



The role of parliaments in defending cultural heritage: a political perspective¹

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Distinguished representatives,

It is an honour to have the opportunity to speak before you today, and to share some insights about the ways cultural rights can be integrated in your work. I am speaking today on behalf of the UN [Special Rapporteur in the field of cultural rights](#), Ms. Alexandra Xanthaki, with whom I have the pleasure to work at the Office of the High Commissioner for Human Rights.

The 3 points I will raise with you today build on the work of the mandate and the experience we have had in various countries across the globe.

Intro

I want to thank you first of all for taking the time for this discussion.

It is not common to see representatives at the municipal level engage directly with international human rights law norms and standards. Often, works at this level of parliament focus on the national constitution and on local laws, without referring back to the international law obligations that their national government has contracted. However, I think it is exactly at this level that discussions about human rights, and about cultural rights in particular, can be the most effective. Let me explain why.

1. The pivotal role of local governance for the implementation of human rights

The first reason, is one of efficiency. Local and municipal governments have a shared responsibility towards the implementation of international human rights norms and standards, and can guarantee their efficiency.

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The International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights have been accessed by Brazil on 24 January 1992. When ratifying international human rights law treaties or conventions, governments contract an immediate obligation to translate the rights enunciated in that treaty into their national order. Those human rights should be protected by law, actionable through courts in case of violations, and implemented through public policies.

Cultural rights are recognised in the 1988 Federal Constitution, in particular through articles 210, 215 and 216. It is the national Government that is tasked with guaranteeing such rights, and with reporting progress in their implementation to the UN Committees on Economic, Social and Cultural Rights on a periodic basis. But it can only do this to the extent that the States and the municipal levels implement these rights through their policies, at their levels, and inform the federal government about what is happening on the ground.

The international Conventions define 3 types of obligations that need to be implemented: 1) to respect human rights and refrain from violating them; 2) to protect them against violations by third parties; and 3) to implement them for all persons and groups in Brazil. But the federal level is too far from the realities of each area to be able to say whether its laws are implemented and have the impact it wanted, whether people are exercising their rights fully, and what are the obstacles they encounter. Hence, it cannot guarantee their realization on its own.

It is the local level, and parliamentarians such as yourselves, who are close enough to the population to be able to know

- Who are the cultural actors helping people to access cultural resources, and participate in cultural life, and what support do they need;
- If government policies are violating the rights of any person, or are discriminating against certain groups of people, unintentionally;
- The challenges people face to exercise their rights: is there a lack of access to certain information, institutions or services? What are the obstacles?
- What specific policies need to be adopted or improved, to ensure that each person, in their respective neighbourhoods, can fully take part in society, and
- What matters to people, because you can involve them in participatory processes, consult with them, listen to their claims and understand them.

A fundamental principle of human rights, is that every person counts. The best way to make every person count, is to provide the conditions and opportunities for everyone to participate in the policies that have an impact on their lives. Only the local level of governance can achieve this meaningfully.

So you have a central role to play, in this parliament, to ensure the respect, protection and realisation of human rights for all, and to guarantee that Brazil meets its international human rights law obligations, by observing the actors and resources of your territory, and guaranteeing democratic, citizen participation.





2. The fundamental nature of cultural rights

This is even more true when it comes to cultural rights, as defined and understood in international human rights law. So the second reason is one of democratic legitimacy: local and municipal governments are the most legitimate level to act in favour of cultural rights.

“Cultural rights protect the development and expression of cultural identities. At their core, they empower individuals and groups to express their humanity, their worldviews and the meanings they attribute to their existence and development through various forms of human expressions. This can include the arts, cultural heritage or languages, as well as sciences, knowledge, convictions, religions and beliefs, sports and games, rites and ceremonies, production methods, technology, institutions and livelihoods, connections with nature and the environment, food and dress. They also encompass the rights to access and participate in heritage and resources that facilitate the processes of identification and development.”

UN Special Rapporteur in the field of cultural rights

Human rights establish that each person counts. Cultural rights make this more precise: *each person counts for who she and he is*: their identity, values and vision of life, that form their human dignity. It is about what people want to be seen and recognized as, in their specificities.

So if the federal Ministry of culture can provide broad legal frameworks for protection, cultural services (prestation) to access cultural resources and funding to develop activities (cinema, theatres, sporting events), it is in the everyday interactions between people that culture is lived. It is at the local level, in the families, neighbourhoods, sports clubs, public places... that cultural life is developed and experienced. This is where the right to take part in cultural life takes all its signification and depth.

Municipalities and local governments have to create the conditions for every person to express who they are and what they care for, the conditions for them to develop their knowledge about who they are and to meet the creativity and knowledge of others. It is your proximity that gives you the possibility to truly hear the voices of your co-citizens, harness their visions for the city, public spaces and institutions they want, and help transform their aspirations into concrete plans for development, a development that will reflect their values.

Municipalities are the best placed to empower people to live, with pride, their cultural diversity, as legitimate expressions of Brazil. They can guarantee that the laws and policies adequately take into consideration their realities, their territory, their heritages and their interactions with others. As parliamentarians, you are in a position to adapt the measures, policies and programmes to include the experiences and feedback that come from your constituencies, to recognize and value their knowledge. This too, is a way of implementing cultural rights.



3. Considering cultural rights in all policies that have an impact on cultural life

The third reason, is one of coherence of sustainable development.

In her 2022 report to the UN General Assembly, the Special Rapporteur in the field of cultural rights stressed that there “are intrinsic links between the capacities of individuals to develop their own identities and give meaning to their lives, and the broader development processes of society. Both require individuals to have access to, enjoy and meaningfully participate in cultural resources, knowledge and decision-making processes that have an impact on their way of life.” ([A/77/290](#))

The first step is to guarantee the sufficient legal protection of cultural rights and the implementation of the laws, to ensure that there are strong policies in the field of culture, maintaining continuous dialogue and representation of cultural diversity, securing access to the needed financial and institutional resources to foster cultural participation, and transparency in the decisions about cultural rights.

But because culture shapes each dimension of our lives, respect for cultural diversity and cultural rights cannot be limited only to policies in the field of culture *stricto sensu*. Understanding cultural rights as fundamental rights that protect the development and expression of “identities, values and meanings” ([UNESCO 2001](#)) has to transpire and to orient the elaboration, implementation and evaluation of all public policies of the city, in all its fields.

The right to participate in cultural life includes the “right to take part in the development of the community to which a person belongs, and in the definition, elaboration and implementation of policies and decisions that have an impact on the exercise of a person’s cultural rights” ([E/C.12/GC/21](#), CDESC, General Comment 21, § 15c). In other words, any decision that will have an impact on cultural life.

- In what language or languages should public services, like health or social security, be delivered and available?
- to which extent are the local histories and important events included in school manuals?
- who can use the public spaces for events? How can people ask to use public spaces? How do you ensure that a diversity is represented in this use?
- who is involved in developing the inventory of heritage resources of the municipality? Only locals or also minorities and migrants?
- how regularly are people consulted about the development plans of the city? Are these plans driven by business interests, or by citizens’ needs?

The Special Rapporteur stressed that “people and peoples must be the primary beneficiaries of sustainable development processes” and recommended that sustainable development processes should be “(a) [...] culturally sensitive and appropriate, contextualised

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to specific cultural environments and seek to fully align themselves with the aspirations, customs, traditions, systems and world views of the individuals and groups most likely to be affected; (b) Fully respect and integrate the participation rights and the right of affected people and communities to free, prior and informed consent; [...]" ([A/77/290](#), paras. 97-98).

It is only if people recognize themselves in the management and development of their society, that they will bring their best capacities, creative energy and knowledge to its realization. So for municipalities, respecting and realizing the cultural rights of their inhabitants is not only a guarantee of coherence of their policies, it is also a guarantee that each of your efforts will be met with sustainability.

I have met in the last 2 days brilliant academics and jurists, who have much more precise ideas than I do about the various ways to develop and improve the laws and policies to better respect and implement the rights of everyone to know and access their heritage, to take part in cultural initiatives, to develop and create cultural activities, to participate in scientific research and its benefits, to contribute to historical narratives from various perspectives and to exercise their freedom of artistic expression and creativity. Some have looked into the processes to access public fundings (decreto 11.453 (2023) and lei 14.903 (2024)) for such initiatives, while others have suggestions about the ways to improve the legal frameworks for the exercise of these rights and the protection of the cultural resources people care for.

These are important and valid discussions that should continue to nourish the work of the parliament. I can only encourage you to make use of their analysis, as you have a rare resource in them, to strengthen your work.

Thank you

