

## Session 6

### "Human Rights - Global Culture - International Institutions"

#### Workshop 6.2

### "Towards a Global Community of Human Rights Law"

Universal but different?

Human rights and cultural identity

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# Structure

## I. Universality of Human Rights vs. cultural relativism

### 1. The Right to cultural identity as a human right

#### a. Definition of cultural identity

#### b. Categorising the right to cultural identity

#### c. Restrictions and limitations of the right to cultural identity

### 2. Constitutional concept of “coordinated co-existence” as a role model?

→ Case study: BVerfGE 104, 337, (“Schächten”), 15th January 2002

### 3. Cultural identity vs. shared citizenship: a Gordian knot?

# Structure

## II. Global culture

1. What's global about culture ?

a. The shift from “property” to “heritage”

b. Case study: Germany.

c. “Valuing Diversity – Fostering Cohesion” (President Wulff October 3rd, 2010 in Bremen)

d. Case study: Integration effects of sports or how to support the German national football team when a guy called Mesut Özil shoots you into the semi-final?

e. The European perspective: Observing Lessing's ring parable?

→ The Charter of Fundamental Rights of the European Union

2. The role of International Institutions in the promotion and protection of cultural identity and cultural diversity

a. UNESCO as a key actor

b. Documents that deal with cultural identity

# Structure

- **III. Conclusions**

# I. Universality of Human Rights vs. Cultural Relativism

- **Art. 55 c UN Charter:**

“...The UN shall promote...**universal respect** for, and observance of, human rights and fundamental freedoms **for all without distinction** as to race, sex, language, or religion.”

- **1993 Vienna Declaration and Programme of Action, paragraph 5:**

“All human rights are **universal, indivisible and interdependent and interrelated**.

*The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.*

*While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, **regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.**”*

# 1. The Right to cultural identity as a human right

## a. Definition of cultural identity:

- **Cultural identity** is a group's or an individual's idea /sense of being part of a common social practice or process in a historical context.

Culture shapes identity. Cultural identity provides security in a fast changing world.

“Culture” encompasses: shared conceptions of morality, value systems, lifestyles, languages, dresses, traditions, rites, dances, habits...

Cultural background is a pivotal source of identity.

## b. Right to cultural identity → specification of the right to self-determination

## c. Restrictions and limitations of the right to cultural identity

## d. Cultural identity vs. shared citizenship: a Gordian knot ?

## II.1 Is there a global culture ?

a. The shift from property to heritage

b. Case study: Germany

c. „Valuing Diversity – Fostering Cohesion“:

*Quote:* Federal President of Germany, Mr. Wulff,  
on October 3rd, 2010, in Bremen  
(20th anniversary of German reunification)

# „Valuing Diversity – Fostering Cohesion“

*“...Our country has become more open, more outward looking, more diversified- and more divergent....between people from different faiths and cultures...it cannot be said often enough that a free country such as ours thrives on diversity, on varied lifestyles, on being open to new ideas. Otherwise it will fall. **Too much uniformity chokes people’s own creativity and can ultimately only be gained at the expense of freedom. Our country must be able to withstand diversity.***

*...I am firmly convinced, the future belongs to those countries that are open to cultural diversity, to new ideas, to people from different backgrounds and to the unknown...*

***We must adopt an unequivocal stance.** We need to view German identity as something that is not defined merely by people’s passports, family background or faith, but is something broader. Christianity is without doubt part of German identity, such is our Judaeo-Christian heritage. But Islam has now also become part of German identity.”*



## d. Case study: Integration factor of sports

**Or: How to support the German national football team when a guy called Mesut Özil shoots you into the semi-final?**

## e. The European perspective: Observing Lessing's ring parable?

- **CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION**

### Preamble

“...The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Conscious of its spiritual and moral heritage, (*note: not: Christian/religious*) the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, services, goods and capital, and the freedom of establishment.”

## 2. The Role of International Institutions in the promotion and protection of cultural identity and cultural diversity

### a. UNESCO as a key actor

- established in November 1945
- a UN's Specialized Agency

**In the Constitution's preamble**, it is stated

*“That since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed”.*

According to its **constitution**, UNESCO's aim is to:

**(Art. I, 1)** *”contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, the rule of law and for human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction to sex, language or religion, by the Charter of the United Nations....”*

## **b. Some legal documents that deal with culture, the right to culture and cultural identity (non exhaustive !)**

- International Bill of Rights;
- the Convention on the Rights of the Child;
- the International Convention on the Elimination of All Forms of Racial Discrimination;
- the Declaration on Race and Racial Prejudice;
- the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;
- the Declaration on the Principles of International Cultural Cooperation;
- the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
- the Declaration on the Right to Development;
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- the ILO Convention No. 169 on the Rights of Indigenous and Tribal Peoples.

## b. Continued – UNESCO documents (extract!)

- Action Plan on Cultural Policies for Development, Stockholm, 1998
- Agreement for facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character, Beirut 1948
- Berne Convention for the Protection of Literary and Artistic Works, 1979
- Convention concerning the Protection of the World Cultural and Natural Heritage –Paris, 1972
- Convention for the Protection of Cultural Property in the Event of Armed Conflict – the Hague, 1954
- Convention for the Safeguarding of the Intangible Cultural Heritage – Paris, 2003
- Convention on Indigenous and Tribal People, Geneva 1989
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property – Paris, 1970
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)
- Convention on the Protection of the Underwater Cultural Heritage - 2001
- Declaration of the Intergovernmental Conference on Cultural Policies in Africa- Accra, 1975
- Declaration of the Intergovernmental Conference on Cultural Policies in Asia- Indonesia, 1973
- Declaration of the Principles of International Cultural Co-operation – Paris, 1966
- Draft International Convention for the Safeguarding of the Intangible Cultural Heritage - Paris, 2003
- Florence Agreement on the Importation of Educational, Scientific and Cultural Materials - Florence, 1950
- International Code of Ethics for Dealers in Cultural Property
- Istanbul Declaration on Cultural Diversity-Istanbul, 2002

## Contin...

- Key ideas from the resolutions adopted by the Intergovernmental Conference on Institutional, Administrative and Financial Aspects of Cultural Policies - Venice, 1970
- Mexico City Declaration on Cultural Policies, 1982
- New Delhi Declaration on the Dialogue among Civilizations, 2003
- Proposed Action Plan of the Meeting of the Experts Committee on the Strengthening of UNESCO's role in promoting Cultural Diversity in the context of Globalization - Paris, 2000
- Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials - Nairobi
- Recommendation Concerning International Competitions in Architecture and Town Planning - New Delhi, 1956
- Recommendation concerning the Safeguarding and Contemporary Role of Historic Areas - Nairobi, 1976
- Recommendation concerning the Status of the Artist – Belgrade, 1980
- Recommendation for the Protection of Movable Cultural Property - Paris, 1978
- Recommendation on International Principles Applicable to Archaeological Excavation - New Delhi, 1956
- Recommendation on the Safeguarding of Traditional Culture and Folklore, 1989
- Recommendations of the Intergov.Conference on Cultural Policies f. Development - Stockholm, 1998
- The Bogotá Declaration Cultural Policies in Latin America, 1978
- UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage – Paris, 2003
- UNESCO Universal Declaration on Cultural Diversity – Paris, 2001

# III. Conclusions

1. To engage in encountering different cultures does not necessarily foster differences but helps exploring and understanding the unknown.
2. Claiming cultural relativism as an excuse to violate or deny human rights is an abuse of the right to cultural identity.
3. **Cultural identity is not an obstacle or threat to integration but an enrichment:** Understanding a different culture leads to exchange, stability and an enriched global culture.
4. The diversity of cultural expression is a common heritage of mankind – just like monuments, buildings and landscapes.
5. International Organisations such as UNESCO as an UN´s specialised agency play a substantial role in making encounter work.
6. In the area of cultural encounter, international organisations are standard-setters and have an engine and multiplier function. However, the “bulk” of work must be done by each individual / citizen through his and her activities.
7. Thank you for your attention 😊!