



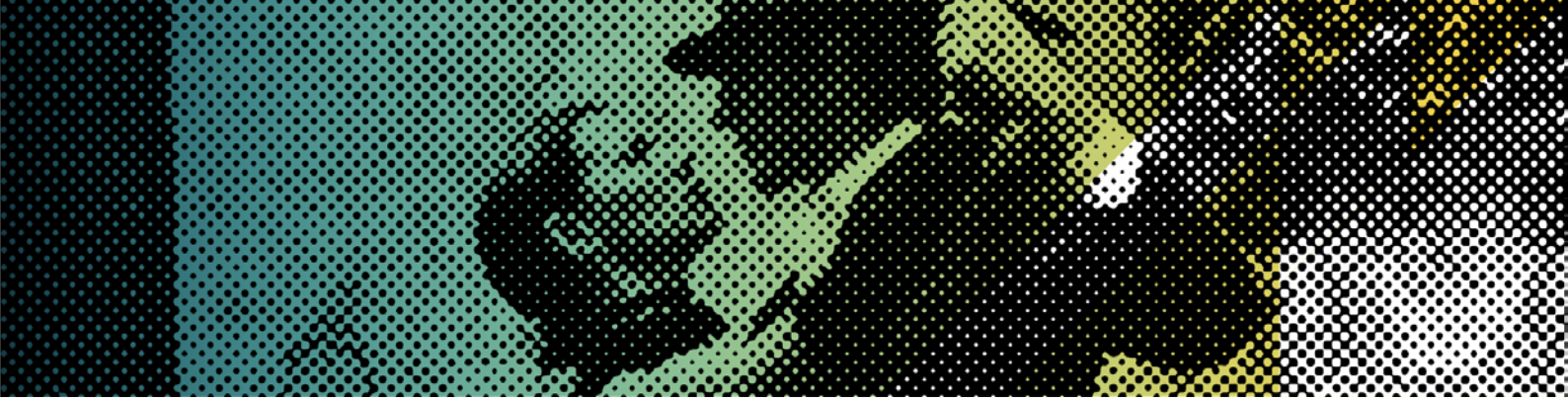
**3TH UCLG
CULTURE SUMMIT**
BUENOS AIRES
3-5 APRIL 2019

**Cities lead the actions
on the role of culture in
sustainable development**

**IMPLEMENTING CULTURAL
RIGHTS AT THE LOCAL LEVEL:
WHAT DOES THIS IMPLY?**
4 APRIL 2019

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Ladies and Gentlemen,

It is always a pleasure and an honor for me to have the opportunity to participate in a meeting organised by the UCLG. The main asset of the network initiated by the UCLG is to have created opportunities for stakeholders of various cities and local governments to meet on a regular basis and learn from each other, as well as from other agencies and numerous partners of their missions, about the diversity of ways they can position cultural action as a vector of citizenship and sustainable development.

Even better, UCLG has also thrived to draw lessons from these meetings and develop tools to encourage shared commitments and accompany their realisation. For the 3rd Culture Summit of UCLG, I was asked to prepare a short piece recalling some fundamental notions about cultural rights, which are at the heart of two of the central tools of this network, the Agenda21 for culture and its implementation document Culture 21: actions, as well as to identify some avenues to better take them into account and ensure their realisation at the local level. This list will be far from exhaustive of course, because it is only in the specific contexts that the most fitting adaptations can be found. The elements listed aim therefore more at indicating operating processes that should be present when planning actions in accordance with cultural rights.

»»» **CULTURAL RIGHTS ARE AT THE HEART OF TWO OF THE CENTRAL TOOLS OF THE UCLG NETWORK: THE AGENDA21 FOR CULTURE AND ITS IMPLEMENTATION DOCUMENT, CULTURE 21: ACTIONS.**

OF THE NATURE OF CULTURAL RIGHTS

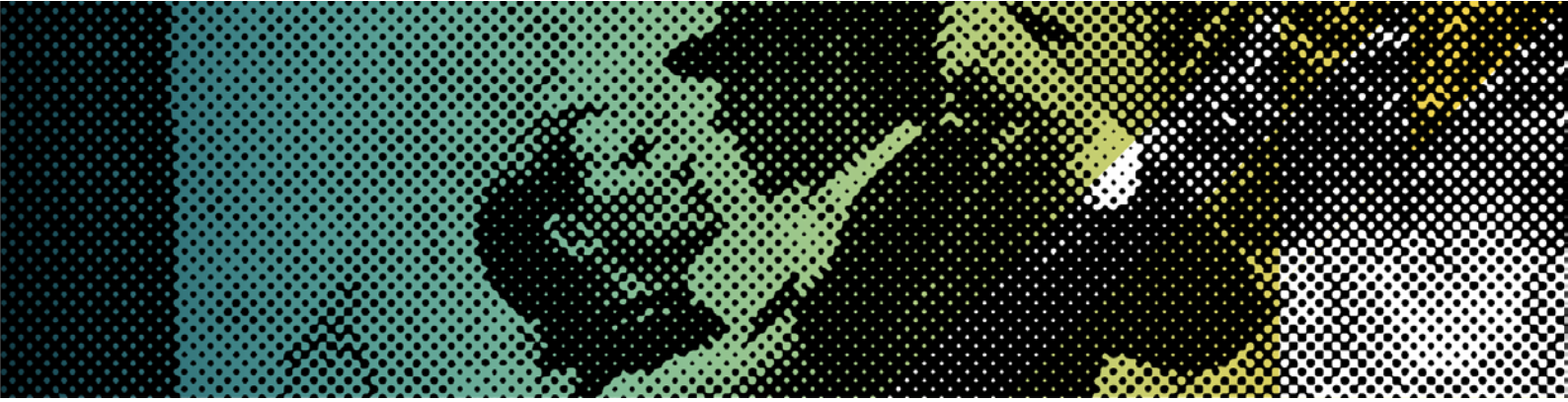
The first fundamental principle to be recalled, is that cultural rights are full human rights, together with civil economic, political and social rights. Accordingly, they are

- *universal*, recognized to all human beings without discrimination, and not only to certain persons or groups ;
- *indivisible and interdependent* with all other human rights, which implies that they can never be claimed to violate or jeopardize other human rights, nor to justify discrimination or less demanding level of human rights protection for some persons, with the excuse that this is in the “culture”; and
- *individual* in principle, but, like for many other rights, their exercise can be collective, or aiming to develop and maintain common goods.

Cultural rights are recognized in United Nations international law instruments since 1948. They were stated in the Universal Declaration of Human Rights¹ and were also integrated in the two 1966 Covenants, in particular in articles 13-15 of the first Covenant on economic, social and cultural rights², and in articles 18, 19 and 27 of the Covenant on civil and political

¹ See www.un.org/en/universal-declaration-human-rights/index.html

² Articles 13 and 14 of the first Covenant are dedicated to the right to education [art. 13], its compulsory character and the need for it to be free of charge [art. 14], whereas article 15 states the rights to take part in cultural life (15.1 a), to enjoy the benefits of scientific progress and its applications (15.a b), 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 (15.1 c), the need for State Parties to ensure the conservation, the development and the diffusion of science and culture (15.2), to respect the freedom indispensable for scientific research and creative activity (15.3) and to recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields (15.4). See www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx



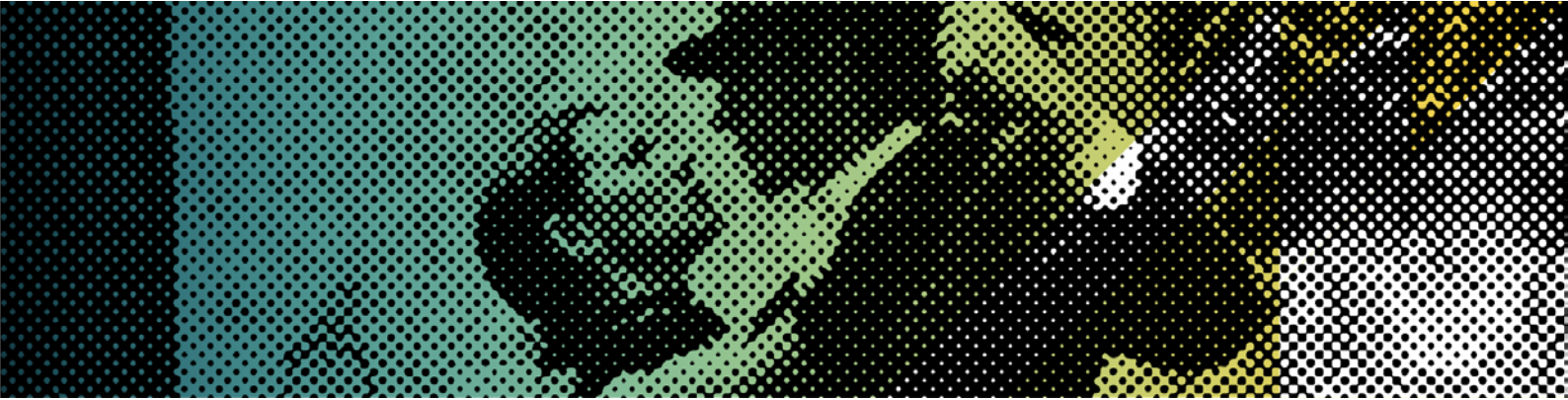
rights³, and in other main binding international law instruments that followed⁴. In other words, these are not new rights.

Considering their place in binding international law instruments, cultural rights imply obligations to respect, protect and implement, that our national governments, to the extent that they have become party to these instruments, have contracted and for the realisation of which they are periodically held to account. This also implies obligations for all levels of government, including local governments.



³ Article 18 of the second Covenant states the right to freedom of thought, conscience and religion, and article 19, the rights to freedom of opinion and expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice (19.2). Article 27 recognize to persons belonging to ethnic, religious or linguistic minorities, the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. See www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx.

⁴ See in particular the dispositions concerning the rights mentioned above in the Convention on the Elimination of All Forms of Racial Discrimination (CERD 1965), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), the Convention on the Rights of the Child (CRC, 1989), the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW, 1990) and the Convention on the Rights of Persons with Disabilities (CRPD, 2006), available on www.ohchr.org/EN/HRBodies/Pages/Overview.aspx



»» THE MAIN ASSET OF THE NETWORK INITIATED BY THE UCLG IS TO HAVE CREATED OPPORTUNITIES FOR STAKEHOLDERS OF VARIOUS CITIES AND LOCALS GOVERNMENTS TO MEET ON A REGULAR BASIS AND LEARN FROM EACH OTHER, AS WELL AS FROM OTHER AGENCIES AND NUMEROUS PARTNERS OF THEIR MISSIONS, ABOUT THE DIVERSITY OF WAYS THEY CAN POSITION CULTURAL ACTION AS A VECTOR OF CITIZENSHIP AND SUSTAINABLE DEVELOPMENT.

So while it may seem for some very disconnected and far away from every day business to speak about human rights and cultural rights in the context of local policy making, I would rather be of the view that, by explicitly making that connection, cities and local governments that respect these rights can root their actions in their national international obligations, and not only in good intentions. Formulating local policies based on cultural rights and justifying participatory approaches as implementation of human rights can not only provide local governments more legitimacy. It can also strengthens their position, especially when facing pressure from large companies or even other levels of government, that would prefer to do without the respect for local dynamics that are the basis of strong democracies. In these difficult contexts, but also in the daily elaboration and management of local policies, cultural rights and human rights provide a compass that orient towards the right questions to constantly adjust operating processes.

OF THE SIGNIFICANCE OF CULTURAL RIGHTS

Building on the work of the Group of Fribourg⁵ and of the Committee on economic, social and cultural rights⁶, the United Nation mandate of Special Procedure dedicated since 2009 to the field of cultural rights defines these rights as the “rights of each person, individually and in community with others, as well as groups of people, to develop and express their humanity, their world view and the meanings they assign to human existence and development”. This implies access to the cultural resources listed further in the definition - values, beliefs, convictions, languages, knowledge and the arts, institutions and ways of life – as necessary resources for every person’s identification, expression and creation processes. Cultural rights encompass a broad range of issues, including self-expression and creation; information and communication; language; identity and simultaneous belonging to multiple, diverse and changing communities; the pursuit of specific ways of life; education and training; taking part in cultural life, and the conduct of cultural practices cover.⁷

Cultural rights are not, as we sometimes hear, the right “to culture” - without mention of who defines its content – or the equivalent of protecting a certain “culture” or tradition against other ones. They are to be understood rather as obligations to create, maintain and protect the conditions that allow each person to exercise his or her rights, to freely take part in what carries “identity, values and meanings” (in the words of the 2001 UNESCO Universal

⁵ Group of international experts from civil society who explored and arrayed cultural rights from 1993 onwards and launched in 2007 the Fribourg Declaration.

⁶ Group of United Nations experts responsible for the monitoring of States obligations relating to the first covenant, who adopted in 2009 a General Comment on article 15.1 a of the Covenant, on the right to take part in cultural life: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f21&Lang=en

⁷ See the various annual reports of the mandate on www.ohchr.org/EN/Issues/CulturalRights/Pages/SRCulturalRightsIndex.aspx, and more specifically A/HRC/14/36, par. 9, A/67/287, par. 7; A/HRC/31/59, par. 9 and A/HRC/40/53, par. 15.



»» THE IMPLEMENTATION OF CULTURAL RIGHTS IS NOT ABOUT THE RIGHT TO BE A SPECTATOR OR A CONSUMER OF CULTURE, BUT ABOUT BEING A FULL ACTOR OF CULTURAL LIFE, OF SOCIAL PROCESSES, IN A MANNER THAT RESPECT EACH PERSON'S HUMAN DIGNITY.

Declaration on cultural diversity⁸), to contribute with what each of us is to a dynamic, and not static, culture. Their implementation is not about the right to be a spectator or a consumer of culture, but about being a full actor of cultural life, of social processes, in a manner that respect each person's human dignity.

The aim is therefore to develop the capacities of each person, and in particular the capacities to:

- choose and freely be, without any exclusive assignation, without being discriminated against for one's choices;
- constantly develop oneself, by drawing from a diversity of cultural resources : works, know-hows, persons and institution, via adequate education, training and information, on a variety of supports;
- build and maintain relationships, to refer to and be inspired by others, without any consideration of frontiers, as well as to change one's choices throughout one's life, or, in other words, to choose not to identify anymore with a reference, to distance or define oneself in another way;
- contribute to and build society on this basis, through all means of expression, to make culture, which also implies the possibility to contribute to the interpretation of and decision-making about cultural life, and the responsibility each person shares to be critical about the aspects and practices in one's society that are problematic for human rights and the inaccurate information that do not respect the accumulated knowledge, scientific and /or traditional.

In other words, the aim is to empower each person, so he and she can become real actors of their lives and of the development of society. Amartya Sen highlighted in 2004 that "cultural liberty is a vital part of human development because being able to choose one's identity—who one is—without losing the respect of others or being excluded from other choices is important in leading a full life. [...] People want the freedom to participate in society without having to slip off their chosen cultural moorings. It is a simple idea, but profoundly unsettling."⁹

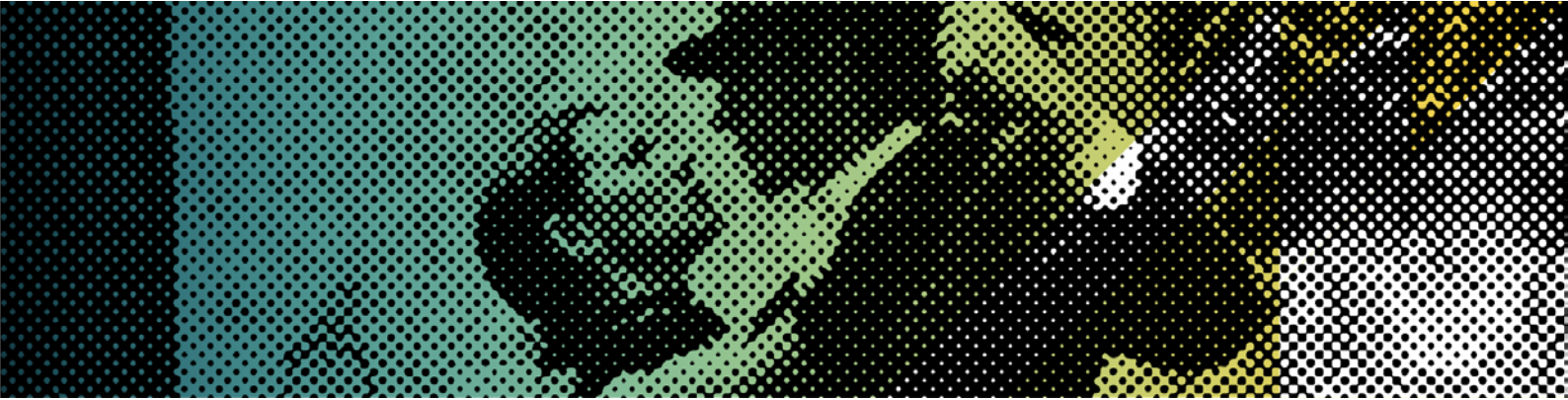
But for anyone to access to and participate in a diversity of resources, these resource must exist; to be in a position to choose, one must have gotten to know; for anyone to interpret and create, there must be trusted persons and spaces.

WHAT THE REALISATION OF CULTURAL RIGHTS INVOLVE FOR LOCAL GOVERNMENTS

It is at this crossroad that cities and local governments, as first line of governance, have a role to play. Considering their proximity to the inhabitants, they are the best abled authorities to analyse the complexity of the issues at stake on their territory and the best positioned to

⁸ 2001, available on http://portal.unesco.org/en/ev.php-URL_ID=13179&URL_DO=DO_TOPIC&URL_SECTION=201.html.

⁹ UNDP, Human Development Report 2004 Cultural liberty in today's diverse world, 2004, p.1, http://hdr.undp.org/sites/default/files/reports/265/hdr_2004_complete.pdf.



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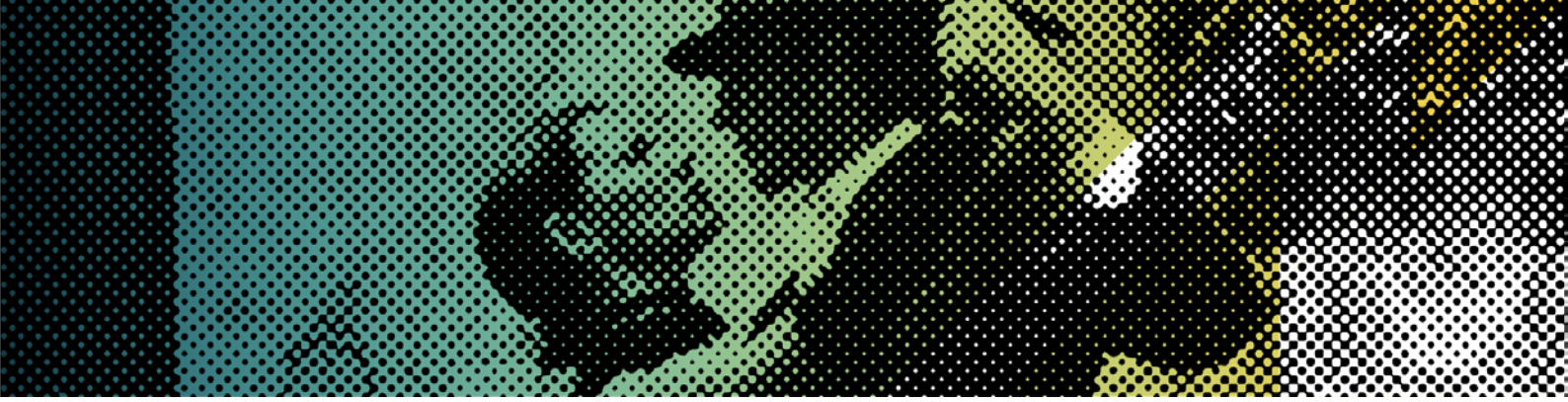
develop, offer and maintain the necessary conditions that will foster each person's capacities and exercise of their rights.

These conditions include the existence of favourable legal, regulatory and security frameworks: are cultural rights explicitly mentioned in the local laws (as in the case of the Constitution of Mexico city for example), and when it is not the case, are the laws compatible with these rights? Do municipal regulations and procedures include diversity or do they lead, intentionally or not, to discrimination and exclusions? Are the regulatory frameworks encouraging or restraining expression in public spaces?

It is also important to create the physical conditions for the exercise of cultural rights: what are the spaces and times dedicated to the expression of diversity? Are these spaces accessible to all, even persons with various handicaps? How are they distributed on the territory? Are they diversified enough to welcome everyone who wants to use them? Who does use these spaces and who is absent? Why is that so?

Local governments are also in a position to guarantee the existence of opportunities and procedural safeguards. What are the processes for consultation and invitations to dialogue





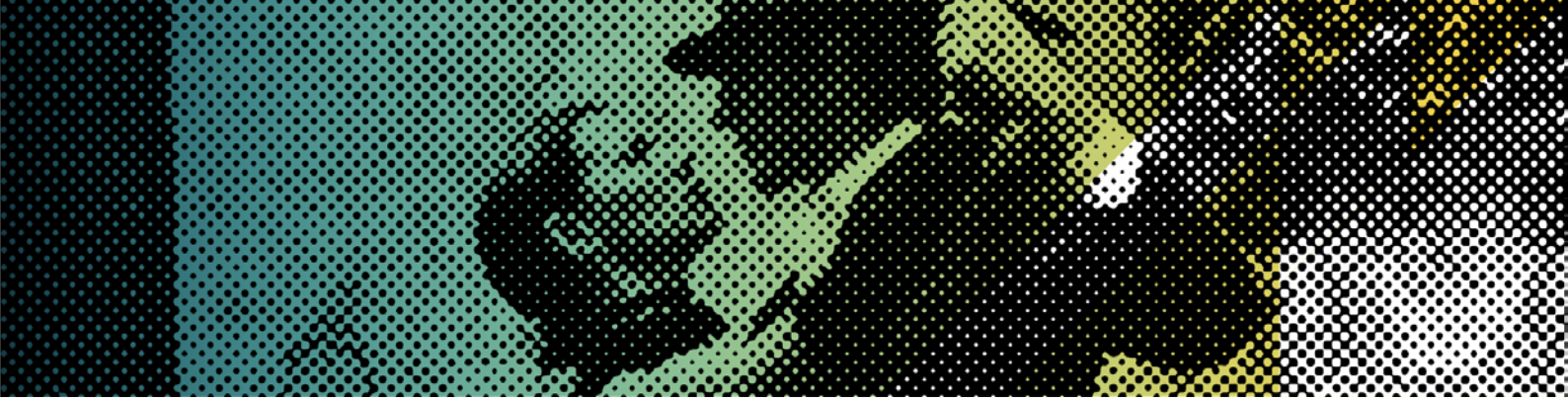
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with the inhabitants? Are they diversified enough to allow for everyone to make use of them, and regular enough to instigate a culture of participation? What resources are there on the ground to support and bridge the gaps resulting from social and historical inequalities that may make participation more difficult for some?

Implementing cultural rights locally involves for local governments

- to **commit**, by adopting cultural rights in their laws and regulations, including them explicitly in the action principles and programmes and by reviewing, where necessary, the operational guidelines to ensure they are in line with human rights and cultural rights or if they result in discrimination. What are for example the recruitment policies or the conditions to access public funding? Another option is also to elaborate ad hoc commitments, as the city of Geneva did by adopting in March 2018 a Declaration about the implementation of cultural rights relating to the field of heritage.¹⁰ This Declaration is open for all interested cities to join.
- To **observe what are the resources and dynamics** in order to take them into account. It is impossible to respect and not hamper the exercise of everyone’s cultural rights and human rights if one is not aware of what is happening on the territory. Local governments have to know who are the actors working towards the realisation of cultural rights and what initiatives exist to ensure their exercise for all: is there a mapping of these resources, regularly updated? Could such a mapping be developed and maintained in a participatory manner?
- To **value** the resources present. It is important to recognize that each person carries knowledge and to look for ways to capitalize this knowledge by fostering interactions. What are the spaces for mixity? How can the internal diversity of each group be brought to light and multiple belongings be valued? How are local knowledge and grass-roots initiatives acknowledged and integrated in local policies? What forms of support or incentives are there for creativity and initiatives at the cross-roads of two or more sectors?
- To **protect** the cultural rights of inhabitants against abuse from third parties. Some cities have had this experience, having to either counter businesses or their regional or national government. In the field of heritage for example, it is sometimes necessary for local governments to resist the pressure of third parties to ensure that what is locally recognized as heritage, as vector of identity and values, is protected, but also to take

¹⁰ See the page of the launch (in French), which includes links to the Declaration in the various languages and information about how to adhere: www.ville-geneve.ch/themes/geneve-internationale/declaration-geneve/



measures in the face of environmental and climate threats to prevent the disappearance of knowledge, practices and places of importance.

- To adequately **inform** the inhabitants, first about its own processes, but also through fostering all the places of knowledge transmission and the preservation of free and pluralistic information.
- To **interact**, and promote collective intelligence. Local governments have to encourage collaborations between the actors of their city or territory, between sectors usually working separately, as well as beyond their borders, with other cities, in networks such as this one, and other networks.

These are avenues to implement cultural rights, to which surely other suggestions could be added. Generally speaking, implementing cultural rights in the city means taking seriously the fact that development can only be sustainable if it is

- appropriated by the individuals, who recognized themselves in it and get involved because it makes sense to them; and
- adapted to the context and its complexity, for which local governments are responsible.

Thank you.
Johanne Bouchard



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