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THE ART OF DRAFTING CULTURAL POLICIES

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The Art of Drafting Cultural Policies

Is it possible to construct a legal framework which would scaffold and protect the inalienable rights of the professional artist? To what extent could the spectrum of such legislation cover matters relating to moral, economic, social, and basic human issues? Who should be involved in drafting cultural policies?

Policy building is vital for the development of technical expertise and the protection of freedom and diversity. The implications of taste, however, contribute to the erosion of the professional condition. As such, the legal status of the artist requires elucidation, reinforcement, and classification.

UNESCO's Recommendation Concerning the Status of the Artist (1980)

UNESCO adopted the Recommendation Concerning the Status of the Artist at their general conference in Belgrade 1980. This Recommendation aims to act as a source for drafting cultural policy by highlighting topics - vocation and training of artists, social status, and working conditions - that concern the legal status of the artist. For example it states that:

"Member states should ensure, through appropriate legislative means when necessary, that artists have the freedom and the right to establish trade unions and professional organisations of their choosing, and to become members of such organisations if they so wish, and should make it possible for organisations representing artists to participate in the formulation of cultural policies and employment policies including the professional training of artists, and in the determination of artists' conditions of work".

Moderator:

Mike van Graan - Playwright, South Africa

Speakers:

Emanuela Moraru - Syndeac, France

Anthony Black - 2B Theatre, Canada

Ioana Tamas - Freelance cultural policy expert, Romania

Anghel Damian - Freelance actor and producer, Romania

Sophie Travers - Australia Council for the Arts, Germany



Mike van Graan moderating The Art of Drafting Cultural Policies session at IETM Bucharest 2017 © Alina Usurelu

Additionally, it outlines the following guiding principles:

- Populations as a whole should have access to art.
- Mass media and education should promote art and respect for artists.
- Freedom of creative expression is to be guaranteed and defended.
- Artists have rights to organise trade



Is the Recommendation Concerning the Status of the Artist UNESCO adopted in 1980 still relevant for contemporary artists?
© Kristina D.C. Hoepfner, UNESCO's big General Assembly auditorium, Paris.

- unions and professional associations.
- Cultural policy should provide material and moral support to artists.
- Artists are to be fully engaged in overall development policies and their implementation.
- All artists are to practice and enjoy the same rights irrespective of gender, race, language, religion, class, etc.

The Recommendation is neither legally binding nor a call for the adoption of omnibus legislation. Rather than donning the character of public international laws, the Recommendation attempts to provoke the transformation of national legal systems. Indeed, it acts as a 'principal standard-setting instrument' that asserts the right of artists to be considered cultural

workers. As cultural workers, artists could benefit from the same fair legal, social, and economic status as other professional workers.

However, the true impact of the Recommendation remains unclear. Generally speaking, many actors working in the cultural sector are not aware of its existence. In this case, it is difficult to rally around a set of unknown principles.

The relevance of the now 37-year-old Recommendation is also questionable. Perhaps a contemporary interpretation is overdue? Additionally, the manifestation of this legal status varies according to the attitude of the public authorities in each regional context.

Some countries, such as France, define supporting culture as a state responsibility. Others employ a market-driven, neoliberal cultural narrative, whilst some regard the arts as a component of the public sector much like health care and education. In order to be effective, the Recommendation must reflect the various architectures of policy design that exist in our global context.

Can the Recommendation cater to democratic, authoritarian, and hybrid settings? How may it navigate the many economic perceptions of art?

This session gave some insights into existing models and their relationship to very diverse realities in different parts of the world.

Case Studies

Australia

Australia boasts a robust framework that inherently honours many elements of the Recommendation. A key component is the Australia Council for the Arts, an 'arm's-length' principal body. Whilst it does not actually formulate policy, the Council aims to work directly with artists in order to provide channels of communication with government bodies. For example, its principal mechanism - distributing grants - functions via a process of peer review by artists themselves. This framework involves artists representing the diverse Australian geography, population, and expertise throughout the process.

Australia's democratic infrastructures put it in a somewhat privileged position. However, there are still challenges to be faced: the Australian government is often guilty of maintaining the status quo, thus rendering existing practices redundant as they evolve. The democratic model is then put at risk, because new solutions are not built to counter the challenges of the future. This issue is particularly pertinent in Australia, as it is difficult to legislate firm statements in federal countries.

Government intervention also proves to be problematic, as it questions how 'culture' should be interpreted and manifested in society. For example, the intrinsic value of culture is at risk if the state is concerned with market-driven not arts-driven agendas. This puts the Arts Council in a difficult position: it cannot openly oppose government interventions and austerity measures. Yet, it also cannot sit idly given that it is responsible for representing the artistic community. Indeed, the difficulty of managing mediation jeopardises the Council's coherence and stability.

Nova Scotia

Creative Nova Scotia Leadership Council is a body responsible for advising the Creative Nova Scotia Leadership Council is a body responsible for advising the Minister for culture in Nova Scotia, a small province on Canada's east coast.

In 2011 the Council created a task group charged with examining the existing legal status of the artist both in Canadian provinces and abroad. Following their research, the task group recommended that the province "work to improve income tax provisions for artists as the highest priority for the Federal- Provincial-Territorial (F-P-T) Working Group on Status of the Artist". However, it is not clear how adequately these suggestions have been embraced in reality. Rather, it has been suggested that further efforts are required in order to address the needs of Nova Scotia's artistic community.

In a similar fashion, the scholar Tracy Ayodele provided an analysis of Canada's Status of the Artist Act following its implementation. She noted that the act attempts to enable "artists' associations to prescribe levels of compensation for works created and services rendered by artists; promote the fair treatment of artists by the government and articulate the roles and responsibilities of the government to artists; ensure that Nova Scotians have access to artistic training and education; acknowledge the working conditions of artists; maintain the government's dedication to the rights of artists, including safe working environments and freedom of expression and association; and ensure that the necessary tools to support Nova Scotian artists and their unique needs are secured by the government".

However, she concludes that "notwithstanding such strides in the evolution of policy affecting the status of artists, recognition in the absence of tangible measures will be insufficient in advancing the position of artists in Nova Scotia". Clearly, the efficiency of Canada's social system and cultural policies are questionable as the policies capable of improving the lives of artists - such as taxation rules - exist outside of provincial jurisdiction. The problem is then, perhaps, a dissociation between policy and reality.

Romania

A misconception concerning Romania is that there is a lack of organisations, networks, and unions. In reality, the necessary instruments are present. What is missing is a transparent and professional cultural administration. Achieving this proves difficult, as Romania still resembles a soviet model: policies are labour-orientated, and large public institutions swamp the independent sector. The result is limited funding for independent creation and a divided artistic community. This lack of collective ground means that it is difficult to rally behind a common agenda concerning specific and unified cultural policies.

Romania's first cultural strategy was an endeavour that ran from 2014 to 2016 in the context of the EU Cultural Capital programme 2021. With a focus on Bucharest and Timisoara, the strategy aimed to develop bottom up, evidence-based policies that could provide minority and marginalised communities with better access to culture, increase international exchanges, nurture economic growth, and improve the status of contemporary creation and the creative industries. By inciting open engagements, the initiative was unique in that it attempted to forge a new democracy with the independent sector via transparent terms.

However, an incompatibility between the international and national sectors was notable. International experts were welcomed in both Timisoara and Bucharest: indeed the initiative was possible because of external pushes. Yet the nuances and demands of the local scene were missed. For example, there were clear differences between Timisoara and Bucharest in terms of priorities. In Timisoara, the local artistic community demands the radical enhancement of working conditions, salaries, and social service. Meanwhile, Bucharest gravitates towards concerns regarding cultural administration and legislation. Arguably, it is counter-productive to have international advisors who have little local insight. How can dynamics between international and local professionals be better established?

What is the “art” to drafting cultural policy?

During the session, the participants made suggestions for potential steps that could be taken during the process of building policies:

- Research: local conditions, international cultural policies, mapping exercises
- Analysis: analyse local conditions – society generally, state of the arts, etc.
- Find allies: within government/public sphere, social movements to work with
- Engage in advocacy: arts sector to mobilise itself and lobby in its interests
- Participate in drafting/amending policies as the arts sector
- Monitor and evaluate policy implementation
- Recommend amendments to policies and lobby again

Also a number of advocacy methods were debated and proposed:

- Letter-writing in order to opening channels of communication with government
- Direct engagement with governments via conferences, workshops, etc.
- Exert pressure by publicly raising issues through the media or at public panels and debates
- Mobilising international organisations to pressurise governments into implementing the policies they signed up to
- Engaging in more direct, non-violent action to draw attention to the issues

JURIDICAL SOURCES

[*Recommendation Concerning the Status of the Artist, UNESCO, 27 October 1980*](#)

[*Social status of artists, European Parliament Resolution, 7 June 2007*](#)

[*Le Guide des intermittents du spectacle, Danielle Beaudry et Antoine Blondel, Millénaire Presse, 2007*](#)

[*Guide professionnel des artistes : juridique, fiscal, social, commercial, Michel ALLENOU, Magma, 2005*](#)

[*Métiers artistiques : être ou ne pas être des travailleurs comme les autres ?, Christian Kert et Jean-Patrick Gille, avril 2013*](#)

[*Artistes permanents, intermittents et indépendants : une précarité partagée, Christian Kert, 2004*](#)

It may be fair to acknowledge that policy-makers do not have an intention to create ‘bad policies’. Rather they lack comprehensive understanding as, ultimately, only artists can have a true understanding of their working environment. This is only intensified by the consistent exemption of artists from the legislative process. Perhaps this highlights the real issue: that artists do not have a public status. Arguably, artists still hold a marginalised and ambiguous position in democratic public domains.

Yet respect cannot be legislated. Instead, steps must be taken to shift the perception of the arts. If we are to employ bottom-up strategies we must learn to speak about culture in a non-defensive way and demonstrate its true potential as a tool for the emancipation of individuals, as a democratic means of safely entering into debate, and as a source for critical analysis and human development.