



## SUMMARY OF THE WORKSHOP “RETHINKING CREATIVITY, RECOGNITION AND INDIGENEITY”<sup>1</sup>

Coroico, July 17-20, 2012

### INTRODUCTION

The **Alta-PI** Working Group (Alternatives to Intellectual Property) began with the premise that certain puzzles at the intersection of creativity, recognition, and indigeneity remain unsolved. How should creativity be recognized? How should such recognition be taken into consideration when dealing with communities and collectivities of creators and custodians of knowledge? Many people around the world have addressed these questions either by implementing a form of intellectual property rights or by framing the creative work as intangible heritage.

The project organizers believe that Bolivian civil society could occupy a unique position for beginning to untangle the complex socio-political knots that have increasingly conflated culture with property. By international standards, a very high percentage of Bolivians identify themselves or are identified by others as indigenous, and since the beginning of the 21st century, the country has undergone a series of major transformations, including the creation of a new constitution (2009) that significantly expanded indigenous rights. In this context, **Alta-PI** proposes facilitating broad civil society discussions about creativity, recognition, and indigeneity, hoping that from Bolivia innovative proposals might emerge that can stimulate the international debates around these issues.

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The workshop summarized in this document took place in July 2012 in Coroico, Bolivia, and led to the creation of **Alta-PI**, a citizens' group comprising around 25 people. The group includes artists, artisans, cultural promoters, indigenous representatives, media workers, independent researchers, and scholars. By exchanging and analyzing concrete experiences and fieldwork findings in anthropology, ethnomusicology, creative work, cultural production, cultural management, and cultural promotion, the group hopes to promote wider civil society discussions, with critical and comparative perspectives about what is underway in different national contexts; these perspectives are always related to everyday cultural and artistic practices.<sup>2</sup>

The workshop participants first met in the city of La Paz to introduce themselves before traveling to Coroico for two full days of conversations. Upon returning to La Paz, the workshop concluded with a Round Table entitled "Can cultures be owned?" This event, hosted by the National Museum of Ethnography and Folklore (MUSEF)<sup>3</sup>, which recorded it for its archives, included the participation of the Minister of Cultures, Pablo Groux, and representatives from the National Intellectual Property Service (SENAPI), the Bolivian Society of Authors and Composers of Music (SOBODAYCOM), and the culture department of the La Paz Municipal Government.

This document summarizes the Coroico workshop, which was organized around the themes of: 1) Creativity and Motivation; 2) Creativity and Recognition; 3) Circulation; 4) Heritage and Knowledge; 5) What is to be done?: Bolivia and the World. It closes with conclusions, proposals, and questions prepared for the Round Table in La Paz. Here, one will not find a single answer or proposal, but rather attempts to reflect the diverse contributions that emerged from all 25 participants.

Our goal is to contribute not only to debate among people who live beyond Bolivia's borders who are concerned about these issues, but also to contribute to the ongoing exchange of experiences, perspectives, and knowledge among Bolivians who live in the country's various regions.

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<sup>2</sup> Due to its nature as a citizens' group, Alta-PI does not adhere to a single political line. Instead, each member works from his or her distinct perspective, and we all work together to facilitate and coordinate activities related to the workshop themes.

<sup>3</sup> These are acronyms for the Spanish names. For the full Spanish names of these institutions see the Spanish language version of this document, available on the project's website (which also includes a glossary with further details of acronyms).





## TOPIC 1: CREATIVITY AND MOTIVATION

To delve into the topic of creativity and its motivations, the workshop opened by asking the following questions, which were discussed first in pairs and then in four groups:

**Question 1:** What has been the motivation or inspiration, which led you to develop a creative work? Can you provide an example?

The participants highlighted many social motivations; they said they create in order to share, meet, and communicate with other people. They also mentioned how creative work often serves a group's need to identify itself and similarly to be recognized by others. It was pointed out that creativity is always founded on the social: no one comes alone into the world; everyone comes from a mother. Environment, nature, beauty, cosmovision, and communication with superior beings were also emphasized as important stimuli. Moreover, some participants said they were motivated by their need to express themselves (their feelings, dreams, and memories), to change the world, to conduct research, and to solve concrete problems.

Participants discussed different attitudes about cultural change. Some participants defended the idea that when elders transmit culture to children and to the youth of indigenous peoples, at least among the Guaraní, they do not expect children to repeat exactly what they have learned. On the contrary, they teach with the expectation that what has been learned will be transformed continuously. In children and youth, they are implanting a "seed" of cultural change that is built into these societies. It was mentioned that a culture must adapt to the times. During the workshop, these alternative perspectives stood in contrast with others that reflected anxieties about cultural change.

These discussions provoked another question: "Does adaptation necessarily involve distortion?" Some participants questioned the concept of "distortion," arguing that the difference between a "distortion" and an "adaptation" appeared subjective. Others wondered, "When one takes a product resulting from someone else's creativity and modifies it, adding one's own creativity, which of these creativities is better or more valid?"

Even if creativity is always based upon past experience, knowledge, and models, participants nonetheless believed that every creative expression is "made anew."



Considering the idea that culture cannot exist without referring to the past, an important question emerged: How can a balance between the past and present be achieved in relation to respect, recognition, and creativity?

Some participants distinguished between, on the one hand, the creativity of the ancestors who drew inspirations from their environments, and on the other hand, today's creativity that seems to make more use of technology. Others insisted that although some things appear unchanged, so-called "technology" is always changing; for example, changes in musical instruments are also part of technology shifts. Participants underscored the need to analyze creativity in relation to patriarchy and colonialism. Rather than only speaking in masculine terms, it is critical to recognize many different creativities that reflect sexed and gendered bodies as marked by the colonial legacy, a legacy that frequently places women as second tier subjects.

Finally, it is notable that during these discussions nobody mentioned economic compensation as a motivation for their creative activities.

**Question 2:** What creative work would you produce without any expectation of remuneration? What creative work do you consider should be remunerated? Can you provide examples? What do you believe is the difference between these cases?

This set of questions provoked less discussion than the first, in part because less time was dedicated to it. Some groups recognized that in many cases, people engage in creative work without expecting any payment, seeking instead social recognition, which in practice can be quite limited. Some participants noted that payment is not usually involved for creative work when one does it for oneself or as a daily life task, or when it is done as a gesture of affection or as a means of sharing with friends, family, or community. Nonetheless, for those who make a living from their creative work, some participants felt strongly that compensation was indispensable. Other participants disagreed and argued, "art is made from the heart...and not to receive money." Some suggested that perhaps the difference between remunerated and unremunerated creative work is determined by the kind of interpersonal relationships present in each case. For example, some participants considered that when the creative work is internal to the community, it should not be remunerated, but that when this work moves beyond the community sphere, it should be. They stated that creative work is a fundamental part of what it means to be human, but that one must also recognize how the meaning of this



work changes with the market. People mentioned how money changes the meaning of creativity and of the social relations surrounding such work.

In spite of differing visions of culture and its dynamics, a consensus formed around the idea that creativity operates within a field of power relations that are often overlooked or marginalized during discussions about these topics. The juxtaposition of the terms “art” or “artist” on the one hand, with “culture” on the other, masks these power relations that deserve more critical attention.

During the course of the conversations, the workshop organizers intervened with mini-presentations on dynamic and holistic approaches to thinking about culture, and on the history of copyright. For example, royalty collection societies often argue that remuneration is a key stimulus for creativity, and that without it and the protections provided by intellectual property rights, this motivation could disappear. However, in some historical laws, the author or licensed press could monopolize copyrights only for a very limited period of time. For example, the 1710 Statute of Anne of England prescribed a copyright term of 14 years with a provision of renewal for 14 additional years, before the work moved to the public domain with the goal of stimulating competition; the work would then become the basis for others’ creativity. The organizers discussed today’s extensive lengthening of copyright terms, mentioning the current state of copyright in Bolivia and the justifications given by defenders of the World Intellectual Property Organization (WIPO) and the Berne Convention. They mentioned how these copyright structures have posed challenges for North American hip-hop musicians who have worked with an aesthetic of remix (see the attached case studies and glossary).



## TOPIC 2: CREATIVITY AND RECOGNITION

The second topic was discussed through a hypothetical scenario, which the organizing team believed would touch all participants in one way or another:

### THE CHARANGO PLAYER OF SUCRE

A young man, who had lived all his life in Sucre, instead of appreciating foreign music like hip hop, rock, or cumbia, had learnt to love the music of his forebears. He learnt to play the charango in the style of his grandparents' community, a place called Juchuy Mayu in Northern Potosí. He was very proud to play this music, and felt happy when he shared it with audiences in his performances and recordings. He began to acquire considerable popularity as a charango player, enabling him to produce his own music DVDs. One of these, entitled *Juchuy Mayumanta* ('From Juchuy Mayu'), consisted entirely of songs inspired by melodies from this community, although modified by him. The young man registered all these compositions under his name with SOBODAYCOM. The video, filmed in the countryside around Sucre, used a variety of images to evoke a romanticised and idealised rural life. By the age of 30 he had become a well-known musician, but nonetheless remained very poor. He lived in a small flat, paid for with a loan (*anticrético*), and dreamt of one day owning his own house. In his home he had installed a small digital studio with which he could record himself and acquire a little additional income by recording other musicians.

The following questions were posed and participants reflected on them in mixed groups:

- a. How would you feel about this scenario if you were:
  - the young man?
  - the audience for the musical group?
  - a member of the community of Juchuy Mayu?
- b. What do you think about the young man registering the compositions in his own name?
- c. What forms of recognition can we identify in this example?

Participants expressed both negative and positive ideas about this story, reflecting on how all of us borrow or appropriate elements from other cultures and expressions. For example, foreign researchers teach Bolivian music abroad; Bolivians incorporate indigenous music in national expressions that transcend the country's borders, etc.

The participants' answers often reflected a certain ambivalence. They recognized, on the one hand, the tenacity of the young charango player and his passion for the music of his grandparents. On the other hand, they criticized him because he had not given more explicit recognition to the music's community of origin. Yet, the issue of origins also



proved to be complex. When one lives in and learns to play music within a community, one usually does not learn everything from a single person. For example, participants asked: “Who teaches us to play music for funerals?” “To whom does the knowledge of different charango tunings belong?” Some people expressed a protectionist approach to indigenous or *originario*<sup>4</sup> music, making an appeal for people to study, record, and regulate its subsequent use. For some participants, the young charango player should have focused on playing music only in its original form. Others voiced the importance of a cultural dynamism that develops through a dialogue between generations. Thus, appropriations that look back allow our gaze to look forward in a dynamic way, enabling some music to achieve visibility in contexts where it would not otherwise be recognized.

Participants also pointed out that the dialogue between young people and elders takes place without considering the other half of the human population: daughters, mothers and grandmothers. What is more, elements of nature and supernatural beings are often left aside, even though, among many cultures, these are identified as key sources of sounds and creativity. Some participants voiced criticism of the examples utilized in the workshop, because they tended to focus only on music, a field dominated by masculine roles. They suggested that in order to better recognize women’s creativity, other creative fields where women are more present should be included.

Various forms of recognition were mentioned, including moral recognition. While some participants said that all creative work must be compensated, others differentiated many kinds of remuneration that ranged from barter to other forms of reciprocal cooperation, such as the Andean *ayni*<sup>5</sup> or the Chiquitos’ *minga*.<sup>6</sup> Even if some creators manage to make a living, perhaps for example, working within an institution, it was noted that they still hoped for some sort of recognition of their creative work, even if it were only symbolic. Some mentioned that institutions, such as SOBODAYCOM, also generate forms of recognition, but that this institution operates on the basis of copyrights granted to individuals. Collective rights do not fit within its framework. Moreover, many peoples and collectivities, as in the case of the many people who dance and play music in the popular festival of *el Señor del Gran Poder*, are not registered with SOBODAYCOM. Participants stated that it is not right for one individual to receive all the recognition when that person’s inspiration still comes from the community as a whole. Moreover, the terms “author” and “community” were contested. It was also suggested that a debate on the

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<sup>4</sup> The preferred term among highland Andeans for native or indigenous; usually refers to someone who is part of a highland indigenous community.

<sup>5</sup> An Andean term that refers to reciprocal exchange of labor or products, usually between households.

<sup>6</sup> Communal work parties, which can take various forms.





laws and regulations governing these issues should not substitute for on-going dialogues among peoples.

Participants mentioned the need to emphasize that mutual respect can exist among communities, with or without the presence of business concerns, market competition, or the law. To illustrate this, one participant told the story of a group from Tiwanaku that played for the dance procession of *el Señor del Gran Poder*; those from Tiwanaku played their music next to others playing different musics. Mutual respect existed among the groups, despite the fact that competition continued to shape the dynamics.

Some participants proposed that the young charango player in the fictional story needed more education about cultural respect. He could have shown this by specifying details about his grandparents' community and by asking community permission to use these materials. Such permission, it was said, did not operate in a vertical fashion. This led workshop members to share examples of requesting permission to record or conduct research. Some communities refused to grant permissions while others had granted it happily. Thus, other questions were posed: Who should be recognized? And what form should this recognition take?

On the same topic, at least one participant even suggested that promotion and dissemination through tourism could result in a broader circulation of local music, and that this might be a form of recognition, given the possible economic advantages that could ensue.

These questions opened up a new subject: the effects of the market on music and its production. People stated that music belongs in a whole web of social relations, but that when it enters the market, it becomes a commodity; in this process, one must be aware of all the transformations that accompany this disconnection from meaningful social contexts. Some participants spoke of the need to think about creative endeavors in relationship to bridges--between rural and urban spheres, between the community and the individual, and between internal and external dimensions. Others flagged the problems of applying these dichotomies at the moment of analysis, emphasizing that the collective and the individual stand in a continuum; one always belongs to a community, and in these contexts the collective is a continuation of the individual.

People also asked where the limits of a community could be drawn, given Bolivia's high levels of migration. Urban cultural expressions have long been found in rural areas, just







as today many indigenous people live in cities. People asked: what happens when music moves from a ritual context to the market and to the realm of art? For many participants, immersion in a world market poses many problems, making it necessary to develop more mechanisms that better promote protection and/or respect towards others' cultures.

Others reminded the workshop that this kind of analysis must consider the fundamental fact that those who enjoy the benefits of cultural products--whether these are textiles, music, dance, or poetry—exist in distinctly sexed bodies, and gendered roles; values are historically determined, in one way or another, by the differences between what is expected of men and what is expected of women.

The organizers made certain interventions, presenting a case about Lomería musicians who insisted on formal recognition of their music; a case in which the communities of Yura opted for collective recognition in a cassette production of their music; and a case of Creative Commons in which a model developed in the United States was transformed for the context of Brazil (see the attached case studies and glossary for details).



### TOPIC 3: CIRCULATION

In this section the workshop addressed the question of how culture circulates. To consider this theme, the workshop's participants discussed in a plenary session the following hypothetical case:

#### **A VIDEO UPLOADED TO YOUTUBE AND A MUSICAL HIT IN JAPAN**

As part of a university research project, a student from El Alto (La Paz) travelled to a rural community called Río Pequeño, which was celebrating a festival. The student filmed the festival's dances and music. Returning to the city with great enthusiasm for the music he had heard, and confident in the technological resources available to him (internet, computer), he decided to upload some of the videos onto Youtube. The young man did this without including any information about the recording, such as the place or the people performing the music. Minutes later, in Japan, a music producer came across this Youtube clip on the Internet and incorporated it into a music video he was making. This commercial video was recorded on DVD and became a major hit in Japan and in other parts of the world, making a fortune for the Japanese producer. Sometime later, a community member from Río Pequeño was walking through the street markets of El Alto. His ears chanced upon some music from his village being played from the speakers of a market stall selling pirated DVDs. Approaching the stall, he could easily identify music from his community in the Japanese music video being played. He asked for the cover of the DVD, but, on it, found no reference to his village.

Due to a lack of time, all participants discussed this case as a single group, addressing the following questions:

- How do you feel about this case?
- Do you see any particular problems?
- How should we recognize and appreciate, in a fair way, the different perspectives on creativity in this situation? (The student, the public, the community member).

The plenary discussion explored the following points as well:

- Many cultural processes circulate because of a dynamic that involves sharing, appropriation, and imitation. Often, such sharing takes place through respectful recognition for those who came before the present creative moment. In some cases, such circulation may end up promoting cultures – such as those in Bolivia – to parts of the world where they would otherwise not be known.





- Given that many cultural processes depend on these forms of circulation, what aspects of culture should *not* - in your view - circulate in this way? In such cases, how can they be protected, respected, and recognized?

For some participants, the hypothetical case represented a clear example of appropriation that should be addressed through legal means. One participant suggested that if the music had been registered (as intellectual property), it could then be claimed under copyright. However, others mentioned that SOBODAYCOM has little power to press legal cases in an international context. While discussing the copyright registration process, the requirement for physical evidence in the form of a score or recording was noted. Some participants proposed that physical evidence should not be the only path to registration and recognition.

Some people noted problems with the regular registration systems under copyright: international legal frameworks tend to favor large culture industries; the law only recognizes individuals as authors or composers, thus dismissing collectivities and/or communities; and when no author can be identified for a work, the material is seen as heritage of the State.

Other participants highlighted the importance of documenting the origins of specific cultural expressions and called for the protection of what is “our own.” If a country fails to do so, others will take advantage. The well-known case of “Llorando se fue” was mentioned: a song by the Bolivian band Los Kjarkas that the French-Brazilian group Kaoma covered without license. However, other participants pointed out the competition that sometimes exists among neighboring communities, with each claiming to be the place of origin of a specific musical genre or instrument. Issues surrounding heritage that had been scheduled for Topic 4 (the following section of the workshop) came up in this discussion.

Much was said about the flow of cultural expressions across borders. Some participants continued proposing the idea of cultural bridges, but they also noted problems in these encounters. Even when researchers, many of them foreigners, arrive with the best of intentions, they often operate within a logic that differs from that of the community.

In conversations on the topic of circulation, many participants mentioned Internet technology. Some believed that cultural expressions must circulate freely around the world and saw the Internet as facilitating such movement. Others pointed out problems





when these cultural expressions enter the world market, where some people are at a greater advantage because they have the hegemonic backing of the culture industries, as is the case of a singer like Jennifer López.

Some participants commented on the need to carefully consider so-called “globalization.” While some people champion how globalization contributes to broad access, one must also consider how economic inequalities continue to limit access to resources like the Internet. They spoke about the advantages and disadvantages of Youtube and other forms of social media. On the one hand, they were seen as monsters that could not be controlled. On the other hand, they were appreciated as a means by which Bolivians, especially those who have migrated to other places, could share a sense of what’s theirs, by uploading videos and images to Youtube or Facebook. However, even here, participants mentioned problems surrounding those who upload images without asking for permission, and those who do it with the idea of being the center of attention. Some participants also mentioned the Free Software movement that stands against the privatization of programming and which depends on social networks to continue improving their software programs. Others responded by pointing out that Youtube and Facebook are not operating as networks, but rather as corporations.

The workshop reached a consensus on the need to promote educational policies and a sense of respect, which includes asking permission for using cultural expressions, and properly acknowledging creators and sources. Promoting such attitudes should occur at an internal local level, and within or between communities. People also proposed that Bolivia should have clear policies that establish the protection of cultures, not as objects separate from their social environments, but as parts of complex social networks.

During these conversations, the organizers provided brief interventions to explain the term “fair use” as it applies to Anglo-American law. As a part of the system of intellectual property, authors’ rights are supposed to be balanced with users’ rights. But this theoretical balance fails in practice, because users’ rights are disappearing (see the attached case studies and glossary). The organizers also discussed the use of protocols to advance practices related to respect, permissions, and recognition.





## TOPIC 4: HERITAGE AND KNOWLEDGE

To provide a context for this conversation, the organizers included in the program references to the New Bolivian Political Constitution:

**New Bolivian Political Constitution (ratified by national referendum in January 2009)**

Article 99:

- I** The cultural heritage of the Bolivian people is non-transferable, guaranteed against seizure, and immune from ineligible claims. The economic resources heritage generates are regulated by the law, in order to prioritize its conservation, preservation, and promotion.
- II** The state guarantees the registration, protection, restoration, recuperation, revitalization, enrichment, promotion, and dissemination of its cultural heritage, according to the law.
- III** The riches found in [Bolivia's] nature, archaeology, paleontology, history, documents, and those derived from religious worship and folklore, are the cultural heritage of the Bolivian people, in accordance with the law.

The plenary session began with a discussion of the following question:

What advantages and disadvantages do you believe may result when certain cultural expressions are officially declared as heritage?

This question opened a Pandora's box. People asked "what is heritage?" Some participants simply did not know what heritage was, and it was suggested that people needed to develop an awareness about it. Some participants said that culture has always existed, even before the term "heritage" was ever conceived, and that calling it "heritage" involves a specific act of giving value to culture. In some cases, things are declared as heritage if they are perceived to be under threat. Some workshop participants, many of whom came from the lowlands, expressed perceived problems with respect to forgotten and lost cultures that need to be documented and supported; they asked whether heritage frameworks could serve such a purpose. Generally speaking, participants shared concerns about the "fever" in the country for declaring everything as heritage.

Participants also noted the power relations behind the idea of heritage, and particularly in relation to the concept of "culture" on which it depends. One participant stated that





before the 1970s, the culture concept did not encompass cultural difference; culture was written with a capital C; it was singular; and it was controlled by the elites, whether these were affiliated with the state or the church. Are these powerful elites the ones who promote the current transformation of culture into heritage? Some mentioned that politicians have political motivations for using heritage declarations, and that these do not end up bringing people any substantial benefits.

Some participants also pointed out that the word “heritage” (“*patrimonio*” in Spanish) is itself marked by patriarchy. Just as matrimony marks women as property of men, talk about “patrimony” takes place between men, and is about the cultural production of men. They suggested a change in the terminology, to something like “cultural inheritance,” would better emphasize the link between past and present, and also begin work outside the patriarchal frame.

Many participants mentioned confusions over the processes of declaring something as heritage. People widely understand heritage as property and say things like “we are going to patent this as heritage.” In turn, these conceptions of heritage are sparking conflicts among Bolivians, as in the cases of the music and dances like the “chutas,”<sup>7</sup> the “chovena,”<sup>8</sup> Italaque’s “sikuris,”<sup>9</sup> the “chámame,”<sup>10</sup> and the “charango” instrument.<sup>11</sup> Some participants briefly mentioned the international conflicts over the “diablada”<sup>12</sup> and the “morenada”<sup>13</sup> dances, as well as those about the charango. Participants also mentioned the negative effects that resulted from UNESCO’s declarations of intangible heritage. In the case of Oruro’s Carnival, some participants said people are using this declaration as a way to make exclusive claims over all cultural expressions in this huge

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<sup>7</sup> A burlesque dance, now part of national folklore, that was formerly associated with parodying landowners.

<sup>8</sup> A song-dance genre characteristic of the Bolivian lowlands.

<sup>9</sup> A specific style of panpipe instrument and performance practice from Italaque, a small town northeast of La Paz.

<sup>10</sup> A dance genre often accompanied by the violin, guitar or accordion, whose origins are associated with the Jesuit missions of the tropical lowlands.

<sup>11</sup> A small distinctive Andean guitar, resembling a mandolin. Variants are found in many parts of the Andean region, with a wide range of tunings, designs and performance styles. However, the urban instrument today is mainly played in standardized (*natural*) tuning and uses nylon strings.

<sup>12</sup> An energetic folkloric dance, performed in urban dance parades. The diablada represents devils (associated with both danger and mining productivity) and is danced wearing colorful horned masks (often depicting creatures associated with the devil, such as toads and snakes), capes, and distinctive high boots.

<sup>13</sup> An Andean folkloric dance, performed in urban dance parades that is usually claimed to represent the black slaves brought to the region in the 18<sup>th</sup> century. The costumes are among the heaviest, most ornate, and most costly of the Andean dance repertoire.



popular festival. What does it mean when these collective cultural elements become *property*? Some participants said that UNESCO's recognition processes emphasize the spectacle, thus radically transforming the ritual contexts from which these expressions emerge. Once again, participants referred to several local cases in which one town began to quarrel with another over the right to be declared the "birthplace" of a certain instrument, music style, or dance. Participants suggested that in some cases, people are expecting the heritagization process to bring economic benefits, when in fact, the imagined advantages are unrealistic.

Some participants expressed confusion about the system of claiming and registering cultural heritage. Declaring it is one thing; registering it is another. What is the difference between a declaration that comes from UNESCO and one from national law? Why is there not more funding for research that could bolster the documentation process?

Participants questioned the role of the state and the resulting confusion about action and control, especially in cases of heritage and archives. One participant said that officials within the church continue to quarrel over the musical scores from Chiquitos,<sup>14</sup> while young local researchers have to request church permission to work on what they consider to be their own musical materials. One contributor noted that in heritage issues, the state still operates under an "old programming chip," despite the Bolivian state's officially declared "plurinationality" and the so-called "process of change." Some participants stated that instead of perpetuating the former totalizing state, Bolivians must work with the new autonomies, and begin to address these issues at a local level. Another participant criticized current heritage projects because they come from the cities and not from rural areas. Moreover, some participants pointed to a lack of understanding and coordination among the different levels of governance: government ministries, autonomous governments, municipal culture officials, departmental councils of culture, etc.

Still other participants criticized the nation-state, particularly in relation to the country's plurinationality. The phrase "Bolivian people" is extremely ambiguous. Should the Bolivian state really be adopting policies about cultural heritage when there are other nations, such as the Guaraní, who live in areas that cross several nation-state borders? In the words of one participant, for whom the state was deeply problematic, "the so-called liberators of America are not liberators. They are land speculators. They divided our

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<sup>14</sup> A series of former Jesuit mission churches located in the lowland region of Santa Cruz. The missions' rich 18<sup>th</sup> century musical repertoire has motivated much international interest and formed the focus for a regular festival.





nation. They did not respect our [Guaraní] territorial unity.”

The workshop reached a consensus about the need for further support for research, documentation, and dissemination. Some insisted that research and documentation should not be Andean-centric. Many participants mentioned the dances and influences that have moved from other regions of the country to new places, and called for respect and an ethic of sharing when dealing with cultural encounters. Each community has different expressions, all of which must be acknowledged and not simply copied.

Another hypothetical case study was considered in a plenary session:

#### **THE ANDEAN PARADE**

Among the customs for Canada Day in Montreal, Canada, is a dance parade by immigrant groups. A Bolivian proposed participating with the Tinku dance, together with his friends from Peru and Chile. Thanks to help from family members, they managed to obtain cheap outfits and recordings of Tinku music. The invitation brought together Bolivians, Peruvians, Chileans and even a few Canadians who all hugely enjoyed this initiative, which was named ‘The Andean Parade’ (*La Entrada Andina*). The Parade’s success was so great that the following year they formed into two dance groups, one dancing Tinku – in the same way as the previous year – and a second incorporating autochthonous rural music. The brother of the group’s founder, who played music from Juchuy Mayu, arrived in Canada and introduced the use of Jula jula panpipes (from Northern Potosi), provoking even greater participation and interest. The Andean Parade began to acquire considerable importance as a representation of people connected with Andean countries. However, meanwhile in Bolivia an official process had been initiated to register the Tinku as national heritage and as a UNESCO masterpiece of the oral and intangible heritage of humanity. When the Bolivian government heard about the success of Montreal’s Andean Parade, its foreign office requested the Bolivian Embassy in Canada to initiate actions opposing the name ‘Andean Parade’, and requesting that it be changed to ‘Bolivian Parade’. These actions and a series of official letters provoked serious problems among the participants in the dance groups, many of whom were not Bolivians. This official action brought to an end the participation of an Andean dance group – let alone a Bolivian one – among the immigrant groups represented in Canada Day. Today, these activities - which had provided considerable social sustenance for Bolivian immigrants in an alien country - no longer exist.

Due to the complexity of the heritage theme, a topic about which most participants never tired of speaking, many people did not refer to the proposed hypothetical case, but rather preferred to use examples from their own experiences. They said that these prohibitions, like those in the example, were ridiculous. They added, “We can’t prohibit people from



dancing. It is like prohibiting people in Bolivia from dancing the tango.” They affirmed that heritagization “should not mean an enclosure of things.”

During these conversations, the organizers spoke of the concerns that some indigenous peoples have when sacred or secret elements of their cultures circulate beyond their control. As an example, organizers mentioned the case of Coroma textiles (see attached case studies).

## **TOPIC 5: WHAT TO DO? – BOLIVIA AND THE WORLD**

The final conversations in Coroico concerned the future. What should Bolivia do about these issues going forward?

### **Introduction: Paradoxes in cultural policies**

To orient the conversation, the organizers pointed out a discrepancy in policy between different fields of culture. To explore this point, they posed the question: what is the difference or the link between knowledge of the potato seed and the musical knowledge that accompanies potato cultivation? Participants said that these two types of knowledge went hand in hand. The organizers then mentioned that the Bolivian state seems to take very different positions in relation to these two kinds of knowledge. Within the administration’s discourse of “living well,” and through the new political constitution that defends food sovereignty and food security, the government of Evo Morales has assumed an oppositional stance to an article of the TRIPS Agreement (Trade Related Aspects of Intellectual Property) that structures the patenting of biological materials such as seeds.





The government position is that those who work the land should be allowed to manage their own knowledge about the selection and exchange of seeds, without the intervention of private companies such as Monsanto, an entity that holds patents on specific varieties of seeds. In this field, Bolivia is saying to the world that some things do not fit within any framework of intellectual property.

However, in the field of “culture” and “folklore,” the Bolivian state has taken a different position, one that fits well with the systems of intellectual property and cultural heritage as established by industrialized countries. These systems tend to enclose and overprotect cultural expressions, using the force of the law, the backing of the state, and institutions such as UNESCO and WIPO. Yet, as had become apparent during the workshop, many problems about these policies remain unsolved (such as issues of collective creativity, the extension of copyright terms to the degree that almost nothing makes it to the public domain, the concerns of indigenous peoples that their secret and sacred materials not enter the public domain, etc.). Since Bolivia is living a “process of change,” and since the country has significant indigenous populations, it could occupy a unique position in the global search for creative alternatives to the conundrums posed at the junctures of indigenous peoples and different kinds of knowledge.

Up to this point in the workshop, participants had worked in mixed groups for the various activities. The organizers thought participants should engage with people who held very different perspectives from their own, and in many cases participants worked with other Bolivians whose only point in common might be a shared official country of citizenship. The objective was not to reach a consensus among the various perspectives, but rather to facilitate awareness of other peoples’ perspectives, even if they were ones with which some participants disagreed. With the third topic, some workshop members criticized these rather heterogeneous working groups, and proposed groups based on affinity, in order to move forward with others who shared similar ideas. The organizers acknowledged the importance of both ways of working, and for the final activity in Coroico, it was agreed that participants would work in affinity groups.

Each group worked with the same questions in self-selected groups. Although the resulting four working groups cannot be easily categorized, some organized around regional origin; another formed around a common interest in the transition of the state, and yet another formed around a common search for alternatives to existing institutional structures.



- a. Do you believe that the current intellectual property policies (e.g. Heritage Registration, SOBODAYCON, SENAPI, WIPO) satisfy the social and cultural needs of your social environment? Why?
- b. Do you think that these same policies satisfy the social and cultural needs of Bolivia? Why?
- c. What new alternatives might improve the situation with regards to cultural politics? To answer, please take into consideration:

- the search for a system that is fairer for everybody,
- the value of creativity,
- the recognition of creative work, both individual and collective,
- the importance of creativity to the reproduction of social relations,
- consideration of points of view that may be distinct, and
- free access to knowledge.

Proposals may involve either legal structures or schemes outside the legal sphere (e.g. protocols). You are encouraged not only to think in terms of Bolivia, but also in what might be proposed worldwide.

Each group presented their proposals during the plenary session, and from these presentations, a document was drafted and then polished. It includes conclusions, proposals, and questions for the experts, who would be present for the Round Table in La Paz. The following text recaptures the document that was *drafted by the entire workshop* during the plenary session, and the “we” in these sections refers to this collective. However, the conclusions do not represent a single line of thinking, but instead attempt to capture the different perspectives present; sometimes these even reflect contradictory visions. At his request, this document was sent to the Minister of Cultures, Pablo Groux, via email, the night before the Round Table at MUSEF.

## CONCLUSIONS

The process of heritagization needs to be defined in terms of how, why, and with whom. It is crucial that this process moves forward through consultations, so proposals and specific claims emerge from civil society groups, rather than being imposed on them from the top down. Media also plays a key role in the dissemination of cultural policies. The idea of culture as entertainment still persists, rather than the idea of culture as an





integral part of life. The vision of a welfare state that gives aid in the name of the people is still very much alive. Thus, it is important that plans and projects also emerge from different regions<sup>15</sup> and from civil society.

Some participants voiced the idea that Bolivians should not consider the state as an entity that exists in opposition to the regions or departments, but instead that all these entities should be seen in relation to each other. In this sense, plans and efforts should not be limited to a regional level, but go beyond their official jurisdiction to become national plans. For the indigenous case, these plans should not only be binding at a regional level, but should also be adopted at national levels. Such efforts should not be limited by municipality, department, or nation, but rather should seek to correspond geographically with the territories that define indigenous peoples.

It is also necessary to bring people's attention to many aspects related to the themes of the workshop: the norms (not everyone knows about them); the criteria applied by organizations like WIPO (very few people know why this organization exists or how it operates at an international level; yet through this organization regulations get imposed universally over all nation-states without any differentiation). We need to learn what legislative alternatives might exist for the country, ones that go beyond mere capitalist interests.

We need to rethink the moral recognition of cultural products' origins. But we also need to rethink remuneration, as related to the differences that exist between what comes from urban and rural contexts (for example, SOBODAYCOM's structures do not recognize rural artists or cultures). It was observed that, by not recognizing these differences, even the Ministry of Cultures could fall into discriminatory practices in the course of state forms of control and the collection and dissemination of cultural resources.

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<sup>15</sup> Bolivia is characterized by markedly contrasted regions (ecology, economy, ethnicity) and associated identities. The sharpest division, which has strong political repercussions, is between the more heavily populated Andean highlands and the larger, but less densely populated, tropical lowlands. Historically the lowlands were highly dependent on the highlands, but since the discovery of rich gas deposits and the growth of a booming agribusiness in the lowlands, where the disparity between rich and poor is particularly marked, there have been calls from the lowland regions (the so-called *media luna* 'half-moon') to become an independent state. In addition, since the mid-1990s (as part of a second round of neo-liberal laws) Bolivia has been characterized by increased decentralization. Accordingly, the 2009 constitution dedicates considerable space to the issue of regional autonomies.



Regarding the promotion and dissemination of cultural expressions, participants also observed that there are no concrete actions, related to authors or to the nation's diverse cultural realities that allow Bolivians to become better informed about the country's cultures.

Participants differentiated between two kinds of protection that are in force, even though in practice they are somewhat contradictory or confusing. One, linked to the National Intellectual Property Service (SENAPI), tends to recognize the individual and the commercial dimension, and is backed by intellectual property law. The other, associated with the Ministry of Cultures, is related to the idea of registering and cataloging heritage, and seeks ways of recognizing and respecting cultures.

In Bolivia, conflicts have been generated when different groups claim as their own a broadly collective expression that is also recognized beyond the given community or region that makes the claim. In these cases, who enjoys the privileges attendant to that claim? Registration of cultural heritage has brought conflicts with it, and regulations could lead to injustice and omissions. Participants observed that there are still many problems internal to the power relations in which these processes are embedded. Mechanisms should be established to resolve these conflicts and the Ministry of Cultures should be in charge of internally working on reconciling these disputes, drawing on alternatives that emerge from civil society. For example, protocols may be proposed at the margins of existing judicial frameworks.

Research and history are crucial, not only to be faithful to the data and to avoid denying the existence of "ancient" expressions that should be respected and from which we still have so much to learn, but also not to restrict innovations. In this sense, cultural dissemination is important. Without it, culture is lost. Moreover, researchers cannot simply work independently, but rather different peoples need to be consulted about research conducted on their cultures.

Yet, this work is not only about conserving and registering cultural elements, but also about promoting on-going dynamic practices. Participants pointed out the need for all research to start by identifying cultural expressions by zones, areas, municipalities, and/or territories, to put in place specific protective strategies. In other words, this is about establishing concrete spaces of action. Moreover, every act of documentation could serve as evidence to avoid confusions, although it would be difficult and inappropriate to



standardize cultural expressions through norms expected to work in the same way for all cases.

It is also important to understand that some things are not conceived of as eternal, as in the Western conception of art, but rather are seen as fleeting and/or temporary.

Moreover, registration documentation should be able to account for any element that is part of a cultural context (ritual, symbolic, and historical dimensions, etc.). Every registration system should operate at this level of detail and complexity.

Today's legislative proposals related to art and culture do not reflect coordinated and well-connected work among the appropriate and like-minded institutions. Information remains scattered among them.

Participants noted that there is a tendency to consider indigenous cultural elements as commodities, when in fact they are an integral part of complex rituals, practices, and worldviews. However, many people cast a romantic gaze on these elements, when they propose that they should be set apart from a market economy. If we are already immersed in this economic system, every program that hopes to establish and strengthen policies of cultural defense should be considered as operating within this dimension.

Many of the actions and radical positions governments adopt are reined in by international regulations that ultimately contradict local realities. UNESCO provides a key example of this problem, because it can only operate through the nation-state, leaving aside the issues of indigenous nations whose territories often intersect with the borders of multiple nation-states.

Culture should be used as a means to strategically transform society, as a means to develop. Even if we live in a very different historical moment characterized by defiant questioning of everything that is colonial and patriarchal, there are still institutions like WIPO and UNESCO that dictate what must or must not be done with cultures. To these concerns we add the fear that other institutions such as the Ministry of Cultures, the National Intellectual Property Service (SENAPI), and the Bolivian music royalty collection society, (SOBODAYCOM) will continue to respond to an old state model, a logic that we are supposedly trying to overcome. The fear, therefore, is of a reappearance of the bad taste left by the old style paternalistic welfare state. These different entities are





necessary for a country, provided they are repurposed and redefined towards another kind of institutional framework.

Now, if we are to have a Law of Cultures and Heritage, everyone must participate in its formulation. In this sense, it is evident that Bolivia has already played a very important role in amending UNESCO policies with regards to intangible heritage. Additionally, in the pursuit of social wellbeing, the government has taken a radical stance by opposing international treaties related to the intellectual property of generic medicines and seeds. However, the government still has not taken a similarly radical position regarding other fields related to cultures.

## PROPOSALS

The participants propose that:

- In all media, a greater proportion of time and space should be dedicated to the dissemination of the country's cultural expressions.
- Departmental Cultural Plans should be formulated, starting from consultations with indigenous peoples, and these processes must not be disconnected from the central government.
- A Summit of Cultures should be promoted and held in order to revise and re-conceptualize fundamental ideas about heritage, property, related institutions and their powers, and not to just patch up the old institutional framework. Such a summit should work to deepen social and cultural foundations.
- The regulations for royalty collection societies and those of Law 1322 (Bolivian Copyright Law, 1992) should be revised.
- The procedures for registration in the National Intellectual Property Service (SENAPI) should be revised.
- Given that cultural heritage must be sustained through research, from now on, every cultural heritage process should be backed by research. Similarly, those cultural expressions that have already been declared as heritage should retroactively and without exception be supported by proper research.

## QUESTIONS FOR THE EXPERTS OF THE ROUND TABLE

### FOR THE MINISTER OF CULTURES

- **Cultural Heritage:** What do you intend to do to prevent cultural heritage processes from generating internal and/or international conflicts, and to promote their implementation among citizens and indigenous communities? In this regard, we have cited examples of mistakes that have been made in this field, mistakes





that have generated conflict because of cultural heritage declarations that have been made without the backing of proper research (documentation and cataloguing) or consultation. To what extent could documentation and registration be used to portray what cultures are, so that what is being done with cultural policies could be properly sustained?

- **Research:** The participants consider that participatory research and “self-research” can be alternatives to avoid conflicts such as the ones previously mentioned. However, there seems to be a lack of resources (human and economic) to generate studies of this kind. What will be done to promote this kind of work? What special considerations are in place for the research and registry of cultural expressions that may be considered secret or sacred?
- **Dissemination:** What will be done to increase the proper, fair, and equitable dissemination of national cultural productions in the media?
- **Plans and departmental cultural policies:** Given that the hope is to create departmental cultural plans around the country, to what extent is the central government willing to be a part of the formulation and implementation of these departmental plans? How do you intend to fulfill commitments made to indigenous peoples? Are you ready to guarantee the consultation process? When do you intend to approve the country’s laws on cultures and heritage?

#### **FOR THE MINISTER OF CULTURES AND THE NATIONAL INTELLECTUAL PROPERTY SERVICE (SENAPI)**

- In the National Intellectual Property Service and the Ministry of Cultures, what registration policies currently exist for indigenous cultures? How do policies differ between these two entities?
- Society tends to consider cultural heritage as a synonym for property. What is your opinion on this issue? What do you intend to do to address the confusions that result from this erroneous interpretation?

#### **FOR THE BOLIVIAN SOCIETY OF AUTHORS AND COMPOSERS OF MUSIC (SOBODAYCOM):**

- How are you working with indigenous cultures? How do you identify and register indigenous music? How are royalties distributed in these cases?
- It was noted that when producers used to deal directly with national authors, the latter reaped more royalty benefits than they do now under representation by SOBODAYCOM. How can we improve the distribution of royalties among national authors today?





**FOR THE NATIONAL INTELLECTUAL PROPERTY SERVICE (SENAPI) AND THE BOLIVIAN SOCIETY OF AUTHORS AND COMPOSERS OF MUSIC (SOBODAYCOM)**

- Participants expressed concern that the law, as carried out by collective management societies, is satisfying neither peoples' needs nor their expectations of recognition. Would SENAPI and SOBODAYCOM be in a position to allow the implementation of alternative licenses, like Creative Commons or other alternative proposals for recognition in this field?
- Considering that we are living under a state of a transitional and participatory democracy, one that recognizes the plurinational character of the country, would SENAPI and SOBODAYCOM be willing to participate in the redefinition of their policies so as to bring them more in line with this historical moment? Do you feel you are part of this cultural revolution?

**FOR THE MINISTER OF CULTURES, THE NATIONAL INTELLECTUAL PROPERTY SERVICE (SENAPI) AND THE BOLIVIAN SOCIETY OF AUTHORS AND COMPOSERS OF MUSIC (SOBODAYCOM)**

- Given that the current government is committed to adjusting international regulations and agreements to the new Constitution, what proposals have been generated to date on the topics of recognition and cultural heritage? What progress has been made?
- As Bolivia is now a plurinational state, how do you intend to address international agreements and treaties related to intellectual property and heritage? What criteria is the State taking into account as it readjusts the regulations on intellectual property and cultural heritage to the new Constitution?