Preface

Why should an intergovernmental organisation defending human rights, democracy and the rule of law be looking at cultural participation and access? I strongly believe that these noble objectives cannot be reached without a strong relationship with culture. The values of democracy and human rights and the legal and institutional systems which protect them are cultural products. They cannot endure without an underlying attachment to democracy and human rights within society. And culture – in the sense of arts, creativity and heritage – is a key to maintaining the culture of democracy and human rights. With its close links to the values on which Europe was founded, culture plays a major part in forging a Europe of solidarity and shared standards.

Today, culture is not only recognised for its contribution to the formation of identities and the sense of belonging, for its economic and market impact, but also for its social and educational potential – that is to say, its power to orient co-existence in multicultural and plural societies. Different forms of cultural expression, traditional and contemporary, help interpret social realities that are increasingly marked by globalisation, interdependency and diversity. We actually need a new skill set adequate for the 21st century – a cultural skill set.

Culture's central place in attaining full human development and bringing human rights alive is evident. The Universal Declaration of Human Rights encompasses cultural rights, which invite participation in cultural life in all societies. Such participation fosters the exercise of active citizenship and promotes cohesion. We are dealing with key questions of democracy, when asking about cultural participation: Who participates in whose culture? How can we best make diverse cultural voices heard? How can our participation in culture be secured, and who should defend it?

I invite you wholeheartedly to study the existing legal and policy frameworks in Europe about access to and participation in cultural life, cultural provision and ultimately, cultural rights presented in this volume. It is important to understand what European countries have achieved, intend to do and could ideally envisage doing to enhance participation and access to culture for all, and thereby stimulate creativity, active citizenship and social cohesion of their societies.

We shall never get tired of promoting ever better cultural governance, and celebrating culture as the soul of democracy!

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Introduction

One of the greatest demands which will be placed upon us will be to find ways for people to live together.

Sharon Jeannette & Dick Stanley
"How will we live together?",
Department of Canadian Heritage, 2002

And above all, there is participation. This has to mean the right to participate in society, to be part of the mainstream as well if that is indicated as to maintain one's own cultural base. It implies presence of diverse cultures, communities and individuals in the cultural market places of contemporary society in theatres, museums, public spaces, art galleries, festivals, in the curricula of universities and arts vocational courses, on radio and on television.

Naseem Khan
"The Combination of Many Voices"
International Forum on Cultural Rights and Diversity, Seoul, November 2006

Culture is mostly about sharing, experimenting, feeling, doing and living together. Culture is about the contents of life, understanding and expressing our reality, and our reactions to the world. A Brazilian academic, Teixeira Coelho, calls culture "a long conversation". It conveys values, symbols, beliefs, manners, ideologies, traditions, and ways to define our life and that of others. We can easily lose ourselves in its complexities when trying to explain how it gives colour to our lives and changes with us – even if it also sometimes limits and imposes controls upon us. It is a challenge to try to define culture, to capture it in a box, put it into norms and tame it into regulations. In the same way, it is a challenge to define participation in culture. Who participates in whose culture? How do we access something that we should already be in? How can we make diverse cultural voices heard? How can our participation in culture be secured, what does that participation mean and who should defend it?

Participation in cultural activities, together with access to them, forms the backbone of human rights related to culture. Understanding access and participation in a wider context also enables us to connect culture with other rights such as access to information, freedom of opinion and expression, education,

self-determination and association. Minority rights, and the diversity they protect, also define an important part of the cultural life of a society. Having access to different rights and freedoms – to be able to participate, take a stand, have a say, make our voice heard – helps us feel respected; that we matter as people. Culture gives us our sense of being part of a community and therefore ensuring that we are able to participate in it should be given high priority in policy making. Culture helps us cope, as a Catalan scientist, Eduard Punset, says, with the biggest challenge in life: the contact with another human being. It is about relationships with people, feeling part of and distinct from them at the same time.

Culture not only contributes to the formation of identities and the sense of belonging, it also reflects the forms of co-existence and the construction of symbolic references in multicultural and plural societies. While culture has increased its importance and presence in economic terms and in relation to the market, it has also manifested itself as an important element of social and economic transformation, social cohesion and education for civic democratic participation. Furthermore, nowadays cultural operators are expected to take a stand and to offer new solutions to a wide range of social problems – even if we have to remind politicians that culture cannot be treated as a "supermarket" for easy answers. Cultural policies need to take these factors into account. They must consider all the different dimensions that culture has in people's lives, and promote enjoyment and joy of the arts along with the huge range of human expression.

When we go to a new place or a new country, we want to learn about it – discover the history, visit interesting sites, eat something "local", and bring home something typical. This makes us feel for a moment that we have witnessed and participated in something new and different, a different culture from our own. But when we live in a place we do not always recognise the ways in which we participate in our own culture or understand how to gain access to it. Access is almost always a precursor to participation and we might not even be aware of the channels that exist to make everyone part of cultural experience. It would be ideal if we could have strong cultural experiences where we live in the same way we do when we are not at home, and look at the world with curious eyes. It would be ideal if culture were inclusive and cohesive, accepting, free of discrimination and respectful towards other cultures. It would be ideal if we could feel culturally at home and culturally accepted where we live and when we go to other places. It would be ideal if the policies that regulate and shape our cultural opportunities would take all that into account. Sometimes, though, all it takes to make a difference is an attitude.

8

There is growing recognition of the influence that culture has on the quality of life and social cohesion. Former French Minister of Culture Jacques Duhamel indicated that culture is not a principle of good governance but a "possibility of common exchange, search and enjoyment". Since the second half of the last century, a realisation of the importance of the right of access to and participation in cultural life has slowly penetrated the field of cultural policies and political discourse, if still only in a marginal and somewhat sporadic way. There is a consensus that culture generates rights and responsibilities and there is a large number of international documents that try to respond to this task. The task becomes more complicated when legal frameworks are translated into policies and action. As always, the transition from theory to practice is a challenging move. As much as we need a strong conceptual and legal basis to facilitate understanding, promotion and protection of certain ideals, the real test is in daily life where we have to face these issues and need to find ways to fulfil promises, resolve problems and maintain a harmonious and enabling environment for interaction.

John Foote (2006) says that "Culture and citizenship require the application of inclusive and legal principles and analysis to the promotion and implementation of cultural, social and economic objectives and policies." Cultural activity, since it promotes creativity, self-expression and self-confidence, should be a key consideration in all forms of social and development policy. Cultural inclusion, when applied to policies on education, civil society and urban design, can strengthen social cohesion. Only by placing values at the heart of the cultural space can policy makers link political concerns with these other policy areas.

Countries resolve issues related to access and participation in different ways but mostly with the same objective; to make culture accepting, inclusive and accessible to everyone. Culture may not always hold a dominant position in the political hierarchy, but equal access and participation are key elements in human dignity, and an enabling environment for a fulfilled life and equal opportunities should be an important concern of states. Countries have a different understanding of culture – or a different understanding of which dimensions of culture need to be secured, protected and fulfilled – but most governments sign up to the contemporary notion that culture is much more than art.

Cultural rights activists often claim that state administrations do not have an interest in cultural rights or the protection of cultural expression. This perception is not wholly accurate, for some states do occasionally

manifest interest in the theme. However, their discourses on the subject often cover different areas. The cultural rights discourse is easily submerged under issues with a higher recognised priority. Where cultural activists are correct is that states rarely give culture the budgetary importance its advocates call for.

This study is a general overview of existing legal and policy frameworks in Europe covering access to and participation in cultural life, cultural provision and as a base for cultural rights. It examines what countries in Europe have done, intend to do and could do in the future. It is not an exhaustive study of everything that has been accomplished but a general snapshot of the European situation. The objective is to facilitate an environment that enables the development of access and participation. Bearing in mind that an important part of this work is delivered through local civil society organisations and cultural associations, the study pays tribute to them but does not map out the whole field.

The main thesis of this study is that the enjoyment and fulfilment of the right to participate in culture requires an enabling environment and a legal framework that offers a solid basis for the protection of rights related to cultural actions. It asserts that a society that demonstrates an interest in nurturing cultural and spiritual needs in conditions of liberty – where people have the right of access to cultural expression, experiences, equipment and services has a greater chance of developing a sense of social responsibility among its members.

1. An introduction to the concepts

To try to capture the concept of culture in all its rich variety might sometimes seem a forlorn hope since cultural experience is also about feelings and emotions, and interpreting its different phenomena can easily lead to misunderstandings. But concepts do give us a map to help us navigate, and even if the following concepts might be understood quite differently in diverse settings, they offer general guidelines on how to approach many relevant aspects.

"Cultural democracy" fosters the idea that every person, every community and every cultural minority has cultural requirements and should have certain rights that ought to be respected. It includes the promotion of cultural diversity and active participation in cultural life, together with the facilitation of access to decision-making processes, and to securing equal access to resources and cultural services.

Webster's World of Cultural Democracy defines the concept of cultural democracy as comprising a set of related commitments:

– protecting and promoting cultural diversity, and the right to culture for everyone in our society and around the world;
– encouraging active participation in community cultural life;
– enabling people to participate in policy decisions that affect the quality of our cultural lives; and
– assuring fair and equitable access to cultural resources and support.

In addition, the four principles of the transversal study by Tony Bennett on the subject of policies and cultural diversity ("Differing diversities" for the Council of Europe, 2001) include: the equal right of everyone to participate in the cultural activities of a society; the possibility for all members of a society to benefit from its cultural offer and means without losing their own cultural identity; the obligation of a state to support cultural diversity within society and the promotion of diversity through contact with other cultures.

The Human Development Report 2004, *Cultural liberty in today's diverse world*, underlines the importance of democracy in fostering and implementing cultural rights. "Democracy is the only form of government

consistent with all human freedoms and human rights, including cultural freedoms and rights." However, the report also acknowledges that democracy is not impermeable and can have negative results and give space to those who infringe cultural rights and freedoms when extremists are elected. "Democracy does little to accommodate minority interests. Well-developed democracies have neglected claims for cultural recognition from ethnic, linguistic and religious groups, including indigenous groups and immigrants. Democracy also permits the rise of extremist groups."

"Cultural development" promotes social action through culture as a basis for development. It aims to contribute to, for example, the formation of human capital, the cohesion of the social fabric, the strengthening of governance and the cultural integration of a region. The World Conference on Cultural Policies (MONDIACULT, Mexico, 1982) officially established the relationship between culture and development. Other standard-setting instruments include the reports of the World Commission on Culture and Development (1995) and the Intergovernmental Conference on Cultural Policies for Development (Stockholm, 1998); together with many other (mainly UNESCO) documents. According to *Our creative diversity*, the report of the World Commission on Culture and Development in 1995, culture forms the basis of development, and all management and planning of public policies on development should take into account the cultural dimension. When the production-oriented model of development was not delivering the desired results despite the proposals set out in *Our creative diversity* (and other reports such as *In from the margins: a contribution to the debate on culture and development in Europe*, Council of Europe, 1997), many international development organisations started to include elements of cultural development and to foster cultural aspects in their education, social, environmental and economic strategies. At the same time as culture has increased its importance in economic terms and in relation to the market, culture has shown itself to be an important element of social transformation, social cohesion and productive growth. However, culture is still too often left on the sidelines of development thinking, as became clear when cultural aspects were not included in the Millennium Development Goals of the United Nations.

"Cultural diversity": since the early 1990s, the notion of diversity has gained unprecedented importance, thanks to demographic trends, migration and emerging tensions between different population groups. At the same time, an approach that fosters individuals' needs and abilities has gained political ground. It has been stated that diversity empowers everyone to develop to the maximum of their potential and inclination, and

is the common heritage of humanity. The Universal Declaration on Cultural Diversity of UNESCO (2001) states in its Article 1: "Diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for mankind as biodiversity is for nature. In this sense, it is the common heritage of humanity that should be recognized and affirmed for the benefit of present and future generations." Cultural diversity is above all a concept that has flourished in the framework of UNESCO. A report published by UNESCO in 2000 shows the development of the concept within the organisation during the second half of the 20th century.[1]

Diversity, of course, means different things in different settings. Naseem Khan (2006) points to the fact that "the British experience differs from the French that differs from the Bulgarian that differs from the Malaysian. However, similar pressures do pertain and the questions themselves cannot be brushed aside". The International Network on Cultural Diversity underlines the importance of cultural diversity as the recognition of cultural plurality within, between and across societies.

The main legal instrument as regards cultural diversity is the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted by the General Conference of UNESCO on 21 October 2005. At the policy level, cultural diversity is understood in various ways and diversity takes many different forms.

"Cultural liberty" means the opportunities a person has to choose his or her way of living without being discriminated against as a result of that choice. Cultural liberty has also been understood at times as the intersection of the concepts of cultural rights and cultural diversity. According to the Human Development Report 2004, around one in every seven people in the world do not enjoy cultural freedom.

"Human rights" have their base in the 30 articles of the Universal Declaration of Human Rights, which was enshrined in international law in 1948. Even if the declaration was not the first international instrument to articulate human rights, it is the central document that asserts their universality. Human rights identify certain objectives and obligations as a common frame for human action. Violations of these rights often have cultural implications – and, indeed, causes. Human rights depend on legislation, policies, resources, diplomacy, relations, reciprocity, participation and education, among other elements. The fundamental

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1. "UNESCO and the issue of cultural diversity. Review and strategy, 1946-2000".

instruments of human rights are the Universal Declaration of Human Rights (United Nations, 1948), the International Covenant on Civil and Political Rights (United Nations, 1966 with its two additional protocols) and the International Covenant on Economic, Social and Cultural Rights (United Nations, 1966). Within the structure of the United Nations there are also other instruments that deal with racial discrimination (1965), elimination of all forms of discrimination against women (1979), the fight against torture (1984) and the rights of the child (1989). At the European level the reference document is the European Convention on Human Rights (1950) of the Council of Europe.

A "national minority" is a group of people that live in a region of a country and are citizens of that country. They maintain contact with the state, but at the same time share common ethnic, cultural, religious and linguistic characteristics that are different from those who are considered to be in the majority. They form a sizeable group and share a motivation to maintain their own identity and culture, tradition, religion and language.