



Commonwealth
Foundation

Sharing Strengths: Commonwealth and Francophone Engagement with the UNESCO 2005 Convention

**Seminar hosted by the Commonwealth Foundation at Marlborough House
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Introduction

On Tuesday 11 March 2008, the Commonwealth Foundation was delighted to welcome over 30 participants to Marlborough House to contribute to a historic seminar on the UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005). Delegates represented a wide spectrum of those with an interest in the issues raised by the Convention, from cultural coalitions and other civil society organisations to representatives of Commonwealth governments and senior delegates to UNESCO. We were particularly grateful to have five speakers of the very highest calibre, possessing vast combined experience of this particular Convention.

Why the 2005 Convention? In November 2007, over 1,500 delegates from 600 organisations in 59 countries came together at the Commonwealth People's Forum in Kampala, Uganda. The result was the *Kampala Civil Society Statement*, a living document serving as a snapshot of Commonwealth civil society's most pressing concerns, and a manifesto for action. One such concern was expressed in paragraph 116, which called upon Commonwealth member states to ratify the 2005 UNESCO Convention and to meaningfully involve and support civil society in its implementation. With our mandate from governments to enhance civil society's role in the Commonwealth, we took this call seriously, and this year have begun a process of facilitating dialogue between civil society and governments on issues of cultural policy, framed by the Convention.

The Convention itself promises much. In the disputed era of globalisation, protecting and promoting the diversity of cultural expressions has become a key concern for many. The implications of the Convention stretch far beyond the cultural arena, however, and protecting and promoting the diversity of cultural expressions may be inextricably linked with notions of economic empowerment, human development and the sovereign right to self-transformation. Such issues deserve to be tackled by civil society and governments head-on, and we hope that this seminar will be the first step in a real and lasting engagement within the Commonwealth on these topics.

So why was 'sharing strengths' the seminar's theme? First and foremost, the Foundation believes that Commonwealth and Francophone communities have much to offer each other. The Commonwealth Foundation has a strong track record in facilitating civil society involvement, and we believe that with the emphasis placed on this by the Convention, we have much to contribute in terms of expertise and methodology. But the Commonwealth can learn from *La Francophonie*, not least when it comes to ratification and implementation of the Convention. While two thirds of the countries of the *Organisation Internationale de la Francophonie* (OIF) have now ratified the Convention, just one third of Commonwealth countries have done so. The disparity is marked, and the potential explanations numerous. This seminar was an attempt not only to understand and explain, but also to be a first step in redressing the imbalance.

For this seminar we truly shared strengths. We were delighted to work closely with the Québec Government in London, who kindly provided not only simultaneous translation for the event but also technical support and assistance in locating such expert speakers. We thank all the participants at the seminar too for their varied and insightful contributions. Finally, we hope to work in the near future with new partners and friends at

the OIF and elsewhere, and look forward to following up on the many recommendations outlined in this report.

This report brings together the key suggestions, observations and challenges that emerged from the seminar. Facing those challenges will no doubt be a sometimes daunting task, but we hope this document will serve as a departure point for enabling us to face them together.

Mark Collins BA MBA PhD
Director, Commonwealth Foundation

Outline, key findings and recommendations

On 11 March 2008, over 30 delegates from Commonwealth governments, Commonwealth country delegations to UNESCO, the *Organisation Internationale de la Francophonie* (OIF), cultural coalitions, networks of cultural practitioners, civil society and youth organisations and the UK National Commission for UNESCO participated in a seminar hosted at Marlborough House by the Commonwealth Foundation, with support from the Québec Government Office in London.

The theme was one of 'sharing strengths', with a particular emphasis on an exchange of learning between the Commonwealth and *La Francophonie*. This seminar was intended as an opportunity for leading experts on the Convention to exchange ideas, contribute thinking towards future actions, and identify areas of concern.

Three particular areas of interest had been identified prior to the seminar, and these acted as a framework for the discussions that followed. First, how can Commonwealth countries be encouraged to engage with the issues raised by the Convention? Second, how can civil society be meaningfully involved in the promotion and implementation of the Convention? Third, how can mechanisms and measures be developed which enable the effective implementation of the Convention?

After presentations from five panellists and the round table discussion that followed, participants divided into three working groups to develop specific recommendations, before then presenting their findings to the group as a whole.

While the day's discussions were wide-ranging and often ambitious in scope, key findings and recommendations emerged on eight specific themes. Seminar participants noted that:

- 1 **The Convention's ratification and implementation in the Commonwealth context depends significantly upon raising awareness and understanding.** Many Commonwealth people, civil society organisations and governments lack awareness of what the Convention says and how to engage with the process of ratification. There is a need to (i) demystify the Convention, (ii) explain its relevance to everyday concerns, (iii) assert its importance vis a vis other Conventions and instruments and (iv) demonstrate the concrete benefits it can bring. With this in mind, awareness should be raised amongst a variety of stakeholders using different forms of engagement. While some stakeholders could be encouraged to act as advocates for the Convention, others might be more directly involved in its implementation. Such stakeholders include:

- 1.1 Commonwealth Ambassadors to UNESCO
- 1.2 Commonwealth Culture Ministers, or their equivalent
- 1.3 Commonwealth Trade Ministers, or their equivalent
- 1.4 Commonwealth decision-makers, such as Traditional Chiefs, Parliamentarians and Heads of Government

- 1.5 Cultural coalitions and networks of cultural practitioners
- 1.6 Civil society organisations and networks working on development and governance issues
- 1.7 Commonwealth professional associations and networks
- 1.8 National UNESCO Commissions
- 1.9 Wider audiences within Commonwealth societies

2 To encourage ratification and implementation of the Convention, there should be a focus on mutual co-operation. In particular:

- 2.1 The Commonwealth and Francophone communities and blocs should co-operate more closely. Specifically, the Commonwealth Foundation has a strong track record in facilitating dialogue between civil society and government while the OIF has great experience in building the capacity of governmental and non-governmental cultural bodies. These strengths should be shared.
- 2.2 Governments with existing expertise, such as Québec, could share with various states and sectors skills and knowledge in drafting cultural policies and implementing the Convention.
- 2.3 Across different regions and sub-regions, those governments that have played an active role in the ratification and implementation of the Convention, such as South Africa, could take an active lead and co-ordinate the sharing of expertise amongst less-involved states from within their region.
- 2.4 States should strengthen existing and pursue new North-South, South-South, intra- and inter-regional links and partnerships.

3 Enhancing civil society involvement, as outlined specifically in Articles 6, 7, 11, 12, 15 and 19 of the Convention, remains integral to the implementation and success of the Convention. In particular:

- 3.1 There are two principal positions with regard to civil society involvement in the Convention. One narrow interpretation sees civil society's involvement as being limited to participation in the official processes of developing the machinery for implementation of the Convention, such as acting as observers at forthcoming meetings of the Intergovernmental Committee, while a broader interpretation sees it as in the spirit of the relevant Articles of the Convention that civil society should also play a major part in implementing and delivering the Convention. The two understandings of civil society's role are not necessarily mutually

exclusive, but there remains the need to assert the case for civil society playing as broad a role as possible.

- 3.2 Similarly, there are two principal positions on the definition and constitution of civil society in the context of the Convention. One school of thought urges taking a broad view of civil society, including organisations, associations and networks not normally concerned with the protection and promotion of the diversity of cultural expressions. These might include, for example, a wide range of development CSOs, which could be encouraged to find new common cause with the cultural sector. A narrower view would emphasise the need for clarity, particularly at this early stage, and suggest that the definition be kept tight, to those with experience or expertise in the subject matter of culture and cultural expressions, in order to make engagement with and implementation of the Convention focussed and effective, and to ensure the Convention is successfully realised.
- 3.3 While these two different understandings are again perhaps open to compromise and reconciliation, there may be a need initially to limit wishes for wide-ranging inclusiveness for the sake of transforming civil society's role from a symbolic seat at the table into a key responsibility as agents of the Convention's implementation.
- 3.4 Civil society capacity should not be taken for granted. Concerns remain regarding civil society's basic capacity in certain areas or countries, for example in countries with limited civic space, or Small Island Developing States. Assumptions of capacity should therefore remain tempered by the recognition that (i) funding, organisational strength and institutionalised operating spaces remain central preoccupations for many CSOs and that (ii) strategies should be adopted for situations in which civil society has little or no capacity to implement the Convention. Accordingly, efforts to create institutional space for civil society must be matched by corresponding efforts to invest in capacity.
- 3.5 Measures should be taken to involve civil society meaningfully in the Convention's implementation. These should include, *inter alia*, (i) support for a role in project evaluation by independent experts from civil society and (ii) the funding of civil society to carry through projects which helps achieve the signatory state's national cultural policy. Civil society should both shape and benefit from the International Fund for Cultural Diversity, discussed below.

4 The International Fund for Cultural Diversity, outlined in Article 18 of the Convention, is an area for further advocacy. In particular:

- 4.1 Further efforts should be made to encourage voluntary contributions to the Fund from states that have ratified the

Convention. It is particularly important that these contributions should become ongoing, regular and guaranteed.

- 4.2 The Fund should be used within the spirit of Article 16 of the Convention, which establishes a norm of preferential treatment for developing countries.
- 4.3 The Fund should also be used within the spirit of Article 11 of the Convention, which affirms the fundamental role of civil society in achieving the objectives of the Convention.
- 4.4 The Fund should therefore acknowledge not only civil society's fundamental advisory role in shaping its parameters and uses, but also as key executors of the Convention and as conduits through which the Fund can achieve the objectives of the Convention.
- 4.5 Further attention should be paid to the precise working of the Fund, and how the Fund can best achieve its objectives. Elements of different models, such as the African Heritage Fund, could be drawn upon.
- 4.6 The Fund could be used to promote and resource projects that build capacity and long term institutional infrastructures for cultural policies.
- 4.7 The Fund could be used to enhance South-South, North-South, intra- and inter-regional co-operation and partnerships on projects, as well as encouraging the sharing of cultural policy expertise and experience.
- 4.8 The Fund could further be used to assist with research and education on cases of 'best practice' of cultural policy, emerging trends in cultural expressions, and the role of the diversity of cultural expressions in sustainable development.

5 Article 16, outlining a norm of preferential treatment for developing countries, should continue to be recognised as central to the spirit of the Convention. In particular:

- 5.1 Article 16 will be a key topic of discussion and debate during the December meeting of the Intergovernmental Committee. Advocacy could attempt to influence the expected (i) consensus on what preferential treatment means in practice and (ii) recommendations on how the article should be effectively and meaningfully implemented.
- 5.2 Notwithstanding future recommendations, implementation of the norm of preferential treatment could involve steps such as (i) the provision of technical assistance and support in structuring policy

and (ii) improving methods of cultural distribution and production in developing countries.

6 The implications of the Convention go far beyond the cultural sphere. In particular:

- 6.1 The Convention is intimately and unavoidably linked with issues of trade and economy, beginning from its inception. This link should be both acknowledged and welcomed.
- 6.2 There is therefore a need for dialogue and information-sharing on areas covered by the Convention between culture and trade representatives in both government and civil society arenas.
- 6.3 Article 20 establishes the Convention's relationship of "mutual supportiveness, complementarity and non-subordination" with other instruments, and should be upheld as central to the effectiveness of the Convention.

7 The Commonwealth Foundation should work with partners to facilitate dialogue and awareness-raising of the Convention. This work could include:

- 7.1 Supporting the Commonwealth group of Ambassadors to UNESCO to work together and to learn from the experience and ways of working of the Francophone group of Ambassadors to UNESCO. This could involve a particular leadership role for the nine countries that share both OIF and Commonwealth membership.
- 7.2 Facilitating regular dialogue between Commonwealth Culture and Trade Ministers, or their equivalents, including with civil society participation, to discuss issues raised by the Convention.
- 7.3 Facilitating the sharing of expertise from around the world. For example, this could involve briefings on issues of culture and cultural policy for High Commissioners and/or representatives from Commonwealth Culture Ministries.
- 7.4 Raising awareness of the Convention and mobilising engagement with issues of cultural policy amongst the Commonwealth's many professional associations and networks.

8 The Commonwealth and Francophone communities should identify opportunities for future co-operation. In particular:

- 8.1 The Commonwealth Foundation and OIF should identify topics and projects of mutual interest for joint working in support of the Convention.

8.2 The Commonwealth Foundation and OIF could work together to identify regional or country-specific areas where Francophone/Commonwealth overlap and contiguity exists, such as West Africa, and accordingly identify joint projects that could be initiated in these regions.

Summary of proceedings

Keynote speeches: the story so far

Mr Éric Thérout

Director General of Multilateral Relations and International Commitments, Ministry of International Relations of Québec, noted that:

1. The place of culture in international trade agreements first emerged as a contested issue in the 1980s in the process of negotiations between Canada and the USA to create a free trade zone. Cautious of the implications that trade negotiations might have for Canadian cultures, Canada succeeded in including a 'cultural exemption clause'. It was through this process that it became apparent that states might benefit from cultural support measures and from refraining from making cultural trade commitments pursuant to the General Agreement on Trade in Services (GATS).

2. In 1998, the Minister of Canadian Heritage convened a forum of Culture Ministers, which later led to the establishment of the International Network on Cultural Policy (INCP). With France and Québec also forming a group on cultural diversity, efforts to mobilise government ministries began to gather momentum. By 1996 the discourse of 'cultural diversity' had begun to gain weight at UNESCO, and it was amid this developing international environment that the France-Québec group conducted a feasibility study on establishing a specific instrument to rebalance international obligations.

3. The Québec government's influence in the various stages towards the Convention was considerable. In 2001 the UNESCO Universal Declaration on Cultural Diversity was issued and played a critical role in building momentum and consensus, leading to the drafting of the Convention. In 2005, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions was finally adopted, entering into force in March 2007 after reaching the required 30 ratifications; today, 80 states have ratified the Convention. Critically, the process of both development and implementation has throughout been remarkably rapid, showing that there was previously a real and unfulfilled need for international instruments concerning the diversity of cultural expressions.

4. Moreover, Québec was the first government to debate the Convention in the National Assembly while Canada became the first state to ratify. The Québécois perspective understands the protection and promotion of the diversity of cultural expressions as critical to enhancing social cohesion and development, rather than being a protectionist route to simply safeguarding or preserving cultural expressions. The Convention, Québec believes, embodies the true sense of 'common wealth' and of sharing cultural riches for positive change.

5. The Convention is only one instrument of many. Crucially though, it is not subordinate to other instruments - including those that regulate international trade - and exists within a framework of equality. Moreover, it may lay the foundation for a new body of international law devoted to culture.

6. The Convention expressly provides for the respect of human rights and fundamental liberties, promotes freedom of ideas through culture and creates conditions for heightened participation by citizens and private associations.
7. The Government of Québec firmly believes that associations of artists, producers, directors and other artisans should play a key role in implementation, especially through the 42 coalitions for cultural diversity which currently exist worldwide.
8. The Convention establishes an International Fund for Cultural Diversity which offers developing countries support in implementing cultural policies.
9. The OIF and the Francophone group at UNESCO have been highly supportive of the Convention's drafting and adoption. More recently, they have taken a lead role in supporting member countries to ratify the Convention, and a possible similar role could be envisaged for the Commonwealth and Commonwealth group at UNESCO.
10. The Québec government remains enthusiastic about sharing its expertise in drafting cultural policies and implementing the Convention and civil society's role in it. For example, Québec has invested in establishing a website as a dedicated resource on the movement towards cultural diversity; this can be found at www.diversite-culturelle.qc.ca.

Mr Jim McKee

Secretary General, International Federation of Coalitions on Cultural Diversity and Director General, Canadian Coalition for Cultural Diversity, noted that:

1. The International Federation of Coalitions on Cultural Diversity is a civil society movement. Rather than rejecting globalisation, the Federation seeks to set the 'terms of negotiation' with globalisation and enable cultural practitioners to derive maximum benefit. For example, critical developments in communications across nations and cultures, such as the internet, can clearly act as agents for positive movement towards cultural diversity. This balanced and more nuanced approach to the issue of globalisation underpins the work of the International Federation.
2. Cultural policies can be important because many countries may not have the means, population size or resources to sustain a cultural industry without policy interventions in support. Nevertheless, the act of developing policy involves considerable political will. Political will can be seen to have helped make possible the development of strong cultural industries in, for example, Canada. Coalitions derive much of their power from speaking with one, unified voice, and the International Federation is now able to speak for 42 national coalitions, uniting more than 600 cultural organisations worldwide. With outreach work continuing to mobilise those in Asia, the Arab world, the Caribbean and African Commonwealth member states, the future is promising.
3. Both Québec and Canada mobilised because many felt that the diversity of cultural expressions was at risk of being lost under the influence of neighbouring states' cultural hegemony. Increased pressures on Canadian cultural goods and services - and the changes that these pressures brought about - very rapidly awakened and mobilised civil society to seek response mechanisms.

4. The rapidity of the process through which the Convention entered into force suggests that there was a previously unfulfilled pressing need for such an international instrument. Crucially, the Convention is designed to protect and promote the diversity of cultural expressions through enshrining the right to cultural sovereignty and the right to apply nationally-derived forms of cultural policy. The Convention should therefore not be seen in any sense as a prescriptive document; inevitably different cultural policies exist and work differently in various countries.

5. In December 2007, the Intergovernmental Committee on the Convention met for the first time in Ottawa, Canada. The main topics of discussion were on (i) enhancing international co-operation, (ii) the role of civil society in the implementation process and (iii) the setting up of the International Fund for the Diversity of Cultural Expressions.

5. Canada is contributing to the Fund and would like to see a focus on assisting developing countries in initiating and implementing cultural policies. The Fund should also support the sharing of expertise and examples of best practice.

6. The Federation is deeply involved in working towards greater ratification. For the Convention to have added weight, there should be 150 state parties, building on the current total of 80 ratifications. There is also a marked disparity between OIF member states, of whom about two thirds have ratified the Convention, and Commonwealth member states who have a noticeably lower ratification rate. During June 2009 there will be a conference attended by those countries that have ratified, and the date should also be on the horizon as a point by which it is hoped that key elements of the Convention will be operational.

7. Civil society must take centre-stage in Convention processes if the Convention's aspirations are to become meaningfully realised. Civil society may be in a unique position not only to ensure that countries affirm the right to cultural diversity, but to carry through the realisation of these rights within national policy frameworks.

Presentations from the panel: inside perspectives – the reality of how the Convention operates

M Frédéric Bouilleux

Directeur de la Langue Française, de la Diversité Culturelle et Linguistique, Organisation Internationale de la Francophonie (OIF), noted that:

1. In 1968, the *Organisation Internationale de la Francophonie* (OIF) was founded with a mandate to promote cultural diversity, in the belief that there is unity and solidarity in diversity. The OIF continues to welcome united action towards cultural diversity.

2. Above other concerns, for the Francophone world one danger of globalisation is key: inequality. The OIF is committed to preventing the marginalisation of developing countries by processes of globalisation. Where cultural actors possess different resources and different competencies, there are disparities and inequalities. But cultural diversity should not be the preserve only of the powerful, and the Convention presents a real opportunity for the developing world to maintain their cultural identity.

3. Culture is often measured not only by its contribution to dignity and pluralism, but also to revenue. However, while cultural and creative industries represent some 7% of GNP globally, they make up just 3% of GNP in developing countries. International exchange of cultural goods (such as cinema, broadcast media, literature and music) is constantly growing, but with 90% of poorer nations in 2002 having a marginal exporting role (amounting to less than 10 million USD), the challenge of making this international exchange equitable and just is as great as ever.

4. Through its emphasis on cultural goods and services, the Convention accords dignity to all cultures by legitimising country-specific cultural policies which can pluralise expression and introduce balance and equality to cultural exchanges.

5. The OIF seeks to contribute to the objectives of the Convention by assisting with capacity-building and supporting the infrastructure of public and private cultural bodies, (for example Ministries and public agencies) but also practitioners. Through awareness raising and drafting, and promulgating and diffusing legal instruments (for example concerning intellectual property rights), it is hoped that effective cultural policy can be achieved.

6. There are concrete steps that must be taken to help developing countries. These include (i) technical assistance and support in structuring policy; (ii) the professionalisation of artistic bodies; (iii) the improvement of methods of distribution and production. The OIF has particularly prioritised the use of these methods in the fields of film, music and books and literature. For example, a databank and catalogue of African film has been proposed through which beneficiaries could also get assistance with copyright and production costs. In music, the OIF has assisted with the creation of an *Exporting Bureau of African Music* which will allow better access to the market for African distributors. In literature, the *International Association of French Language*

Libraries will promote equal access for titles published in Francophone countries.

7. There is also a need to look at the promotion of linguistic diversity. 2008 offers a particular opportunity, as it is the International Year for Languages, to promote *plurilinguisme*. This could be done through working with other international organisations representing language groups such as the Arabic-speaking group or Portuguese-speaking group. Finally, efforts should be made to assist civil society, the private sector and information ministries to make the most of opportunities offered by the internet.

8. The assignment of funds for developing countries is crucial. In particular, capacity building is required to create structures, raise awareness and initiate legislation such as copyright laws.

9. As examples of best practice and to demonstrate what can be done, the OIF has (i) created public reading rooms, in those developing countries that have put in place a policy and budget for a national strategy of public reading (such mutual commitment being essential) and (ii) supported cinema, music and literature in developing countries through the provision of training in the management of cultural organisations and initiatives.

10. The Convention explicitly acknowledges the value of cultural goods and services. The Convention's message – that we must find ways of defending the diversity of cultural goods and services, generating new intercultural dialogue and respecting identities, eventually as a way of resolving conflict – is a worthy one. The goal is certainly ambitious; as the project rapidly evolves, there will constantly be new challenges that will call for joint working.

Vera Lacoeyilhe

Permanent Delegation of St Lucia to UNESCO

Intergovernmental Committee of the Convention, noted that:

1. The Committee is currently engaged in the essential process of drawing up operational guidelines for the implementation of the Convention. There is an awareness amongst the Committee that the 'constructive ambiguity' which has previously been employed to resolve differences of opinion should be tackled in a way that stays true to the spirit of the Convention. In particular, there has perhaps been some misunderstanding about what is meant by the 'participation of civil society' in Article 11 of the Convention, with some interpreting this as being limited to participation in the meetings working out the mechanics of the Convention, rather than more broadly in the implementation of the Convention as well. A limited interpretation misunderstood the spirit of the article.

2. There is often some confusion about what is meant by 'cultural diversity', and it is important to emphasise that this Convention is about cultural expressions, such as cultural goods and services. There are other significant instruments, such as the 2003 Convention for the Safeguarding of Intangible Cultural Heritage, and there remains a need to bring all of these together and develop and apply consistent terminology.

3. The Committee would also be responsible for putting into place the International Fund for Cultural Diversity. There remain a number of issues to be resolved here. For

example, what projects should be financed and who should the beneficiaries be? The Fund was intended to be voluntary, and this continues to present a problem over who will contribute and how much these contributions will be.

4. Article 16 of the Convention, concerning preferential treatment for developing countries, remains in need of real clarification as to what it should mean in practice. In December 2008, the Committee will focus upon this issue. A number of expert inputs are being prepared to assist.

5. The Francophone group at UNESCO has been very active since the beginning of this process. As a well organised group with a unified voice, it has been able to do preparatory work, develop common positions and articulate these at wider meetings. These methodologies and ways of working should be shared so that, for example, the Commonwealth group could become similarly active on particular concerns.

Kevin Brennan

Permanent Delegation of South Africa to UNESCO, noted that:

1. South Africa played a key role in the development of the Convention through the International Network on Cultural Policy (INCP), an informal group of international culture ministers, representing over 80 countries. South Africa hosted the 2002 ministerial meeting of the INCP, which prepared a position on cultural policy and globalisation from the perspective of the developing world. It was also at this meeting that the issue of a Convention to be taken up by UNESCO was proposed.

2. The Convention can be seen as a 'cultural peace treaty' which enables the growth of dignity and self-confidence for individuals and communities amidst genuine co-operation between states. With this in mind, South Africa is hopeful that states will continue to ratify the Convention quickly in order to lend the Convention a genuinely universal scope.

3. One of the principal implications of the Convention is that culture will play a central role in sustainable development. Both for Africa and the rest of the developing world, ratification can provide measures to establish a balanced and equal trade in cultural goods and services. It can do so because it acknowledges, in addition to purely economic value, the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning.

4. Ratification is also a first step in providing the establishment of further financial support mechanisms for the developing world, principally through the creation and expansion of the International Fund for Cultural Diversity. When the Fund is established, all parties to the Convention should make financial commitments, and these financial commitments should be made regular and ongoing.

5. There should be proactive engagement with the content of the Convention from all parties. It is imperative that there be active development of shared strategies on issues of implementation; there should, for example, be close collaboration between African governments.

6. In December 2007, the first Intergovernmental Committee Meeting in Ottawa, Canada

negotiated some operational guidelines and, importantly, looked at the establishment of the Fund. The Fund should address global issues of cultural disparity. South Africa supports the notion that the Fund should give priority to projects from developing countries, and emphasises that regional partnerships have a strong role to play. Further, the Fund should promote and resource projects that build capacity and long-term institutional infrastructures for developing cultural policies. The Fund should also enhance South-South, North-South and intra- and inter-regional co-operation, and should focus on those cultural expressions most in need of protection and promotion. The Fund should in addition support educational programmes and research into new and emerging trends both in culture and also its role in sustainable development. Above all, the Fund should be accessible, simple and cost effective.

7. South Africa sees Article 16, on preferential treatment for developing countries, as key to the Convention. It will be proposing an expert to prepare a document setting out sub-regional and regional perspectives on how best to give it effect. The document should help to mobilise the region, ensuring that efforts are made to realise the aspirations of Article 16.

HE Mr Gilbert Laurin
Chair of the Intergovernmental Committee
Ambassador of Canada to UNESCO

Ambassador Laurin was unfortunately unable to be present and make the final contribution, due to unexpected illness.

Following the addresses, the panel took questions from the floor. The following issues were raised.

Q: What are the obstacles to wider ratification?

A: The principal obstacle remains a lack of awareness, and in this respect there is a definite need for further pressure from civil society. Public service broadcasting could be used to promote discussion of ratification amongst Commonwealth member states. Further, organisations such as the EU could commit themselves to encouraging ratification and implementation of the Convention. Many international blocs are at different stages on different aspects of the Convention; for example, the Commonwealth seems still to have some distance to go to accelerate ratifications to the level of the OIF.

Q: Is there anything in the Convention about intellectual property?

A: Article 20 refers to the principle of non-subordination to other instruments, while the preamble refers more directly to intellectual property, affirming respect for it. It is hoped by some that policies – such as those adopted by the EU on audio-media services – should increasingly reflect the spirit of the Convention.

Q: What is the legal basis of the Convention in the potential face of a challenge?

A: While the Convention is not subordinate to, for example, World Trade Organisation (WTO) agreements, neither does it supersede them. They are held to be equal. One argument suggests that it can act as a watchdog to various WTO agreements. However, the weight that the Convention carries may be primarily political rather than legal. The EU has been proactive in these issues, and potential EU member states are reminded of their cultural identity rights. Underpinned by this principle of equality and non-subordination with other international instruments, the Convention could and should put Culture and Trade Ministers and Ministries on equal footings and encourage the greater consideration of culture in trade negotiations.

Q: Does the Convention protect the freedom of individual cultural expression, such as the right to wear religiously identified clothing?

A: The Convention deals primarily with cultural goods and services, whereas broader individual freedom of expression is the business of other instruments in international human rights law. However, the Convention does support the protection and promotion of cultural expression more generally.

Q: What resources are available for civil society and what is the capacity of civil society in developing countries?

A: Developing countries lack government capacity in this sphere, in addition to which there may be a state of inertia due to a real lack of knowledge, which would in turn impact on the development of national strategies to include civil society. This could be one area which organisations such as the International Monetary Fund (IMF) and the Commonwealth can work with governments on to really address. With respect to civil society, the joint meeting between civil society and the Intergovernmental Committee in July 2008 would explore how best to give civil society support.

Q: Which countries are opposed to the Convention?

A: While the USA would not say it was opposed to cultural diversity, it did object to the perceived impingement of the Convention on free trade. The USA, of course, has significant influence on other countries. For example, three Central American states abstained from voting for the Convention, although Israel was the only other country to vote against it. Many had felt the USA had attempted to delay and dilute the Convention. Japan was also felt to be uncomfortable with aspects of the Convention and was yet to ratify.

Participants then split into three working groups on different aspects of the Convention, and presented the following findings.

Group 1: How can countries be encouraged to consider ratification and implementation of the Convention?

1. Information, advocacy and networking must take place as a key part of awareness raising.
2. Countries with existing experience of ratification and implementation of the Convention should take a leadership role both on the regional and global stage. For example, they could organise awareness seminars.
3. Other target audiences should be identified, including, for example, Trade as well as Culture Ministers and Senior Officials, the Commonwealth group of Ambassadors to UNESCO and civil society cultural coalitions and networks.
4. Government initiatives could be undertaken with respect to providing mutual education on the issues raised by the Convention. This could take place, for example, within the UN system and under the auspices of regional organisations.
5. A strategy should be undertaken for clarifying the Convention and demystifying its message, and in doing so reminding target audiences of the potential benefits of ratification.

Group 2: How can mechanisms and measures for the protection and promotion of the diversity of cultural expressions be created and strengthened in those countries that have already ratified the Convention?

1. The early stages of implementation will be important in demonstrating the impact and effectiveness of the Convention as an international instrument.
2. Capacity of states must be developed during these early stages, especially through education and training. For example, capacity shortages in Africa remain paramount. However this should take place after initial assessment of the capacity needs and the work that is already being done.
3. As part of the assessment phase, governments should initiate multi-stakeholder dialogue and consultation.
4. Implementation must be backed up at an early stage by a comprehensive public information campaign. This should raise awareness of the role of cultural policy in building nation's societies and in enhancing social cohesion.
5. Online services could be taxed as a means of assisting with funds for creating mechanisms and measures.
6. Throughout, a policy of researching and adapting models of best practice should be pursued. Civil society can and should play a considerable role in this.

Group 3: How can civil society best be involved in the implementation of the Convention, and how can civil society working on related issues be engaged?

1. Parties to the Convention should develop institutionalised and formal mechanisms for the involvement of civil society in the implementation of the Convention.
2. National UNESCO Commissions should be worked with closely as a conduit between civil society and governments. They should be both a target of advocacy and civil society attention, but also active themselves in involvement with the Convention.
3. Funding will prove to be key in meaningfully involving civil society. In terms of implementation, civil society must be eligible to access funds to carry out projects.
4. Evaluation of project proposals by civil society experts should also be funded, in order to encourage the principle of 'best practice' in cultural policy.

Following the presentation of findings, in discussion participants also noted that:

Definitions of 'civil society' were numerous and certainly highly contested. One apparently broad interpretation included organisations, groups, coalitions, professional bodies, artists and independent producers, albeit not private sector organisations. Nevertheless, it was noted that some institutions, such as museums, were in fact public institutions. Further, it was unclear whether the spirit of the Convention supported the restriction of civil society participation to those organisations explicitly involved in cultural expressions, or whether the emphasis on development and social cohesion implied that other civil society organisations should participate. On the other hand, it was noted that cultural coalitions possess a strength and unity of voice which would lead to focussed and effective engagement with the Convention. Finally, decision-makers such as parliamentarians and traditional chiefs should be a key target group for awareness raising as they are uniquely positioned to influence ratification.

Concluding remarks

Andrew Firmin, Programme Manager - Culture and Diversity, Commonwealth Foundation, noted that:

1. The seminar had successfully brought to the forefront the relevance and value of the Convention in the Commonwealth context, which had been one of the primary objectives. It had also become clear that not only was the Convention a part of the landscape and set to stay, but also that it had the potential to be a defining document for many of the issues surrounding culture.
2. There was a real need for Commonwealth civil society and governments to engage properly with the Convention, and a danger that if they failed to do so they could be left behind. The Fund, for example, could proceed without them.
3. Many of the conclusions from the working groups had been about the need to raise awareness, promote the Convention and, perhaps above all, demystify it. Certainly at the Commonwealth level, there is a need to do two connected things: (i) assert the value of culture, including by making connections with questions of sustainable development, identity and social cohesion and (ii) emphasise the importance of the Convention as a key part of this picture.
4. Another aspect which had really arisen from the seminar was the need for mutual learning and co-operation. There is the potential to draw on – though not blindly copy – existing models such as the African Heritage Fund, as well as continue to learn from different Francophone and Commonwealth ways of working.
5. The seminar had also been instrumental in identifying some different stakeholders and the roles that they could play.
 - i. Civil society: both as agents of advocacy on behalf of the Convention, but also as potential influencers and implementers of the Fund. There are, however, real issues still to be resolved and clarified concerning how broad the scope of civil society should be in this context.
 - ii. Governments: several governments had clearly taken a lead role in the Convention, and it would be interesting to examine how this leadership could benefit other countries, both globally and regionally, which seek to ratify and implement the Convention.
 - iii. National UNESCO Commissions: these had been somewhat neglected in analysis thus far, but as potential conduits, connectors and catalysts they are deserving of much closer engagement.
 - iv. National decision-makers: clearly parliamentarians, traditional chiefs and other elements of national legislatures and executives

have a key role to play in advocating and deciding upon ratification. Here there are Commonwealth networks which could play a role, including the Commonwealth Parliamentary Association, and at the local level, the Commonwealth Local Government Forum. Similar structures exist in the Francophone world. There are also other Commonwealth voluntary associations, such as those of media professionals, which could be mobilised.

6. The Commonwealth and the OIF clearly both have roles to play, and models that they can share with each other. The Francophone group of Ambassadors to UNESCO has a way of working which could be replicated within the Commonwealth group. The Commonwealth has well-established mechanisms for bringing civil society and government ministers together, but these have not yet been deployed with respect to Culture Ministers. The seminar had also established that there would be clear benefits in bringing Commonwealth Culture and Trade Ministers to the same table, with civil society participation.
7. The seminar had been an excellent starting point, but the next steps will be crucial. Points of intersection between identified stakeholders and those sitting around the table should be identified in order to take the work forward. Nevertheless, the Commonwealth experience has taught that the opening up of opportunities for interface must be matched by investment in ensuring capacity needs are met, so that organisations are able to use the opportunities and spaces created effectively. Efforts should be made towards developing specific areas for follow-up action, based upon the recommendations emerging from the seminar and the subsequent report.

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Annex 2: Seminar agenda

Sharing Strengths: Commonwealth and Francophone Engagement with the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

Marlborough House, London, 11 March 2008

Simultaneous translation is kindly provided by the Québec Government Office in London.

Agenda

14:00 Welcome – Dr Mark Collins, Director, Commonwealth Foundation

14:10 The story so far – keynote speeches:

- M. Éric Théroux, Directeur Générale des Affaires Multilatérales et des Engagements Internationaux, Ministère des Relations Internationales du Québec
- Mr Jim McKee, Secretary General, International Federation of Coalitions for Cultural Diversity

14:40 Initial questions and discussion

14:55 Inside perspectives: the reality of how the Convention operates – panel presentations and discussion:

- M. Frédéric Bouilleux, Directeur de la Langue Française et de la Diversité Culturelle et Linguistique, Organisation Internationale de la Francophonie
- Mme. Vera Lacoeylthe, First Secretary, Permanent Delegation of St Lucia to UNESCO
- Kevin Brennan, Deputy Permanent Delegate, Permanent Delegation of South Africa to UNESCO
- HE Mr Gilbert Laurin, Ambassador, Permanent Delegation of Canada to UNESCO, and Chair, Inter-Governmental Committee on the Convention
Followed by roundtable discussion

16:00 Tea break, Blenheim Saloon, and photographs

16:30 Recommendations: three working groups

Suggested topics for groups to develop recommendations:

- How can countries best be engaged with to encourage consideration of the Convention and the issues it raises?
- How can mechanisms and measures for the protection and promotion of the diversity of cultural expressions be created and strengthened in those countries that have already ratified the Convention?
- How can civil society best be involved in the implementation of the Convention, and how can civil society working on related issues be engaged?

17:15 Report back from groups and questions

17:45 Closing remarks – Andrew Firmin, Programme Manager for Culture and Diversity, Commonwealth Foundation, and Dr Mark Collins

The meeting will be followed by a reception from 18:00 to 19:30 in the Blenheim Saloon.

Annex 3: Background document

SHARING STRENGTHS: COMMONWEALTH AND FRANCOPHONE ENGAGEMENT WITH THE UNESCO 2005 CONVENTION

On 18 March 2007, the UNESCO *Convention sur la protection et la promotion de la diversité des expressions culturelles / Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005) entered into force after the required 30 ratifications were achieved. The Convention recognises that cultural expressions must “not be treated solely as having commercial value”, and seeks to affirm the human and social value of culture. Empowering states with sovereign rights to protect and promote the diversity of cultural expressions, the Convention is set to be a key document in the immediate future.

In Articles 6, 7, 11, 12, 15 and 19, the Convention calls upon civil society to play a central role in ensuring the Convention’s implementation. At the 2007 Commonwealth People’s Forum, Commonwealth civil society issued the *Kampala Statement*, in which, *inter alia*, they called upon member states to ratify and to engage seriously with implementation of the UNESCO Convention (2005). The Commonwealth Foundation therefore believes that at this moment in the Convention’s development, there is a need to facilitate dialogue between civil society and Commonwealth member governments, in keeping with the spirit of the UNESCO Convention (2005) and the *Kampala Statement*.

Commonwealth and Francophone communities have both engaged with the UNESCO Convention, but in different ways. Are there ways in which the Commonwealth and Francophone community can learn from each other’s approach? On the level of ratification and mobilisation, in what ways can the Francophone experience inform the debate on how Commonwealth governments and civil society should progress with implementation of the UNESCO 2005 Convention?

Mr Éric Thérooux (Director General of Multilateral Affairs and International Engagements at the Ministry of International Relations of Québec) and Mr Jim McKee (Secretary General of the International Federation of the Coalitions on Cultural Diversity) both possess great experience of working with the UNESCO Convention at a high level, and will deliver keynote addresses from government and civil society perspectives respectively. The discussion will then be opened up around the table, with Dr Mark Collins, Director of the Commonwealth Foundation, chairing proceedings. It is expected that the roundtable discussion, involving representatives from governments and civil society, will not only initiate dialogue on the UNESCO 2005 Convention from a fresh perspective, but will further provide a starting point for follow-up action in implementing the seminar’s recommendations.

This event is hosted by the Commonwealth Foundation in partnership with the Québec Government in London, and forms part of celebrations both for Commonwealth Week 2008 and for the 400th anniversary of the founding of Québec.

Annex 4: Ratification statistics

According to UNESCO website (www.unesco.org) and correct as of February 2008

Commonwealth countries which have ratified (16/53 or 30%)

Bangladesh	Mauritius
Cameroon	Mozambique
Canada	Namibia
Cyprus	New Zealand
India	Nigeria
Jamaica	St. Lucia
Kenya	South Africa
Malta	United Kingdom

Commonwealth countries which have not ratified (37/53 or 70%)

Antigua and Barbuda	Pakistan
Australia	Papua New Guinea
Bahamas	St. Kitts and Nevis
Barbados	St. Vincent and Grenadines
Belize	Samoa
Botswana	Seychelles
Brunei Darussalam	Sierra Leone
Dominica	Singapore
Fiji Islands	Solomon Islands
The Gambia	Sri Lanka
Ghana	Swaziland
Grenada	United Republic of Tanzania
Guyana	Tonga
Kiribati	Trinidad and Tobago
Lesotho	Tuvalu
Malawi	Uganda
Malaysia	Vanuatu
Maldives	Zambia
Nauru	



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