

Statement by the Special Rapporteur in the field of cultural rights at the Public consultation on the issue of historical and memorial narratives in divided societies

5 July 2013

Excellencies, distinguished delegates, ladies and gentlemen,

When I started my mandate, I proposed a working definition of cultural rights in consonance with the Universal Declaration of Human Rights (art 27), the International Covenant on Economic Social and Cultural Rights (Article 15) and the International Covenant on Civil and Political Rights (art 27).

For me, cultural rights protect the rights for 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 assigned to human existence and development through, inter alia, values, beliefs, convictions, languages, knowledge and the arts, institutions and ways of life. They also protect the right to enjoy and to have access to cultural heritage – which in many ways is a precondition to participating in cultural life -- and also to the resources and opportunities necessary to allow such identification and development processes to take place.

Early on in my mandate, especially during country visits, I was struck by the centrality of cultural rights in interpreting and memorializing the past as well in sharing it today and passing it on to future generations. How the past is remembered and interpreted, prepared for transmission and actually transmitted defines the cultural and symbolic landscapes of specific societies. The relating of “stories of who we are” in history classes and textbooks and in museums, memorials and monuments as well as artistic expressions in the public space become a reflection of the past; of peoples and histories, their divisions and fights but also their achievements, successes and reconciliations.

In all the countries I have visited, be it Brazil or Austria, the Russian Federation or Saint Vincent and the Grenadines, Morocco or Bosnia-and-Herzegovina, inevitably I have met people striving to retrieve, to validate, to make known and to have acknowledged by others own history as well as to have access to the historical narratives of others.

Let me stress that from a human rights perspective, the importance of history and historical landscapes lies not in the past but in the present, as a pathway to the future.

Some key issues are:

- First, how to ensure that history is written and taught in schools in ways that are inclusive of the narratives of all those residing in the country, including groups that are marginalized, such as minorities and indigenous peoples (but also people living in remote areas, women and the poor, for example).
- And second, how to ensure that the perspective of the Other (or Others as the case may be) on past events is taken into consideration, or at least is acknowledged both when

writing and teaching history and when constructing the memorial landscape of a country or a region. This point is particularly controversial in post-conflict societies and can relate to communities within a country as well as to different countries.

Given the rich diversity that characterizes our common humanity, it is hardly surprising that when individuals and groups of individuals express their world views and showcase their cultural heritage, they do so from diverse perspectives, projecting different narratives. In some cases this may create or perpetuate misunderstandings as well as tensions and even lead to confrontations between groups, particularly – but not only - in divided as well as in post-conflict societies. By ‘divided’ I mean when perspectives are so sharply delineated as to create virtually mutually exclusive cultural lives, like in a fractured mirror. Conflicting viewpoints/perspectives and even conflicts of interest exist in all societies and are integral to the evolutionary processes. Indeed, culture is to be understood as a site of perpetual contestations over meanings and ways of being. The issue is not conflicting views but how such differences are expressed and addressed, and hopefully, resolved.

To answer that question, I have chosen two specific topics as the subjects of my two forthcoming thematic reports: the first, which I shall present to the United Nations General Assembly in October 2013, relates to the writing and teaching of history; the second which will be presented to the Human Rights Council in March 2014 relates to memorials and history museums.

In accordance with article 15 of the ICESCR, every person has the right to take part in cultural life, which includes a right to (a) access, (b) participate in, and (c) contribute to cultural life. Together with the Committee on Economic, Social and Cultural Rights, I consider that the obligation to respect the right to take part in cultural life in all its aspects “...includes the adoption of specific measures aimed at achieving respect for the right of everyone, individually or in association with others or within a community or group... to have access to their own cultural and linguistic heritage and to that of others.” The right to participate in cultural life implies that individuals and communities have access to and enjoy cultural heritages that are meaningful to them, and that their freedom to continuously (re)create cultural heritage and transmit it to future generations should be protected.”

The right to freedom of expression, including the right to freedom of artistic expression and creativity, is crucial for the development and maintenance of cultural heritage, and dialogue is essential whenever conflicting interpretations arise about the meaning and significance of cultural heritage or past events arise. Similarly, the right to information plays an important role; people need to be adequately informed about the existence, significance and background of diverse cultural heritages, about the possibilities of accessing or participating in these, and, where relevant, about debates surrounding the divergent interpretations to be given to cultural heritage.

It is important to remember that culture is never static and that culture is also a site of contested meanings and understandings.

As I have said previously, my mandate concerns human rights. It is not about protecting culture and cultural heritage per se, but about ensuring that the conditions are in place that allow all people without discrimination to continuously develop their culture by accessing, participating in and contributing to cultural life in all its aspects.

1. As a matter of principle, people should be free to express their own perspective of past events and narratives of history.

2. The State has a crucial role to play in ensuring that minimum educational standards are implemented in schools; that cultural and symbolic landscapes are encompassing rather than provocatively exclusionary, that all means are used to systematically de-escalate tensions between communities and that mutual respect and understanding are promoted. States must adopt a 'zero tolerance' policy with respect to any calls for violence and discrimination, in particular, should not be tolerated.

There are challenges of course.

- The writing and teaching of history can be quite divisive between people, in particular when students are taught different histories in segregated classes or schools, with no chance at all to be informed about the existence – much less the perspective -- of other narratives. When certain groups or people are written out of history, or presented in exclusively negative terms.
- This can be highly detrimental, undermining the respect for human rights as well as peace-building efforts. For this transforms culture and education into the battlefield of politics. In extreme situations, cultural expression and history teaching become the arenas where violations, wars and conflicts are either continued or prepared for the future.

Therefore, we must take into consideration that:

- Communities see their memorials, monuments, artistic expressions and history textbooks as expressions of their own heritage and history. We must not forget as a premise that memorials and monuments are tools through which people express their cultural identity; mourn and honour their dead; remember past violations as well as victories – victories over the Other(s) but equally victories of resistance resilience and survival. They are ways to tell children but also the passer-by not to forget the past. Hence, they may be highly emotionally charged. As such, they must be respected and understood.
- We must also recognize that memorials and monuments that bear symbols of belonging exclusively to one community, be it ethnic, religious, linguistic or political, can also serve to draw or cement boundaries between people, including by marking territorial borders within and between States. I am convinced that memorials and monuments, while being the expressions of the identities and experiences of particular communities, may also be used to shape community relationships more positively. Indeed memorials can be critical for transitional justice processes and for peace building. *Providing* they move beyond the 'claim and blame' paradigm, memorials can help opposing sides recognize the humanity of the other and commonality of suffering.

The question is: how the enjoyment of cultural rights can help people and communities to **both** express themselves **and** interact with the Other (or Others) in a constructive manner. I believe cultural rights can play a key role in this process.

There are manifold difficulties. However, let me share some of my thinking, concerns and ideas.

- The right to freedom of expression, including the right to freedom of artistic expression and creativity, is crucial for the development and maintenance of cultural heritage, and dialogue essential when conflicting interpretations about the meaning and significance of cultural heritage or past events arise. Similarly, the right to information plays an important role; people need to be adequately informed about the existence, significance and background of diverse cultural heritages, about the possibilities of accessing or participating in these, and, where relevant, about debates surrounding the divergent interpretations to be given to cultural heritage.
- Therefore, the right of individuals and communities to express their identities and enjoy their cultural heritage should not lead to situations where people, on that basis, create separate hermetically sealed worlds in which they live. Cultural rights also protect the rights to interact culturally with the Other; indeed with as many (or few) Others as you may desire.

A point I have stressed in all my reports is that cultural diversity exists not only between groups and societies, but also *within* each group and society, and that identities are never singular. Communities, we must remember, are never monolithic blocks; and collective identities never encompass all the characteristics of any individual: they are formed on the basis of privileging certain parts of individual identities.

Consequently, it is of paramount importance that the rich multi-faceted identity of human beings not be reduced to two-dimensional cardboard cut-outs. Individuals must not be cornered into binary either-or choices or be forced to identify themselves in terms of a singular aspect of their identity, such as being female, or of a particular ethnic, religious or linguistic background.

Crucially, the right to take part in the cultural life of a specific community includes both the right not to participate and the right to critique, challenge and reshape its cultural parameters; to leave and join without fear of punitive action. One main challenge in our discussions, therefore, is to understand how diverging voices within each community can be heard and taken into consideration.

Amongst the many difficult questions are the following:

- Should the views and perspectives of all parties and relevant communities on historical narratives be included in textbooks? If so, what are the best ways to proceed? If not, what would be the basis and criteria for the selection? Who is consulted, who decides?
- Similarly, should the views and perspectives of all parties and relevant communities be taken into account when establishing a memorial and a history Museum? If so, what are the best ways to proceed? If not, which criteria and which process should be adopted? Who is to decide?
- How might cultural rights be used to contribute to the development of a new narrative to bridge the divides in a post-conflict or divided society? What medium and methodology would be most effective?

I consider that history as a discipline should be written and taught in a manner that ensures that it is not subjected to political influence; that memorials and history museums can only play their

role and serve healing processes in divided societies when memorialization processes include all concerned actors, sides and communities.

Ladies and gentlemen, thank you for your attention... the floor is now all yours.