertaken by Duxbury, Hosagrahar and Pascual (2016) in a paper related to the elaboration of the New Urban Agenda. Also,

the papers written by Saez (2017), Teillet (2017) or Lucas (2017) provide interesting insights on the conceptual difficulties associated with this notion. It would be a good idea that a consortium of global actors involved in the promotion of cultural rights undertake an in-depth analysis of the myths / wicked narratives / difficulties and openly 'dissipates' them, providing constructive and positive counter-narratives and recommendations.

- d. Conceptual difficulties are often associated, or are immediately followed by, operational difficulties. Official, optimistic narratives can say that cultural actors may consider cultural rights as an opportunity to connect the key areas related to culture (heritage, creativity, diversity) with wider debates related to human development (capacities and capabilities), to sustainable development (using cultural considerations to reconnect, localize and civilize the current three pillars) and to human rights (understanding that all rights are universal, indivisible, interdependent and interconnected). The reality is a bit more difficult. As Philippe Teillet (2017, 21) has noted, 'advocacy coalitions'<sup>27</sup> are needed, and they have to be very clear in what the objectives are, and what institutional innovation they require: 'public policies are subjected to the influences of several coalitions. Schematically, those that challenge the dominant definition of public action in cultural issues [the 'cultural rights' coalition] are confronted to those that defend the status quo and wish to obtain the protection if not the perpetuation of their position from the public powers' (Teillet, 2017, 21). A good analysis of the 'cultural rights' coalition in France has been undertaken by the same author (Teillet, 2017, 22). The struggle for cultural rights challenges the status quo on cultural policies. The struggle for cultural rights

cannot be naïve and imagine that the new arguments will become hegemonic only because of the strength of the narratives.

- e. The number of cultural-policy documents recently produced by cities and explicitly addressing cultural rights is growing; it is also likely that this amount will grow in the future with the implementation of Culture 21 Actions around the world. While most of these documents state that existing policies should be adapted to guarantee the active participation of all citizens in cultural activities (that is, reclaim truly 'people-centred' cultural policies) and new governance instruments are foreseen or planned, only time (and independent evaluations) will say if this new generation of policies have transformed the realities. In these documents, some core issues of cultural rights are not fully embraced (the clearest example is gender equality) and bolder governance innovation (a 'Local Special Rapporteur on Cultural Rights', a 'Culture Ombudsman' or a Local Council for Culture mandated to be active beyond sectorial parochialism) only shyly appear.
- f. The last issue is related to Molière's play *The Bourgeois Gentleman*, in the conversation between Jourdain and 'the Philosopher'.<sup>28</sup> In the last two decades, thousands of cultural initiatives, committed to co-creating or co-producing the city, cultural democracy, the right to the city, creative place making or active participation of citizens, have emerged in almost all corners on earth. They constitute a formidable quarry of innovation in the concepts and the methodologies. These initiatives often relate culture with social equity, environmental balance, economic vitality, and the digital environment. But, not too often these initiatives refer to cultural rights to legitimise action.<sup>29</sup> Again, it is up to

<sup>27</sup> The 'Advocacy Coalition Framework' has been suggested by Paul A. Sabatier and, according to Teillet (2017, 21) is useful to explain the changes in the public action over periods on ten years or more. A complete (summary) guide on ACF can be found in the paper by Weible and Sabatier (2006).

<sup>28</sup> Jourdain requires support from the Philosopher to write a message to a woman; the Philosopher asks whether he prefers the message 'to be in prose or in verse'; Jourdain discovers: 'Thee forty years now I've been speaking in prose without knowing it!'

<sup>29</sup> Some of the most recent 'cultural struggles' are implicitly connected to this. An example could be the City of New York, with the elaboration of the official 'Create NYC', the city's first-ever cultural plan, and the emergence of a 'Peoples' cultural plan'.

the actors committed to cultural rights to invite these initiatives to their debates, and to elaborate the much-needed reading books that include both verse and prose.

The author of this paper will be more than satisfied if it has created some new enduring connections among actors involved in the elaboration of cultural policies and programmes. The conquest of space for new debate on cultural policies is a joint responsibility of all.

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