



# Cultural Rights and Public Spaces

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IFLA Response to the Special Rapporteur in the field of Cultural Rights,  
20 May 2019

The International Federation of Library Associations and Institutions (IFLA) is the global organisation for libraries, created in 1927 with members in around 150 countries, representing the world's over 2.3 million libraries. We work both to promote libraries, and to strengthen the ability of our members to deliver equitable access to information to all as a driver of development.

As a federation of associations and institutions, IFLA cooperates with actors at all levels, around the world. Our core work – supporting our members to provide the best possible services to their communities through the development of good practices, guidelines and standards – mobilises them to support the protection of cultural rights and promote public access.

IFLA appreciates the opportunity to contribute with relevant information, measures and good practices of public spaces and the impact this have on cultural rights. We look forward to continuing the debate with the Special Rapporteur in relevant forums.

## 1. Definitions of “public spaces” used by IFLA and library professionals

Cities and other human settlements are often socially and culturally divided, with peoples sharing the same backgrounds often living ‘together but apart’ in the same areas. There is a strong need for public spaces that support a socially and culturally diverse atmosphere and exchange. In the library field, terms such as *third space*<sup>1</sup> or *public space* are used to describe the library and its services. It refers to a space where it is possible to interact with others, and form opinions based on access to information and the possibility to express opinions.

It is also useful to think about a public information space. Libraries provide this physically, although internet access and use is an increasingly integral part of this. A public information space is therefore a space where people are able to interact with information (and culture) and each other. The availability of information – and the freedom to use it without unnecessary restrictions or undue surveillance – is crucial to this. Concepts such as the public domain feed this, as well as openly licensed material.

These spaces are important, given the growing role of information in our daily lives. Those who do not have access to information, as well as the skills to use it, risk missing out on opportunities for personal, economic and social development. They risk being marginalized as the rest of the world races ahead<sup>2</sup>.

Public libraries worldwide are providing this space!

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<sup>1</sup> "A person needs three different and important places: home, work, and a third undefines place" Oldenburg, 1989)

<sup>2</sup> For more, see the Development and Access to Information Report, <https://da2i.ifla.org>



## 2. Legal frameworks, trends and practices at the national level

For libraries to serve as public spaces, they need to be able to fulfill their public interest mission of providing access to information. Through providing access to information and skills in a welcoming environment, as well as working as a platform for partnerships, libraries can make a reality of cultural- and human rights and sustainable development.

Legal frameworks that shape the way information is accessed have therefore an impact in libraries being able to act as public spaces. Articles 19 and 27.1 of the Universal Declaration of Human Rights (the right to freedom of opinion and expression, and to access and share information and ideas, and the right to participate in the cultural life of the community) offer important starting points.

A first and most obvious example at the national level are library laws themselves. These often mandate the creation of libraries, and set the terms of their activities as public spaces. For example, in Norway where the national legislation for the public library supports this by stating that: "Public libraries shall be an independent meeting place and arena for public conversation and debate".

Similar examples can be seen in the national legislation in the Netherlands, stating that libraries shall "facilitate debate and meeting between people" and in the US Library Bill of Rights that states: "Libraries which make exhibit spaces and meeting rooms available to the public they serve, should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use."

Copyright and other information laws also impact upon also have an impact. They need to have the right balance, ensuring that public interest activities are not negatively affected by through more protection. Exceptions and limitations to copyright (e.g. allowing libraries to preserve, lend, exchange and reproduce works for public interest activities) promote the possibility for libraries to fulfill their mission. Countries such as the United States, Sri Lanka, South Korea, and ideally, shortly, South Africa, have flexible regimes that allow for 'fair' uses of works which deliver on the public interest while not harming those of rightholders.

Within the library field, there are many examples of good professional practice focused on ensuring that public spaces are truly open and accessible for all. At the international level and in many national settings, there are efforts to understand how libraries can better serve different populations. This affects not only the design of buildings, but also services and collections.

In particular, the IFLA [Special Interest Group on Women, Information and Libraries](#) offers a forum for libraries to contribute to the promotion, development and support of library and information services for the benefit of women, and society as a whole. Other groups such as the [Library Services to People with Special Needs](#), [Library Services to Multicultural Populations](#), the [Indigenous Matters Section](#) also support this.



There are also groups considering broader policy questions. An example at IFLA is the [Copyright and Other Legal Matters Advisory Committee](#), and the [Libraries Serving Persons with Print Disabilities Section](#). Both have joined forces to advocate for the adoption of the Marrakesh Treaty, and provide forums to exchange information on best practice around this area.

### **3. Characteristics of public spaces to the realization or impediment of cultural rights**

Libraries are arguably the primary institutions in any society for preservation of – and access to – culture and information, as well as ensuring that everyone has the possibility to benefit from it and so realise their [cultural rights](#).

A first characteristic supporting cultural rights is an explicit mandate to institutions – such as libraries – to enable access and debate. The examples of library laws in Norway and the Netherlands given above are powerful in this regard, both in that they instruct public authorities to provide this space, and that they give libraries themselves clear permission to carry out relevant activities.

A second characteristic is the promotion of activity and creativity. Throughout the world, libraries are encouraging creativity, in addition to supporting access to culture. In addition to creative writing programmes, libraries are supporting journalism, ‘making’, and other activities that involve the enjoyment of artistic and creative freedom. The fact that they can offer a physical space, open to all and without commercial pressure, makes them particularly valuable in this regard.

Increasingly, IFLA is focusing on the importance of freedom of expression as a vital complement to freedom of access to information, and has a [committee](#) dedicated to these parallel objectives. The importance of artistic freedom also feeds into our engagement on copyright issues (in particular limiting the liability of the internet intermediaries who have facilitated so much creativity).

A third characteristic is an explicit focus on diversity. Libraries serve the diverse interests of their communities, and they function as learning, cultural and information centres. In addressing cultural and linguistic diversity, library services are driven by their commitment to the principles of fundamental freedoms and equity of access to information and knowledge for all, in the respect of cultural identity and values. As highlighted above, there are ongoing efforts to ensure that libraries are following best practice in ensuring spaces are welcoming for all.

Connected to this is action to ensure access to information for all. To take the specific example of persons with disabilities, and more specifically on print disabilities, there has been a clear market failure, a lack of published works in accessible formats, that librarians can respond to by creating and distributing accessible formats to their users when needed.



With the adoption of the [Marrakesh Treaty in 2013](#), and its ratification by 55 countries, libraries are able to make and exchange accessible format copies at the request of people with print disabilities without the need for authorization from the rightsholder. More work is being conducted at the World Intellectual Property Organization focusing on other disabilities, and both this and further ratifications of the Marrakesh Treaty will contribute to a better legal framework allowing libraries to serve as inclusive public spaces.

The ability of libraries to provide a public space, where everyone feels welcome, is also threatened in a number of situations. Unbalanced copyright rules (such as those leading to the lack of availability of book in accessible formats) are one concern.

Pressure from particular social groups can also risk closing down public spaces. Efforts to ban drag queen story hours in the US and elsewhere illustrate the fact that diversity – and efforts to build tolerance – can face challenge.

#### **4. Contents and contours of a possible “right to public spaces”**

IFLA supports the "right to public spaces" and contends that the public library is an ideal physical space for public engagement and discourse. Traditionally, libraries have very much been the arm of local government providing access to information on a democratic basis. They have served to fill in where the market will not serve people, in particular the young, families, students, and those with fewer resources.

Around the world national legislations supports the "right to public spaces" through library laws. The laws underlined in our answer to question 2 provide examples of laws that could potentially be applied elsewhere, enshrining the role of libraries as spaces available for their communities.

Any right to public spaces should also make it clear that these need to be accessible and welcoming for all. As set out in the examples below, libraries are working to find more effective ways of giving everyone the possibility to access information, regardless of their background, resources, or disability status.

Finally, any right to a public space should include a focus on information rights – notably those included in Article 19 of the Universal Declaration. People need both to be able to access information and to express themselves in order to fulfil their potential.

#### **5. Role of cultural rights in ensuring public spaces are conducive to participation in cultural life**

IFLA affirms that respect for the diversity of culture, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of peace and security from the local to the global level. Model library programming responds to the recommendations



of the Universal Declaration on Cultural Rights and Cultural Diversity, with the provision of diverse collections and events programming which supports people to understand their own rights and to respect those of others.

In 2012 IFLA and UNESCO published the [Multicultural Library Manifesto](#) setting out both the importance of cultural rights in library work, and calling on the international community to recognise and support libraries and information services in their role of promoting and preserving cultural and linguistic diversity.

The Manifesto was reviewed in 2018 leading to the development of a [toolkit](#) to provide practical approaches on how libraries can apply the Manifesto drawing on best practices from Canada, Denmark, Estonia, Norway, the United Kingdom, and the United States of America.

The toolkit also provides practical examples on how to sustain the principles and actions described in the Manifesto, such as a workshop outline and handbook to assist libraries in communicating the key elements of the Manifesto and the objectives of multicultural services to library professionals and their clients.

In effect, the concept of cultural rights has fed through into more specific guidance that helps ensure that libraries fulfil their role as public spaces.

## **6. What is the impact on the enjoyment of cultural rights of trends regarding privatization, which may affect a variety of public spaces?**

Where libraries retain their status as public services, concerns around privatisation remain in the background. However, where libraries are ‘outsourced’ by national and local government, it is important to ensure that the fundamental concept of public libraries as public spaces is respected.

Regarding the public information space, and connecting to part of the answer to question 2, the privatisation of information through the use of technological and legal tools should not create unnecessary barriers to democratic access to information.

The nature of copyright – which is both long and extensive – can risk creating market failures. As was seen with the production and sharing of accessible format books, it may simply not be in the interest of the rightholder to produce such works, and there is no incentive to do what’s best for society as a whole. This effectively closes down the public information space for whole populations.

Other copyright-related issues mean that large parts of our heritage are locked away, despite no longer being commercially available, and that activities such as preservation and private study are restricted.



In short, while copyright protection does play an important role in supporting the creative industries as they are structured today, it must not lead to exclusion from knowledge. Libraries need to be able to buy works and lend them, and to conduct other public interest activities, without copyright standing in the way unnecessarily.

## **6. Recommendations**

- A) Ensure that library laws emphasise the role of libraries as public spaces, for all of the community. Where no such law exists, these should be passed.
- B) Ensure that the legal framework (mainly copyright) supports the sharing of and access to information through libraries.
- C) Explicitly protect libraries and others managing public spaces against pressures from groups which would exclude others. Incorporating cultural rights into national laws could be valuable in this regard.
- D) Understand the need for public spaces to be managed, in order to protect the rights and interest of all. Libraries in particular need the facilities, staff and support not only to introduce and maintain innovative services, but also the freedom to work with volunteers and third parties.
- E) Further work to support those managing public spaces to understand the practical and ethical issues around ensuring that such spaces are welcoming for all.