

# The Cultural Diversity Debate in Current Multilateral Processes

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*As Plans of Action have become defined within the process of the WSIS, commitments to respect and foster cultural diversity have faded. Therefore, the future of cultural diversity depends on other multilateral processes that may turn both the general principles agreed at the WSIS - as well as the debates and definitions within countries - pointless or unfeasible. This paper argues that negotiations within the World Trade Organization and the Free Trade Agreements are a new threat to cultural diversity, while UNESCO's Convention on Cultural Diversity represents a major opportunity for developing countries. One of the main conclusions of this paper is that it is not enough to acknowledge cultural diversity for it to exist. Cultural diversity must be defended, promoted and ensured through active public policies and appropriate regulatory frameworks.*

This document is based on the research paper "Threats and Opportunities for Cultural Diversity: WSIS between WTO and UNESCO", available on line at [wsispapers.choike.org/](http://wsispapers.choike.org/)

مع التقدم نحو وضع خطط العمل - على المستوى العالمي والإقليمي - في إطار القمة العالمية لمجتمع المعلومات، تراجعت الإلتزامات باحترام وتشجيع التنوع الثقافي. وعلى ذلك فإن مستقبل التنوع الثقافي يعتمد على جهود أخرى متعددة الأطراف يمكن أن تتحول معها سواءً المبادئ العامة المتفق عليها في القمة العالمية لمجتمع المعلومات - أو الحوار والتعريفات داخل الدول، إلى جهود بغير مغذى وغير قابلة للتطبيق. وتري هذه الوثيقة في هذا الصدد أن المفاوضات سواءً في إطار منظمة التجارة العالمية أو إتفاقيات التجارة الحرة تشكل خطراً جديداً على التنوع الثقافي، في حين تعد "معاهدة اليونسكو حول التنوع الثقافي" فرصة رئيسية للدول النامية. من أهم نتائج هذه الوثيقة أنه لا يكفي الإقرار بالتنوع الثقافي لكي يتواجد هذا التنوع. لا بد من الدفاع عن التنوع الثقافي، وتعزيزه وضمانه من خلال سياسات عامة نشطة وأطر تنظيمية مناسبة. لهذا الغرض، فإن المؤلف يوصي بسياسات لأششطة محددة على المستوى الإقليمي، دون الإقليمي، والوطني.

A medida que se definen los Planes de Acción en el proceso de la CMSI los compromisos para proteger y promover la diversidad cultural se han diluido, haciendo que el futuro de la diversidad cultural dependa básicamente de otros procesos multilaterales que pueden volver inútiles o inviables los principios generales acordados en la CMSI. Este documento argumenta que las negociaciones en el marco de la OMC y los tratados de libre comercio representan la principal amenaza para los países del Sur, mientras que la Convención sobre Diversidad Cultural de la UNESCO es su mayor oportunidad. La promoción de la diversidad cultural, se sostiene, no debe sólo enunciarse, sino llevarse a cabo a través de políticas públicas activas y marcos regulatorios adecuados.

*Alors que les plans d'action ont été définis au cours du processus du SMSI, les engagements concrets pour protéger et promouvoir la diversité culturelle sont restés vagues. L'avenir de la diversité culturelle dépend maintenant d'autres processus multilatéraux qui pourraient rendre inutiles voire irréalisables les principes généraux convenus lors du SMSI. Ce document argumente que les négociations dans le cadre de l'OMC et les Traités de Libre Commerce représentent la principale menace pour les pays du Sud, tandis que la Convention sur la Diversité Culturelle de l'UNESCO est leur meilleure chance. Il faut que la promotion de la diversité culturelle ne soit pas seulement un discours mais qu'elle soit mise en place par le biais de politiques publiques actives et de cadres normatifs efficaces.*

## Introduction

As Plans of Action - both global and regional - began to be defined within the process of the World Summit on the Information Society (WSIS), commitments to respect and foster cultural diversity have faded. Therefore, the future of cultural diversity depends on other multilateral processes that may turn both the general principles agreed at the WSIS - as well as the debates and definitions within countries - pointless or unfeasible. Negotiations within the framework of the World Trade Organization (WTO) and Free Trade Agreements (FTA) pose a threat in this sense, while UNESCO's Convention on Cultural Diversity (CCD) represents a major opportunity for Southern countries.

In a global context where the prevailing economic and social trends are resulting in an increased focus on production and dissemination of cultural goods and services - thus placing cultural diversity at global, regional and national level at risk - the mere declaration and acknowledgement of cultural diversity is not enough provided regulatory frameworks and active state policies aimed at defending and ensuring it are not defined.

In view of the processes of globalization, convergence and concentration being analyzed in this paper, it seems necessary to regulate market trends in terms of public interests if national possibilities are not to be left to the mercy of the threats encompassed in such processes.

## WSIS: Cultural diversity left out

By analyzing the WSIS process - starting point of this research - it may be noticed how definitions and actions on cultural diversity were gradually left aside. Texts aimed at the promotion of cultural diversity included in the WSIS Declaration of Principles<sup>1</sup> were lost amidst the fulfilment process of these general goals, both at global level - Geneva Plan of Action<sup>2</sup> - as in Regional Action Plans.<sup>3</sup>

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1 [www.itu.int/wsis/docs/geneva/official/dop.html](http://www.itu.int/wsis/docs/geneva/official/dop.html)

2 [www.itu.int/wsis/docs/geneva/official/poa.html](http://www.itu.int/wsis/docs/geneva/official/poa.html)

3 [www.itu.int/wsis/documents/listing.asp?c\\_event=sl2&c\\_type=colret](http://www.itu.int/wsis/documents/listing.asp?c_event=sl2&c_type=colret)

There has been neither real interest nor conviction within the WSIS process of the importance of considering cultural diversity as an essential focal point for building an equitable information and knowledge society. While some countries never agreed to and systematically opposed this perspective, others have been neglectful in defending their citizens' rights.

Beyond discourse, a technology/market-based approach has prevailed in practice with governments and private companies as main protagonists and citizens as consumers of contents and technologies. In many papers on the WSIS process there is no reference to cultural diversity and triumphs the reductionist idea that the solution to the digital divide lies in increasing connectivity. At the same time, it is stressed that the only important thing is the development of infrastructure and the need of "enabling environments" which may eliminate barriers to investment in the communications sector.<sup>4</sup>

The WSIS Declaration of Principles includes proposals and language promoted by civil society within the WSIS process. It says, for example, that States are "resolute in our quest to ensure that everyone can benefit from the opportunities that ICTs can offer", and agree that in order to meet those challenges, all stakeholders should work together to "foster and respect cultural diversity". It also states that not only is consumption or access to contents a "high priority" but also their creation and dissemination. It is "essential", according to the Declaration, "to promote the production of and accessibility to all content - educational, scientific, cultural or recreational - in diverse languages and formats."<sup>5</sup>

The Declaration also highlights the role played by traditional media - based both on analogical and digital technology. In view of their current and future role in Southern information societies, this reference is of

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4 See, for example, the following text of the Plan of Action of the first phase of the WSIS: "Governments should take action in order to support an enabling and competitive environment for the necessary investment in ICT infrastructure and for the development of new services" (article 9 of C2 action line - "Information and communication infrastructure: an essential foundation for the Information Society"). See also the text corresponding to action line C6 - "Enabling environment".

5 Item 53, Declaration of Principles, Geneva, December 2003.

utmost importance. Apart from reaffirming the principles of freedom of opinion and expression and making reference to Article 19 of the Universal Declaration of Human Rights<sup>6</sup> - not included in the first drafts - there is mention to the need of having a diversity of media available, while at the same time “diversity of media ownership should be encouraged”,<sup>7</sup> thus reducing international imbalances as regards to infrastructure, technical resources and the development of human skills.

These good principles, however, have been gradually lost within those texts that refer to actions and policies aimed at implementing this Declaration: the Plan of Action focuses on other priorities, where “to connect” and “access” for “delivery of services” are the key focal points of all the strategy aimed at building the information society. This perspective turns the Plan of Action into a document where the importance given to access and passive reception of information is contrasted to the weak presence of goals aimed at the creation, production and dissemination of contents and cultural goods and services. Among the 10 targets included to “be taken into account in the establishment of national targets”, six talk about “connecting”.<sup>8</sup> Other two points set the target that all people should have access to “television and radio services” and that “more than half of the world’s inhabitants” should have access to ICTs. Therefore, all the other issues included in the Declaration of Principles are limited to two weak targets in the Plan of Action (“to adapt all primary and secondary school curricula to meet the challenges of the Information Society, taking into account national circumstances” and “to encourage the development of content and to put in place technical conditions in order to facilitate the presence and use of all world languages on the Internet”).

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6 Which reads: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

7 Item 55 of Chapter 9 - Media, Declaration of Principles, December 2003.

8 Villages, universities, colleges, secondary and primary schools, scientific and research centres, hospitals and other health centres as well as local government departments.

Besides, the Plan of Action shows a reduced idea with regards to the concept of culture and cultural expressions: unlike the promising and broad definition set forth in the Declaration of Principles, the action line on cultural diversity is limited to the “dialogue among cultures” and the “regional and international cooperation”.<sup>9</sup> The concept of “cultural diversity” starts to be dealt with as exclusively referred to indigenous peoples, religions, documenting historical heritage, traditional knowledge or issues related to languages and dialects. None of the measures proposed addresses the “encouragement of diversity” in terms of media ownership nor establishes the limits to concentration - a growing trend at national and international level that goes directly against the diversity of information and opinions.

In the Regional Plans of Action and Commitments, which followed the first phase of the WSIS in Geneva, the same fading process regarding issues related to cultural diversity can be noticed. Except for a few cases - marked by specific regional needs such as the demand for inclusion of African languages and the development of the Arab culture on the Internet - there is still a tendency to identify the following as priority issues: access and connectivity, setting up of infrastructure, creation of adequate environments for investment and capacity building for the use of new technologies.

## WTO and UNESCO Convention: Threats and opportunities

In order to analyze the possibility of defending and fostering cultural diversity, it is therefore essential to look at other multilateral processes that are taking place in parallel with the WSIS. On the one hand, the negotiations within the framework of the World Intellectual Property Organization (WIPO), the WTO and the FTAs and, on the other hand, UNESCO's CCD.

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9 Point 23 of line C8 of the Plan of Action - “Cultural diversity and identity, linguistic diversity and local content”

Unlike the WSIS, decisions are binding upon national States within these spheres and, in some of them, the sanctions provided for in case of default could have ominous consequences on underdeveloped economies. Furthermore, many of these negotiations are carried out by means of closed-door processes, without neither transparency nor citizen participation.<sup>10</sup>

### *Free trade agreements*

Upon analyzing the WTO and FTA processes it becomes clear how they are being increasingly imposed on country decisions and weaken the capacity for implementing cultural policies guided by public interest. By considering broadcasting services, audiovisual productions and other cultural expressions as goods that should remain subject to trade liberalization processes, the same as other commodities, these agreements have become a real threat against cultural diversity.

The major media, entertainment industry and telecommunication corporations, supported by developed governments - mostly the United States (US) - seek to liberalize the cultural, information and communication services in order to allow for the unrestricted introduction of large transnational capitals in other markets, as it has been done with other goods and services. These impositions are further aggravated by the fact that they are attached to a strong coercive system to ensure their application: fines, economic, diplomatic and military pressure, disputes solved through mechanisms that fall outside the scope of the public state and international law system.

Until now, cultural and media policies, such as the public policies for the support and promotion of non-profit media, setting of minimum local content production and support to national audiovisual production, as well as the limits to media ownership, fall outside the scope of WTO agreements, under the so-called “cultural exception”.<sup>11</sup>

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10 Khor, Martin (2003), “Cancun Ministerial starts in shadow of protests and an untransparent process”, [www.twinside.org.sg/title/update2.htm](http://www.twinside.org.sg/title/update2.htm)

11 In the 1993 General Agreement on Trade in Services (GATS), a position adopted by France and supported by the EU prevailed, regarding the non incorporation of the cultural and audiovisual sector among those commitments concerning market access and national treatment.

Nevertheless, the demand for liberalization continues to be one of the flagships of the US, the biggest producer of cultural goods and services - particularly audiovisual ones - which, supported by media corporations, keeps exerting pressure, both within and outside the WTO, to achieve the liberalization of the sector. In recent years, the US has developed a strong offensive to establish bilateral or sub-regional agreements and covenants of different kinds. Its aim has been to impose “an aggressive agenda for market opening in services” all over the world, “including audiovisual and telecommunication services”. The US political agenda on this issue is based on specific interests, as stated by the government: “Since the United States is the world’s leader in services for the 21<sup>st</sup> century economy, and services account for 80% of US employment, our efforts in this area continue to be significant. Market opening in services is essential to the long-term growth of the US economy”.<sup>12</sup>

The US believes that cultural production should be considered as any other area of the economy and therefore it is “aggressively seeking to conclude agreements in which its trading partners accede to demands that the sector be liberalized, meaning they forego the right to have culture policies designed to ensure a space for domestic production, including measures to support the development of national cultural industries.”<sup>13</sup> The reason: cultural industries represent the second most important export sector of its economy. In 2004 these industries invoiced over USD 400 billion<sup>14</sup> and their growth at world level in US dollars amounted to 300% between 1980 and 1998 only. “The European Union, the United States and Japan

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12 Office of the US Trade Representative (2005), *The President's Trade Policy Agenda for 2005*, [www.ustr.gov/Document\\_Library/Reports\\_Publications/2005/2005\\_Trade\\_Policy\\_Agenda/Section\\_Index.html](http://www.ustr.gov/Document_Library/Reports_Publications/2005/2005_Trade_Policy_Agenda/Section_Index.html)

13 Coalition for Cultural Diversity (CCD 2003), As UNESCO starts work on the Cultural Diversity Convention, the challenge will be to hold the line on culture in trade talks, Vol. 1, No. 5, December 2003, [www.cdc-ccd.org/coalition\\_currents/Dec03/coalition\\_currents\\_sp.html](http://www.cdc-ccd.org/coalition_currents/Dec03/coalition_currents_sp.html)

14 Colussi, Marcelo (2005), Del Informe MacBride a Telesur, Rebelión, August 2005, [www.rebelion.org/noticia.php?id=19232](http://www.rebelion.org/noticia.php?id=19232)

gather 87% of profits earned in terms of cultural goods and communications, the remaining 13% being left to all other countries in the world.”<sup>15</sup>

According to the Coalition for Cultural Diversity, it can be stated, then, that “the aim of this battle is to prevent countries from mortgaging their future by giving up the right to introduce new cultural policies or adjust existing ones in response to changing circumstances. Protecting this capacity to introduce new policies in the future is a critical issue for all countries, but in particular for developing countries which in many cases do not yet have a comprehensive set of cultural policies in place but aspire to do so.”<sup>16</sup>

### *Convention on Cultural Diversity*

In view of trade liberalization processes, UNESCO’s Convention on the Protection of Diversity of Cultural Contents and Artistic Expressions (CCD),<sup>17</sup> aims at promoting cultural diversity, protecting it against the specific threats posed by globalization processes. It intends to prevent culture from being treated as an ordinary merchandise and therefore seeks to avoid the consolidation of monopolies of cultural and media industries in the hands of a few multinational companies. The text of an international treaty has been prepared which gives States the opportunity of deciding the extent to which they want to protect their national cultural sectors.

In October 2003, UNESCO’s General Assembly approved a proposal for launching the CCD process with instructions to finish negotiations in 2005. This proposal was supported by almost all member States except for the US, which after 19 years of not taking part in the organization, has now returned to active participation and has tried to block the CCD process, subordinating it to WTO agreements.

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15 Octavio Getino quoting García Canclini at Culture Industries in Argentina, Observatory of Culture Industries of the City of Buenos Aires.

16 CCD (2003), *op cit*.

17 [portal.unesco.org/culture/en/ev.php-URL\\_ID=11281&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=11281&URL_DO=DO_TOPIC&URL_SECTION=201.html)

Pursuant to UNESCO's procedures, Director-General Matsuura appointed an international pluridisciplinary group made up of 15 independent experts in charge of gathering suggestions and opinions for the development of a preliminary draft. After three meetings held between December 2003 and May 2004, the group submitted the General Director a preliminary draft.<sup>18</sup> Based on this draft and after being approved by the Executive Board, several intergovernmental meetings have been held to discuss the final text of the Convention. This text is presented for consideration of the General Conference in October 2005, being recommended as draft for the CCD. The final outcome of negotiations on the content of the CCD is not clear at the time of writing this document, and the Convention's future depends on whether it will be subordinated to trade agreements or not. Another issue under discussion is the possibility of defending those principles both at national and international level.

Although the CCD may facilitate the promotion of cultural diversity, the reason why many countries supported the Convention is not because they want to turn their national communication systems into diversity spaces, but because of the aim to prevent massive concentration in transnational companies, while keeping control and concentration of media and cultural industries at national level. Therefore, the international civil society has the responsibility of supporting the CCD process, but also of exerting pressure on national governments so that the text reflects a true diversity and not just a series of homogenized national cultural industries, following the market logic but with a "local touch".

The Communication Rights in the Information Society (CRIS) campaign, for example, points out the need of achieving a balance between the references to the protection of intellectual property rights and the protection of community culture. It also highlights that the Convention should be designed not only to protect the diversity of national and regional cultural industries but also to protect the cultural diversity and communication rights of humankind as a whole.<sup>19</sup>

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18 [portal.unesco.org/culture/en/ev.php-URL\\_ID=21907&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=21907&URL_DO=DO_TOPIC&URL_SECTION=201.html)

19 CRIS, UNESCO's CCD campaign, 2004, [www.crisinfo.org/](http://www.crisinfo.org/)

## Threats posed to cultural diversity

### *Media concentration*

The growth and consolidation of concentration in terms of the production and distribution of cultural goods and services - particularly those related to the media - is a fact and represents one of the major threats against cultural diversity.<sup>20</sup>

This process is the expression - at a cultural level - of a global dynamic of economic and political power concentration that is evidenced, among other things, through ownership control and accumulation, the growing participation of foreign capital in the national media, the centralization and homogenization of contents, the convergence among different technology sources (between telecommunications and media, between new and traditional technologies), the weakening and privatization of public services and the globalization of media markets and industries. These elements hinder the attempts to set national cultural policies focused on public interest. The combination of these processes has resulted in the consolidation of large multimedia conglomerates which control both the complete production and distribution chains (vertical integration) and the different markets within the sector (horizontal integration).

Control and concentration of media ownership<sup>21</sup> has grown considerably in recent decades, encouraged by benefits provided by scale economies aimed at the reduction of production and distribution costs, the possibility of cross-subsidies and broader profit margins. This process has taken place both at national and international level as well as in rich and poor countries.

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20 According to the Special Rapporteur for Freedom of Expression of the Interamerican Commission on Human Rights “the concentration in the ownership of communication media conspires against plurality and diversity of expression in different sectors of society. This is a practice which seems to be growing in the hemisphere given the number of reports received by the Rapporteur in this regard.”

21 Strictly, broadcasting media ownership does not exist, since the radioelectric spectrum belongs to the Heritage of Humanity, and therefore they are only users who were granted an authorization or license by national States.

A concentration analysis cannot be reduced to gathering information about the number of media in the hands of a certain group. The capacity to produce and control the distribution of contents through other dependent or subordinated means should also be taken into account. Therefore, ownership accumulation goes alongside with a process of centralization and control of contents - information, meanings, opinions and values.

The diminished production capacities of most local radiobroadcasters and the weakness of public media concerning the release of quality productions add to a situation in which large capitals have greater competitive advantages. This problem goes beyond traditional media and affects all cultural expressions from film production to Internet contents.

In terms of linguistic diversity, for example, research carried out has proved that the Internet strengthens the global trends towards linguistic standardization<sup>22</sup> and that the US, followed by the United Kingdom, Canada, Germany and Australia are also the central countries with regards to Internet information flow.<sup>23</sup>

Regarding the audiovisual aspect, there is also a strong concentration and homogenization of contents. In the first 19 weeks of 2005, film market indicators in Argentina<sup>24</sup> showed that only 2.3% of viewers watched nationally produced films and 0.5% watched films produced in other Latin American countries; 89.2% accounted for films produced in the US and the remaining 4.8% to European films.<sup>25</sup>

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22 *Multilingualism on the Internet*, Vol.6, N° 1, February 2004, research coordinated by Sue Wright, [www.unesco.org/shs/ijms/vol6/issue1](http://www.unesco.org/shs/ijms/vol6/issue1)

23 Barnett, George ; Bum-Soo Chon y Devan Rosen (2001), *The Structure of the Internet Flows in Cyberspace*, Networks and Communication Studies, NETCOM, Vol. 15, No. 1-2, 2001.

24 Which has an important film industry, compared to most Southern countries. In the first semester of 2005, 26 new national productions were released, compared to only 3 or 4 in Uruguay, for example.

25 Cinema Advisory Board.

The same happens all over the world: the Minister of Culture and Communication of France, Renaud Donnedieu de Vabres, has informed that “85% of cinema tickets sold around the world are connected with Hollywood films.”<sup>26</sup>

With regards to music production and distribution, the situation is similar. Seventy-five per cent of the world music market is controlled by four multimedia corporations: Vivendi concentrates 25.9%, Sony-BMG 25.2 %, EMI 12%, and AOL-Warner 11.9%.<sup>27</sup>

On the other hand, only five powerful US-based multimedia companies (AOL-Time-Warner-CNN, Viacom-CBS-MTV, Disney-ABC-ESPN, News Corp-Fox TV-DirectTV and General Electric-NBC-Vivendi-Universal)<sup>28</sup> together with Bertelsmann, in Europe, and Sony, in Japan, hold the power of the media on a global scale.<sup>29</sup>

This concentration poses a serious threat on cultural diversity and has been denounced both in Europe and Latin America. In 2004, the European Parliament requested the European Commission to prevent the growing concentration in the communication media “from leading to the creation of an oligopoly which may endanger pluralism, cultural diversity and consumers’ freedom of choice.”<sup>30</sup> In March 2005, the European Ministerial Conference on Media Policies informed on the growing concentration trend in the region and decided to take steps to protect and promote cultural and linguistic diversity in the media and to adopt specific regulations for the sector in order to “avoid their potential harmful impact on pluralism and preserve diversity in the media.”<sup>31</sup>

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26 UNESCO Third Intergovernmental Meeting for the CCD, Paris, June 2005.

27 Observatory of Culture Industries (OIC), Undersecretary of Management and Cultural Industries of the City of Buenos Aires, 2004.

28 Some authors claim that there is a “second division” with large regional groups located in the US, but also in Japan and Europe such as Comcast and Hearst, Mc Graw Hill, Pearson, Kirch, Hachette, Prisa and others (the latter quoted by McChesney, 2004).

29 Columbia Journalism Review, *Who Owns What*, [www.cjr.org/tools/owners/](http://www.cjr.org/tools/owners/)

30 European Parliament resolution of 1 April 2004.

31 The problem is particularly serious in Eastern European countries. See an investigation of the Media Division of Council of Europe and the South East European Network for Professionalization of the Media. (SEENPM)

The concentration of cultural goods and services, including telecommunications, is also very important in Latin America and the Caribbean, where a process of consolidation and growth is currently undergoing. Levels of ownership concentration are important in the whole sector, including the press, radio, free-to-air television, paid television, basic and mobile telephony, and Internet providers. According to Guillermo Mastrini, “the control over sales/audience/subscribers, as well as the total revenues of the four largest companies of each sector range from 40% (average) in the case of the radio to more than 95% in basic and mobile telephony and paid television (average).” Excepting the radio, these groups or companies have more than 60% of the market share. The same happens globally with transnational companies based in the US, Europe and Japan, and there are groups in Latin America, such as Cisneros (Venezuela), Globo (Brazil), Televisa (Mexico) and Clarín (Argentina), which have strong control within their countries and corner a great portion of the regional market.<sup>32</sup>

Technological development and convergence have facilitated the process of multimedia expansion and have allowed the consolidation of concentration and control over the media. But while technology is the structural basis that made this globalization possible, a exclusively “free market-based” approach was in charge of providing the political and intellectual framework for putting it into practice. Latin America, for example, went through a strong privatization process in the 1990s, which with the purpose of opening the market to competition and ensuring access to better and more affordable services for the population, dismantled state-run telecommunication monopolies. In most cases, results were not those stated, and the goal of making the market competitive was not achieved: state-run monopolies were turned into private monopolies or oligopolies and throughout the process the capacity for setting social public policies was strongly eroded.

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32 According to Mastrini’s opinion, Latin America has a subordinated role to “the global commercial system of information and communication activities”, but with “speculative trends regarding the development of these processes in central countries.” [legislaciones.amarc.org/CD/cd/1.4\\_concentracion.htm](http://legislaciones.amarc.org/CD/cd/1.4_concentracion.htm)

## What should be done?

At the different multilateral levels, it is possible to define basic actions - affirmative and defensive - which should be encouraged for the promotion and protection of cultural diversity:

- *Within the WSIS*: Maintain what has been achieved so far, avoiding regressions and at the same time re-direct efforts towards national and regional processes where specific strategies are defined.
- *At the WTO and FTAs*: Defend and maintain the cultural exception in the WTO and exclude cultural goods and services from negotiations on free trade and investment agreements.
- *At UNESCO*: Re-direct efforts in order to achieve the rapid approval of the CCD, not allowing its subordination to trade agreements.

It is of the utmost importance for civil society to support actions being taken in most Southern countries, Canada and the European Union aimed at the approval of an international instrument such as the one proposed in the Convention draft at the time this document was written, particularly if the non-subordination to other international agreements is to be sustained. Now, what should be done while the CCD is in the process of approval? The main recommendation, in this sense, is to support all efforts aimed at maintaining the “cultural exception” in agreements within the context of the WTO. Together with maintaining this exception, the idea of a “moratorium” to avoid the inclusion of cultural aspects in the negotiations of bilateral and regional free trade and investment agreements has also been suggested.<sup>33</sup>

### *Culture as a right*

Other alternatives put forward are based on resorting to existing international and regional instruments on human rights. In the Americas as well as in Europe and Africa there are mechanisms and tools to

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33 Canada, for example has incorporated an absolute exception of culture in its bilateral negotiations with Chile, Costa Rica and Israel. Australia and Singapore followed these steps in the bilateral Free Trade Agreement signed in 2003.

denounce situations that may violate international human rights agreements, particularly those regarding freedom of information and expression.<sup>34</sup> The use of these tools could revert facts, policies and regulatory frameworks that may be incompatible with these agreements, by means of political pressure, reports and recommendations or by compulsory judicial decisions for the countries party to the treaty.

Should the prevailing perspective in the WSIS process be maintained, it would become an - at least - inefficient answer, both in terms of progress towards the development goals set by the United Nations - such as the Millennium Development goals<sup>35</sup> - as well as in what refers to ensuring cultural diversity. The challenge that remains open for Southern countries, lies then in the definition of national and regional strategies. In the spaces for dialogue that may arise from these processes there will be a need for the promotion of a new approach to the information society focused on human rights in general and on expression and communication rights, in particular.

It is essential for the WSIS to approach in a different way both the problems to be studied and the solutions proposed, which should include some of the aspects explained below.

### *Technological inevitability*

“Technological inevitability” is questioned unless accompanied by regulations and incentives designed to change current trends.

In effect, ICT allows great access to information and its dissemination, but this potentiality can be promoted or hindered by political and regulatory decisions. Some hindrances - and solutions - are the result of technological development and others of economic and political interests. As a

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34 American Convention on Human Rights or Pact of San José, Costa Rica (entered into force in July 1978); European Convention on Human Rights (entered into force in September 1953); African Charter on Human and People's Rights (entered into force in October 1986).

35 [www.un.org/millenniumgoals/](http://www.un.org/millenniumgoals/)

matter of fact, one of the tasks to be carried out in the future is determining which hindrances - and solutions - are the result of technological development and which are the result of “human development”.<sup>36</sup>

### *Connectivity as a false paradigm*

It is essential to give the problem of digital divide and the alternatives to overcome it<sup>37</sup> a new approach. Digital inclusion strategies should be encouraged in order to promote “not only access to, but also use and social appropriation of digital technologies: for meeting the needs of the communities, and fostering public policy development, knowledge creation, appropriate content creation and capacity strengthening.”<sup>38</sup>

With regards to new ICTs, especially Internet, cost barriers, poor availability of content in local languages - or adapted to local realities - and the low stakes on capacity building, beyond the basic use of equipment and *software*, evidence the limitations of *hardware* and cable-based policies.<sup>39</sup>

The fixing of prices, rates and taxes on software and equipment “should function in favour of a real access for all economic groups”. Moreover, “the existence of different needs” should be acknowledged “and a gender perspective should be incorporated so as to ensure equal access to all men and women.”<sup>40</sup> It is essential to ensure minimum access to infrastructures and services, but it would also be necessary to implement integral measures for those to be used effectively - cost reductions for priority sectors, promotion of national technological solutions and education since childhood, among others.

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36 Gómez, Gustavo (2004), *Study and recommendations on Radio, NITCs and rural development in Latin America*, International Workshop La Onda Rural, 20- 22 April 2004.

37 The idea of digital inclusion for social inclusion, definition proposed by civil society to mark its difference from the proposal of universal access and connectivity as a paradigm, is another example of language that has been incorporated but actually promotes a different approach.

38 *Telecentros... ¿Para qué? Lecciones sobre telecentros comunitarios en América Latina y El Caribe*, [www.tele-centros.org/tcparaque/](http://www.tele-centros.org/tcparaque/)

39 Gómez, Gustavo (2004), *op cit*.

40 APC and CRIS (September 2003), *Involving Civil Society in ICT Policy: the World Summit on the Information Society*, [www.apc.org/books/policy\\_wsis\\_EN.pdf](http://www.apc.org/books/policy_wsis_EN.pdf)

Together with infrastructure needs in Southern countries,<sup>41</sup> an active public policy is vital to enable and promote the contents being produced and transmitted by means of those technologies, just as it is essential to build the human skills necessary for their appropriation.

### *Not just consumers*

A strategy which does not limit itself to turning people into consumers of technologies and contents developed by others should be encouraged. Emphasis should be made on pursuing public policies with a view to building and strengthening capacities for the production of content and creative appropriation of ICTs, making them suitable to local needs and realities.

In this approach, capacity building should include the support to local small and medium-sized enterprises for the development of technological solutions - such as software components - more suitable than those offered by Northern country-based enterprises. This would also favour the use of local labour force as well as regional and national technological development. This approach extends to policies supporting local companies and research centres - both state and private - which create ICT-based solutions, as well as to decisions to increase state investment amounts allocated to research.<sup>42</sup>

### *New importance to broadcasting*

Information and communication policies cannot be limited to the Internet. It is necessary to include and give greater emphasis to broadcasting, which will continue to be a key component of the information society for many years to come.

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41 Including not only communication technologies but also base infrastructure, such as electrical deployment

42 Gómez, Gustavo (2004), *Políticas Públicas de Comunicación: El ausente imprescindible - Democracia, Sociedad de la Información y Gobierno Progresista*, Montevideo, January 2004.

While 5% to 8% of Latin American population had access to Internet in 2002, 44% had access to radio and 29% to television,<sup>43</sup> according to the International Telecommunication Union (ITU).

The optimization in the use of the spectrum could open democratizing options owing to digitalization or increase money accumulation capacity, thus consolidating the power of current oligopolistic and monopolistic operators. Wherever it may still be possible, the definition of the digital patterns and standards to be used should take these possibilities into consideration. Policies, action and resources, among others, will be necessary to allow digitalization of public, community, educational and other non-commercial TV and radio.

#### *The analogical divide* <sup>44</sup>

The modernization and democratization of regulatory frameworks are essential in order to achieve an enabling environment for the access of all social sectors to radioelectrical frequencies on an equal footing, and also to limit media concentration.<sup>45</sup>

In Europe, with all the development of digital technologies in the region, the “analogical blackout” will arrive in 2015. How much longer will it take in Southern countries, where millions of people still have great difficulties to have access to electricity? It is urgent, therefore, to face and reduce the analogical divide, since the information society,

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43 Traditional media offer an infrastructure that is already installed and which the population is familiar with. The idea of taking advantage of radio synergy with other technologies, with the Internet specifically, is becoming increasingly popular. Policy of shared access such as telecentres in relation to rural and community radios seems to be one of the effective ways to increase the possibilities of rural communities to access information.

44 “Before worrying about closing the digital divide which is just opening for some of us, we should solve the pending questions of the analogical divide”, Mexican Senator Javier Corral said, wondering if we can speak of a democratic and plural information society given the existing difficulties to face “the current legal frameworks which regulate traditional media technologies and which show the more closed-in and monopolistic economy frameworks, such as broadcasting”.

45 Which is also important for digitalization, since current successful bidders might be the only ones to benefit from its advantages, according to the digital pattern options selected.

for the majority of the population worldwide, will continue to be possible only through radio or TV for many years to come.

### *Acknowledging, defending and ensuring cultural diversity*

The processes and trends identified during the research on which this paper is based strongly question the idea that the market can solve the problems of development or ensure cultural diversity on its own. On the contrary, in the areas surveyed - telecommunication, broadcasting and cultural services in general - the market shows a natural tendency towards a growing oligopolization and monopolization, thus limiting and reducing cultural diversity.

Therefore, one of the main conclusions of this paper is that it is not enough to acknowledge cultural diversity for it to exist. It is necessary to defend, promote and ensure it through active public policies and appropriate regulatory frameworks, and that is why governments should count on political will as well as on sufficient financial and human resources for this. If action is not taken for the development of these policies and tools to oppose, or at least restrict it, Southern countries will be parties to the tendencies described and sooner or later will be forced to accept their “cultural suicide”.

The principle of the “sovereign right of Nations to adopt appropriate measures and policies in order to protect and promote the diversity of cultural expression within their territories”, stated in the CCD draft, should guide national strategies. This right is in agreement with the obligation of nations to pursue active policies and to enable the exercise of fundamental human rights, thus granting “a significant space for local cultural content, and the adoption of measures which encourage the existence of national cultural industries capable of producing and distributing said content.”

Some of the actions recommended at a regional, subregional and national level for the acknowledgement and promotion of cultural diversity should include policies for:

- Setting quotas and policies to encourage the production of national and local content, aiming at a plurality of voices and information.
- Strengthening public media by offering sufficient resources and infrastructures for the development of their work.
- Establishing effective limits to property concentration and to media content centralization.
- Establishing limitations to crossing in media ownership in different technological resources so as to control the spreading of multimedia.
- Granting sufficient powers and resources to the bodies in charge of the regulation of telecommunications and broadcasting for an effective supervision of these aspects.
- Acknowledging and promoting community media and other non-commercial forms, both in broadcasting and other ICTs.
- Modifying regulatory frameworks concerning (both analogical and digital) radio and TV for the creation of enabling environments which ensure equal access of all social sectors, particularly the more vulnerable ones, to ICTs.
- Making provisions in management plans of the radioelectrical spectrum (for analogical as well as digital use) for public, community, educational and other non-commercial means.
- Selecting the digital broadcasting pattern to be used at a national level, taking into account its contribution to democratization and to the promotion of option diversity, and avoiding greater concentration.
- Enabling civil society participation in the development, definition and implementation of information and communication policies.
- Encourage social control of cultural industries and means by civil society.