

CULTURAL RIGHTS

Fribourg Declaration

<i>Issues</i>	Justification
1 <i>Fundamental principles</i>	Principles and definitions
2 <i>Definitions</i>	
3 <i>Identity and cultural heritage</i>	Cultural rights
4 <i>Reference to cultural communities</i>	
5 <i>Access to and participation in cultural life</i>	
6 <i>Education and training</i>	
7 <i>Information and communication</i>	
8 <i>Cultural cooperation</i>	
9 <i>Principles of democratic governance</i>	Implementation
10 <i>Integration into the economy</i>	
11 <i>Responsibility of actors in the public sector</i>	
12 <i>Responsibility of international organizations</i>	

CULTURAL RIGHTS

Fribourg Declaration

- (1) *Recalling* the Universal Declaration of Human Rights, the two International Covenants on human rights of the United Nations, the UNESCO Universal Declaration on Cultural Diversity and other relevant universal and regional instruments;
- (2) *Reaffirming* that human rights are universal, indivisible and interdependent and that cultural rights, as much as other human rights, are an expression of and a prerequisite for human dignity;
- (3) *Convinced* that violations of cultural rights give rise to identity related tensions and conflicts which are some of the main causes of violence, wars and terrorism;
- (4) *Equally convinced* that cultural diversity cannot be truly protected without the effective implementation of cultural rights;
- (5) *Considering* the need to take into account the cultural dimension of all human rights as recognized today;
- (6) *Considering also* that respect for diversity and cultural rights is a crucial factor in the legitimacy and consistency of sustainable development based upon the indivisibility of human rights;
- (7) *Observing* that cultural rights have been asserted primarily in the context of the rights of minorities and indigenous peoples and that it is essential to guarantee these rights in a universal manner, notably for the most destitute;
- (8) *Considering* that a clarification of the position of cultural rights within the human rights system, as well as a better understanding of their nature and the consequences of violations of these rights, constitute the best means to prevent them from being used in support of cultural relativism and from becoming a pretext for pitting communities or peoples against one another;

(9) Considering also that cultural rights, as expressed in the present Declaration, are currently recognized in a dispersed manner in a large number of human rights instruments and that it is important to group these rights together in order to ensure their visibility and coherence and to encourage their full realization;

We present this Declaration on cultural rights to actors in the three sectors: public (States and their institutions), civil society (non-governmental organizations and other non-profit associations and institutions) and private (enterprises) with a view to encouraging the recognition and implementation of cultural rights at the local, national, regional and universal levels.

Article 1 *(fundamental principles)*

The rights enunciated in the present Declaration are essential to human dignity. For this reason, they form an integral part of human rights and must be interpreted according to the principles of universality, indivisibility and interdependence. Therefore:

- a.** These rights are guaranteed without discrimination of any kind such as colour, sex, age, language, religion, conviction, descent, national or ethnic origin, social origin or status, birth or any other situation on the basis of which a person constructs one's cultural identity;
- b.** No one shall suffer or be discriminated against in any way as a consequence of the exercise or non-exercise of the rights set forth in the present Declaration;
- c.** No one shall invoke these rights to impair another right recognized in the Universal Declaration or in other human rights instruments;
- d.** The exercise of cultural rights shall only be subjected to those limitations provided for in international human rights instruments. Nothing in the present Declaration shall affect any provisions which are more conducive to the realization of cultural rights and which may be contained in national legislation or practice or in international law;

e. The effective realization of a human right requires that its cultural dimensions be taken into account in light of the fundamental principles enumerated above.

Article 2 *(definitions)*

For the purposes of the present Declaration:

a. The term "culture" covers those values, beliefs, convictions, languages, knowledge and the arts, traditions, institutions and ways of life through which a person or a group expresses their humanity and the meaning they give to their existence and to their development;

b. The expression "cultural identity" is understood as the sum of all cultural references through which a person, alone or in community with others, defines or constitutes oneself, communicates and wishes to be recognized in one's dignity;

c. "Cultural community" denotes a group of persons who share references that constitute a common cultural identity that they intend to preserve and develop.

Article 3 *(identity and cultural heritage)*

Everyone, alone or in community with others, has the right:

a. To choose and to have one's cultural identity respected, in the variety of its different means of expression. This right is exercised in interconnection with, in particular, the freedoms of thought, conscience, religion, opinion and expression;

b. To know and to have one's own culture respected as well as those cultures that, in their diversity, make up the common heritage of humanity. This implies in particular the right to knowledge about human rights and fundamental freedoms, as these are values essential to this heritage;

c. To access, notably through the enjoyment of the rights to educa-

tion and information, cultural heritages that constitute the expression of different cultures as well as resources for both present and future generations.

Article 4 *(reference to cultural communities)*

a. Everyone is free to choose to identify or not to identify with one or several cultural communities, regardless of frontiers, and to modify such a choice;

b. No one shall have a cultural identity imposed or be assimilated into a cultural community against one's will.

Article 5 *(access to and participation in cultural life)*

a. Everyone, alone or in community with others, has the right to access and participate freely in cultural life through the activities of one's choice, regardless of frontiers.

b. This right includes in particular:

- The freedom to express oneself, in public or in private in the language(s) of one's choice;
- The freedom to exercise, in conformity with the rights recognized in the present Declaration, one's own cultural practices and to follow a way of life associated with the promotion of one's cultural resources, notably in the area of the use of and in the production of goods and services;
- The freedom to develop and share knowledge and cultural expressions, to conduct research and to participate in different forms of creation as well as to benefit from these;
- The right to the protection of the moral and material interests linked to the works that result from one's cultural activity.

Article 6 *(education and training)*

Within the general framework of the right to education, everyone has the right throughout one's lifespan, alone or in community with others, to education and training that, in response to fundamental educational needs, contribute to the free and full development of one's cultural identity while respecting the rights of others and cultural diversity. This right includes in particular:

- a. Human rights education and knowledge;
- b. The freedom to teach and to receive teaching of and in one's language and in other languages, as well as knowledge related to one's own culture and other cultures;
- c. The freedom of parents to ensure the religious and moral education of their children in conformity with their own convictions while respecting the freedom of thought, conscience and religion of the child on the basis of her/his capacities;
- d. The freedom to establish, to direct and to have access to educational institutions other than those run by the public authorities, on the condition that the internationally-recognized norms and principles in the area of education are respected and that these institutions comply with the minimum rules prescribed by the State.

Article 7 *(communication and information)*

Within the general framework of the rights to freedom of expression, including artistic freedom, as well as freedom of opinion and information, and with respect for cultural diversity, everyone, alone or in community with others, has the right to free and pluralistic information that contributes to the full development of one's cultural identity. This right, which may be exercised regardless of frontiers, comprises in particular:

- a. The freedom to seek, receive and impart information;
- b. The right to participate in pluralist information, in the

language(s) of one's choice, to contribute to its production or its dissemination by way of all information and communication technologies;

c. The right to respond to erroneous information concerning cultures, with full respect of the rights expressed in this Declaration.

Article 8 *(cultural cooperation)*

Everyone, alone or in community with others, has the right to participate, according to democratic procedures:

- in the cultural development of the communities of which one is a member;
- in the elaboration, implementation and evaluation of decisions that concern oneself and which have an impact on the exercise of one's cultural rights;
- in the development of cultural cooperation at different levels.

Article 9 *(principles of democratic governance)*

The respect, protection and fulfilment of the rights expressed in the present Declaration imply obligations for each person and community. Cultural actors in the three different sectors - public, private and civil - have a particular responsibility within the framework of democratic governance to interact and, if need be, to take initiatives for the purpose of:

- a. Ensuring respect for cultural rights and developing means of consultation and participation in order to guarantee their realization, in particular for those who are most disadvantaged by virtue of their social status or the fact that they belong to a minority;
- b. Guaranteeing in particular the interactive exercise of the right to adequate information to ensure that cultural rights are taken into

consideration by all actors in the social, economic and political spheres;

c. Training their personnel and raising public awareness on the understanding and respect for all human rights and cultural rights in particular;

d. Identifying and taking into account the cultural dimensions of all human rights in order to enhance universality through diversity and to encourage the appropriation of these rights by all persons, alone or in community with others.

Article 10 *(integration into the economy)*

Actors in the public, private and civil sectors must, within the framework of their specific mandates and responsibilities:

a. Ensure that the cultural goods and services that carry value, identity and meaning, as well as all other goods to the extent that they have a significant influence on ways of life and other cultural expressions, are conceived, produced and used in a manner that does not impair the rights expressed in the present Declaration;

b. Consider that the cultural compatibility of goods and services is often of crucial importance for persons in disadvantaged situations as a result of poverty, isolation or one's belonging to a discriminated group.

Article 11 *(responsibility of actors in the public sector)*

States and other actors in the public sector must, within the framework of their specific mandates and responsibilities:

a. Incorporate the rights recognized in the present Declaration into their national legislation and practice;

b. Respect, protect and fulfil the rights enunciated in the present Declaration in conditions of equality and dedicate a maximum amount of their available resources to ensuring their full exercise;

- c.** Ensure that anyone who, alone or in community with others, claims that one's cultural rights have been violated, has access to effective remedies, in particular, judicial remedies;
- d.** Strengthen the means of international cooperation necessary for this implementation, in particular by intensifying their interaction within the relevant international organizations.

Article 12 (*responsibility of international organizations*)

International organizations must, within the framework of their specific mandates and responsibilities:

- a.** Guarantee that cultural rights and the cultural dimension of other human rights are systematically taken into consideration in all of their activities;
- b.** Ensure that cultural rights are consistently and progressively integrated into all relevant instruments and monitoring mechanisms;
- c.** Contribute to the development of common transparent and effective mechanisms for evaluation and monitoring.

Adopted in Fribourg on May 7th 2007

The **working group**, or "Fribourg Group", responsible for drafting the Declaration is composed of:

Taïeb Baccouche, Arab Institute of Human Rights and University of Tunis ; Mylène Bidault, Universities of Paris and Geneva ; Marco Borghi, University of Fribourg ; Claude Dalbera, consultant, Ouagadougou ; Emmanuel Decaux, University of Paris II ; Mireille Delmas-Marty, Collège de France, Paris ; Yvonne Donders, University of Amsterdam ; Alfred Fernandez, OIDEL, Geneva ; Pierre Imbert, former Director of Human Rights at the Council of Europe, Strasbourg ; Jean-Bernard Marie, CNRS, University R. Schuman, Strasbourg ; Patrice Meyer-Bisch University of Fribourg ; Abdoulaye Sow, University de Nouakchott ; Victor Topanou, UNESCO Chair, University of Abomey Calavi, Cotonou.

Many other observers and researchers have however contributed to the elaboration of the text.

A list of persons and institutions that support this Declaration is accessible on the website of the Observatory of Diversity and Cultural Rights

www.unifr.ch/iiedh

The Declaration is addressed to all those who, in a personal or an institutional capacity, wish to associate themselves with it.

Please send a letter of support with your references, specifying whether you are adhering in a personal capacity or on behalf of your institution, to:

Institut interdisciplinaire d'éthique et des droits de l'homme,

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Additional information, commentaries, summary documents, working documents and research outlines can be found on the Observatory's website.

Why a Declaration on Cultural Rights?

At a time when normative instruments on human rights abound but are not always coherent, it might seem inopportune to propose a new text. However, given the persistence of violations, the fact that current and potential conflicts are largely caused by violations of cultural rights, as well as the fact that numerous development strategies have proved inadequate due to their neglect of these rights, we concluded that the universality and indivisibility of human rights still suffer as a result of the marginalization of cultural rights.

The recent development of the protection of cultural diversity can only be understood as an attempt to avoid relativism, anchored in the indivisibility and interdependence of all human rights, and more specifically by clarifying the importance of cultural rights.

The present Declaration groups together and defines rights that are already recognized, albeit in a dispersed manner in many instruments. Clarification is necessary to underscore the crucial importance of these cultural rights as well as the cultural dimension of other human rights.

The proposed text is a new, completely reworked version of a document drafted for UNESCO² by the international working group known as the "Fribourg Group" because it operates out of the Inter-disciplinary Institute for Ethics and Human Rights of the University of Fribourg in Switzerland. The outcome of a broad debate with actors from very different backgrounds, this Declaration is addressed to people, communities, institutions and organizations that intend to work to ensure the development of the rights, freedoms and responsibilities it expresses.

² *Les droits culturels. Projet de déclaration*. P. Meyer-Bisch (éd.), 1998, Paris / Fribourg, Unesco, / Editions universitaires.