**Silvio Ferrari. Answers to the Special Rapporteur in the field of cultural rights questions.**

1. In the legal system of my country (Italy), the main distinction is between public places (*luogo pubblico*: a street, a square, etc.), place open to the public (*luogo aperto al pubblico*: a theatre, a cinema) and private space (*luogo privato*: home, a building owned by a private subject, etc.). You can freely access a public place, you can access a place open to the public only if some conditions are respected (you need to buy a ticket to enter a cinema, etc.), you can access a private place only with its owner’s consent.

Other expressions that are current in the media or political language (public space, public sphere, public domain, etc.) are infrequent in the legal language.

1. In my country and in many European countries there is an increasing trend which limits the access to public spaces of individual and groups who want to access them performing practices and/or exhibiting signs which manifest their cultural convictions, particularly if they belong to a cultural minority. The legal provisions that some States have enacted to prevent individuals wearing cultural/religious symbols from accessing public spaces are a good example of this trend. These restrictions are frequently explained with (a) the need to ensure security and (b) the need to grant the secular character of public spaces. A good strategy to overcome these challenges is the deconstruction of the notion of public space in its three main components, common spaces, political spaces and institutional spaces (for a description of these three different spaces see annex 1). The need to grant security and the secular character of public spaces can and must be addressed in a different way in each of these three spaces. The same cultural or religious symbol has a different meaning and impact if it is exhibited by a judge when he/she delivers a judgment in a courtroom (institutional space), by the participant to a television talk show (political space) or by an individual who is crossing a street (common space) (for other examples see annex 1). A differentiated approach to these spaces and a pragmatic implementation of the rules governing each of them are the best options to minimize the restrictions of access to and use of public spaces by people who belong to cultural or religious minorities.
2. Each public space has its own characteristics that depend on the function it plays in social interactions.
3. The *common spaces* (street, square, etc.) are the physical spaces that people have to enter to meet their basic needs: in this sense, it is inescapable. These spaces are not accessed with the intent to participate in a political debate but simply to get to work or to buy what is needed for daily life. From a normative point of view, they must be kept as accessible as possible to avoid segregating in their homes people who do not feel able to enter them without manifesting their cultural belonging.
4. The *political spaces* are the space of debate and discussion where the public discourse takes shape. They frequently are metaphorical spaces (the web, a radio broadcast), although can have physical materializations (a political rally in a square, for example). In order to perform their creative function, the political spaces should be free and plural: the visible manifestation of different cultural convictions and traditions in this area is indispensable for the pluralism on which a democratic society is grounded. Much attention has been devoted to the conditions required to participate in the political debate that takes place in these spaces: while there is significant agreement on the opportunity to accept different types of discourses (including those based on comprehensive doctrines), a call to responsibility is also present. Differently expressed, it underlines the need that a public discourse – even when manifests a particular experience and vision of life – takes into account social complexity and plurality. Therefore, not only freedom (as in the case of the common spaces) but also responsibility are the principles that should be born in mind, from a normative point of view, when giving a legal configuration to these spaces.
5. The *institutional spaces* are the spaces where coercive deliberations, which are compulsory for all, are taken (parliament, the law courts, public administration, etc.). They are not (only) the spaces of debate and discussion, they are the spaces of decisions that, once they have been taken, have to be respected by everybody. In order to gain the general respect and recognition that is required for the enforcement of such binding decisions, these spaces must not only be but also be perceived as fair and impartial. However, these principles of fairness and impartiality do not mean the automatic exclusion of all religious or cultural practices, manifestations and symbols from the public institutions. The presence of religious/cultural symbols can be unsuitable in some of them and not in others, particularly if the principle of neutrality of the institutional spaces is applied in a way that includes people with different religions and cultures. In a school, for example, the quest for solutions that consent the coexistence of different religious and cultural symbols in the same physical space can be the best way to educate towards responsible and accountable pluralism.

Applying the same rules to all these spaces is conducive to undue and counterproductive limitations of cultural rights. This is why the general ban of religious or cultural symbols or practices in all public spaces (think for example of the French anti-burqa law) cannot be accepted.

1. The “right to public spaces” is a concept that is seldom used in the political and legal discourse in my country. This does not mean that it is unhelpful. Its first expression is the right to access public spaces without the need to give up the manifestations of one’s cultural belonging, unless there are clear and definite reasons that require the limitation of this right. Its second expression is the right to make use of the common and political public spaces (for the institutional public spaces things may be different) to express and promote one’s culture as a way to contributing to the common good. The same limitations apply to this second expression of the right to public spaces. To avoid that these limitations undermine the right enjoyment, they must be prescribed by law, be necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others (European Convention of Human Rights, art. 9).
2. Cultural rights allow different individuals and groups to contribute to the common good *in their own way*. This possibility is a tool (a) to enrich the public discourse, providing new experiences and opening new perspectives; and (b) to involve different people in the construction of the public spaces, contributing to the process of attainment of full citizenship (that is, a citizenship based not only on rules but also on shared experiences, principles, and values).
3. As far as cultural rights are concerned, privatization may be good or bad. A private school may be a useful tool to safeguard and develop the culture of a specific group but it may also become a cultural ghetto and contribute to the fragmentation of society along conflictual lines that are harmful to the enjoyment of cultural rights. It seems to me that the privatization trends can be harmless and even fruitful if a) a correct balance between public and private is safeguarded (which means, for example, a balanced private-public educational system) and b) privatization takes place in a framework of general rules that private subjects need to respect (a private school must provide information about and knowledge of different cultural and religious life stances).