

The Human Right to Take Part in Cultural Life

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Abstract: The human right to take part in cultural life is rooted in dignity of the person. Cultural rights form an integral part of human rights and, like all other rights, are universal, indivisible and interdependent, that is why respecting them is essential for the preservation of human dignity and the positive social interaction between individuals and communities in a diverse and multicultural world. The concept of unity of human rights implies equality of personal, political, economic, social and cultural rights. It is a universal right to participation, contributing and access to culture. The human right to take part in cultural life must be considered in two dimensions: individual and collective. This emphasizes both the autonomy of the individual and the importance of the community. An analysis of this law allows us to point out its most fundamental elements. Both the Universal Declaration of Human Rights (Article 27) and the International Covenant on Economic, Social and Cultural Rights (Article 15) state that the human right to take part in cultural life is vested in all members of the human community. In view of this fact, States are obliged to promote culture among all social groups. States are also obliged to recognize the diversity of identities of individuals and communities residing on their territory. The international community attaches great importance to cooperation in the field of culture.

1. Introduction

The human is a historical, biological, but also a social being, because only in society can they maintain their existence, develop spiritually and morally and pass on their achievements to the next generations. There is a vital durable core in the human being, without which no historical continuity was possible. Man is also a transcendent being. People are able to mentally transcend the spatial-temporal world and ask questions about its origin, primal cause and the sense of their own lives. Man is capable of defining his relationships not only to other people and the world, but also to God. Since the human being has a special place in the world, they are entitled to a personal dignity, which is inherent, permanent, immutable.¹ Humans are also cultural beings as they transform their natural and social environment. Man, when completely deprived of culture, cannot exist and develop.² He does not create this culture alone, but with other people, living in society. Human rights are contained within dignity. This dignity is related to the ontic human nature, as without dignity, the human being would not be a person and also a subject of rights and obligations.³ Human rights are read from innate human dignity in the context of the situation in the human community as a whole. The Committee on Economic, Social and Cultural Rights (CESCR) has stated in its General Comment no. 21 that

cultural rights are an integral part of human rights and, like other rights, are universal, indivisible and interdependent. The full promotion of and respect for cultural rights is essential for the maintenance of human dignity and

¹ Franciszek Janusz Mazurek, *Alfreda Verdrossa i Jacquesa Maritaina koncepcja dynamiczna prawa naturalnego i praw człowieka* (Lublin: Polihymnia, 1999), 33–5; Krzysztof Orzeszyna, Michał Skwarzyński, and Robert Tabaszewski, *Prawo międzynarodowe praw człowieka*, 2nd ed. (Warsaw: C.H. Beck, 2022), 276–7; Krzysztof Orzeszyna, “The Right to a Natural and Dignified Death,” *Studia Iuridica Lublinensia* 29, no. 4 (2020): 221, <http://dx.doi.org/10.17951/sil.2020.29.4.221-232>.

² Alfred Verdross, *Statisches und dynamisches Naturrecht* (Freiburg: Rombach Hochschul Paperback, 1971), 84.

³ According to A. Verdross, the principle of dignity of the human person and the principle of human rights belong, alongside other principles, to the *ius cogens*, i.e. the imperative norm of universal international law (“Jus Dispositivum and Jus Cogens in International Law,” *American Journal of International Law* 60, no. 1 [1966]: 59 et seq.).

positive social interaction between individuals and communities in a diverse and multicultural world.⁴

The human right to take part in cultural life was stated e.g. in the Universal Declaration of Human Rights,⁵ the International Covenant on Economic, Social and Cultural Rights,⁶ the African Charter on Human and Peoples' Rights,⁷ the Additional Protocol to the American Convention on Human Rights on Economic, Social and Cultural Rights (San Salvador Protocol),⁸ the Arab Charter on Human Rights,⁹ the Convention for the Protection of Human Rights and Fundamental Freedoms,¹⁰ and many other special and sector-specific declarations and conventions. The formation of international standards for the enjoyment of the human right to cultural participation is primarily linked to the operation of UNESCO. Among many documents of this organization, most notable are the UNESCO recommendations

⁴ CESCR, General Comment no. 21, Right of everyone to take part in cultural life (Article 15 para. 1(a), of the International Covenant on Economic, Social and Cultural Rights, E/C.12/GC/21 [December 21, 2009], para. 1); see: The Fribourg Declaration, Preamble, para. 2, p. 3; Krzysztof Orzeszyna and Robert Tabaszewski, "The Legal Aspects of Activities Taken by Local Authorities to Promote Sustainable Development Goals: Between Global and Regional Regulations in Poland," *Lex Localis – Journal of Local Self-Government* 19, no. 4 (2021): 1048, [http://dx.doi.org/10.4335/19.3.1043-1063\(2021\)](http://dx.doi.org/10.4335/19.3.1043-1063(2021)); Krzysztof Orzeszyna, "Universalism of Human Rights: Notion of Global Consensus or Regional Idea," *Review of European and Comparative Law* 46, no. 3 (2021): 165–7, <https://doi.org/10.31743/recl.12428>.

⁵ Article 27, Universal Declaration of Human Rights, A/810 (December 10, 1948).

⁶ Article 15, International Covenant on Economic, Social and Cultural Rights (adopted December 16, 1966, 993 UNTS 3, entered into force January 3, 1976). See: Elżbieta Karska, "Drafting an International Legally Binding Instrument on Business and Human Rights: The Next Step towards Strengthening the Protection of Human Rights," *International Community Law Review* 23, (2021): 484.

⁷ Article 17, African Charter on Human and Peoples' Rights (adopted June 27, 1981, 1520 UNTS 217, entered into force October 21, 1986).

⁸ Article 14, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (adopted November 17, 1988, 28 ILM 156(1989), entered into force November 16, 1999, "San Salvador Protocol").

⁹ Article 42, Arab Charter on Human Rights (adopted May 22, 2004, 18 HRLJ 151 (1997), entered into force March 15, 2008).

¹⁰ Article 8, Convention for the Protection of Human Rights and Fundamental Freedoms (adopted November 4, 1950, 213 UNTS 2, entered into force September 3, 1953).

adopted in 1976 regarding the participation and contribution of nations in cultural life.¹¹

2. The Concept of Uniformity of Human Rights as the Basis for a Correct Understanding of the Human Right to Take Part in Cultural Life

The Charter of the United Nations¹² is the first multilateral agreement that initiated the process of creating the international human rights law. UN member states assumed therein a commitment to respect human rights, and to take steps to define, develop and codify these rights.¹³ The Human Rights Commission established by the Economic and Social Council worked on the Universal Declaration of Human Rights in 1947–1948, which was eventually adopted by the General Assembly on December 10, 1948. The human rights listed in the Declaration are approached holistically and on equal terms, and thus they concern political, personal, economic, social and cultural rights. The concept of unity of human rights was not challenged in practice until 1951, at the moment of exacerbation of the Cold War, when the General Assembly amended an earlier decision to draw up a single human rights covenant and adopted a resolution providing for the initiation of work on two covenants, addressing respectively the issues of political and personal rights and of economic, social and cultural rights.¹⁴ The restoration of unity and the return to the original position formulated by the Universal Declaration of Human Rights took place only after the end of the Cold War, at the Vienna Conference in 1993. After the Vienna Conference, which listed human rights in alphabetical, not generational order, and which pointed to the need to treat all rights equally, there are no grounds now for a generational presentation of human rights, as this can only lead to the continuation

¹¹ See, especially Article 4, UNESCO, Recommendation on Participation by the People at Large in Cultural Life and their Contribution to it (26 November 1976); see: Vita Czepek and Elżbieta Karska, “The Scope and Importance of Cooperation between UNESCO and the ICC for the Protection of Cultural Property,” *Studia Iuridica* 95, (2022): 74–94.

¹² Charter of the United Nations (adopted 26 June 1945, 1 UNTS XVI, entered into force October 24, 1945).

¹³ Janusz Symonides, “Powszechna Deklaracja Praw Człowieka (po 60 latach od jej przyjęcia),” *Państwo i Prawo* 12, (2008): 4.

¹⁴ It should be noted that this division was one of the reasons why Karel Vasak proposed the concept of “three generations” of human rights.

of the discussion on which of the categories of human rights is the most important.¹⁵ Anyone who deals with the human right to participate in cultural life should note that it is a universal right to take part, participate and have access to culture. It therefore seems to be an aberration at the moment to separate personal and political rights from economic, social and cultural rights, since the human right to participate in cultural life clearly has two distinct categories: liberty rights and the right of access to cultural and scientific resources. These rights are at the center of the political and economic influence of the state and the community. They recall the important place of the common good in cognition and heritage. Science and culture define our world and determine it. It is thanks to them that in a broad sense we decide about our humanity.¹⁶

3. Normative Content and Restrictions of the Human Right to Take Part in Cultural Life

In the human right to take part in cultural life¹⁷ provided for in Article 27 of the Universal Declaration of Human Rights and in Article 15 of the International Covenant on Economic, Social and Cultural Rights¹⁸ includes both its active and passive aspects. This right includes the right to participate freely in the cultural life of society, to enjoy the arts, to participate in and benefit from the progress of science. Article 15(1) of the Covenant concerns the three human rights: the right to take part in cultural life (Article 15(1) (a)), the right to enjoy the benefits of scientific progress and its applications (Article 15(1)(b) and the right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic

¹⁵ Symonides, “Powszechna Deklaracja Praw Człowieka,” 9–10.

¹⁶ Mylène Bidault, “Article 15,” in *Le Pacte international relatif aux droits économiques, sociaux et culturels. Commentaire article par article*, eds. Emmanuel Decaux and Olivier de Schutter (Paris: Economica, 2019), 376.

¹⁷ Two terms: “cultural rights” and “the right to take part in cultural life” (right to culture) are encountered in the literature. “Cultural rights” is a much broader term, encompassing the right to learn, the right to education, the right to culture, the right to benefit from scientific and technological progress, etc. Imre Szabó, *Cultural Rights* (Budapest: Akadémiai Kiadó, 1974), 8–9.

¹⁸ International Covenant on Economic, Social and Cultural Rights (adopted December 16, 1966, 993 UNTS 3).

production of which he is the author (Article 15(1)(c)).¹⁹ Both Article 15 of the Covenant and many other international law regulations are interpreted and reviewed through many mechanisms operating in synergy. In the context of the human right to take part in cultural life, it is primarily the Committee on Economic, Social and Cultural Rights (CESCR) and the Special Rapporteur.

In Article 15(1)(a), no detailed definition of culture has been proposed,²⁰ therefore this international standard should also be reconstructed from other documents that address the human right to participate in cultural life. The Convention on the Elimination of All Forms of Racial Discrimination,²¹ in Article 5(e)(VI), listed the right to equal participation in cultural activities among the rights that should be guaranteed to all regardless of differences in race, color, national or ethnic origin. Also, the Declaration of Principles on International Cultural Cooperation adopted on November 26, 1966 by the UNESCO General Assembly, in Article 4 sets forth the aims of international cultural cooperation.²² These are the development of knowledge, the stimulation of talent, the enrichment of cultures, enabling everyone to have access to knowledge, the enjoyment of literature and the arts of all nations, sharing in advances made in science and in the resulting benefits, and contributing to the enrichment of cultural life.²³

¹⁹ CESCR, General Comment No. 21 (2009), General Comment No. 17 (2005) § 4, CESCR, Concluding observations on the report by Brazil of 2009, E/C.12/BRA/CO/2, § 33; Yemen of 2011, E/C.12/YEM/CO/2, § 31; Spain of 2012, E/C.12/ESP/CO/5, § 29.

²⁰ “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 meanings that 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 recognised in one’s dignity; c. “Cultural community” connotes a group of persons who share references that constitute a common cultural identity that they intend to preserve and develop” (The Fribourg Declaration, Article 2 [definitions], p. 5).

²¹ International Convention on the Elimination of All Forms of Racial Discrimination (adopted December 21, 1960, 660 UNTS 195, entered into force January 4, 1969).

²² UNESCO, Recommendation on Participation by the People at Large in Cultural Life and their Contribution to it (November 26, 1966).

²³ Ben Saul, David Kinley, and Jacqueline Mowbray, *The International Covenant on Economic, Social and Cultural Rights. Commentary, Cases, and Materials* (Oxford: Oxford University Press, 2014), 1178.

The ultimate aim of that cooperation should be, according to paragraph 5 of Article IV, to raise the level of the spiritual and material life of man in all parts of the world.²⁴

An attempt to formulate a definition of the individual's right to culture²⁵ was made by Boutros Boutros-Ghali on the basis of the documents presented above. In his opinion, every human being has the right to have access to the knowledge, arts and literature of all nations, to participate in and benefit from scientific progress and to make their own contribution to the enrichment of cultural life.²⁶ This right is fulfilled when the following conditions are met. The first concerns what has been set out in Article 25 of the Universal Declaration and in Article 11 of the Covenant on Economic, Social and Cultural Rights as an adequate standard of living. The second condition is the full implementation of the right to education provided for in Article 26 of the Universal Declaration of Human Rights. Without providing the individual with the minimum conditions for a livable existence and at least a minimum level of knowledge, it is impossible for the individual to enjoy the benefits of cultural life.²⁷ In General Comment No. 21, the CESCR explains that the concept of "culture" should be understood as an interactive process whereby individuals and communities, while preserving their specificities and purposes, give expression to the culture of humanity.²⁸ According to R. Stavenhagen, the term "culture" means the sum of the material and spiritual activities and products of a given social group, which distinguishes it from other similar groups. This, in turn, provides individuals with the required guidelines, meanings of behavior and social

²⁴ Roman Wieruszewski, "Prawo do udziału w życiu kulturalnym," in *Prawa człowieka. Model prawny*, ed. Roman Wieruszewski (Wrocław: Zakład Narodowy imienia Ossolińskich, Wydawnictwo Polskiej Akademii Nauk, 1991), 1020–1.

²⁵ According to Jacques Maritain, the word "culture" refers to rational and moral life, while the word "civilization" to political and organizational life, hence the former term has a broader sense (*Religia i kultura* [Poznań: Naczelny Instytut Akcji Katolickiej, 1937], 76 et seq.).

²⁶ Boutros Boutros-Ghali, "The Right to Culture and the Universal Declaration of Human Rights," in *Cultural Rights as Human Rights* (Paris: UNESCO, 1970), 73–4; Patrice Meyer-Bisch, Mylène Bidault, *Déclarer les droits culturels, Commentaire de la Déclaration de Fribourg* (Bruxelles: Bruylant, Schulthess, 2010), § 0–20.

²⁷ Wieruszewski, "Prawo do udziału w życiu kulturalnym," 1021.

²⁸ CESCR, General Comment no. 21, para. 12.

relationships in everyday life.²⁹ At the same time, the CESCR stated that countries should go beyond the material aspects of culture by promoting effective access to intangible cultural assets for all.³⁰ Access to cultural life entails also the right to one's own cultural identity.

This right consists of the right to choose and shape one's own identity, both in individual and collective terms. Thus, the human right to participate in cultural life should be approached in two dimensions: individual and collective.³¹ In the human right to participate in cultural life, a direct emphasis is put on the choice to be made by the individual. The principle of individual autonomy, which originated in the norms of minority rights, was emphasized here, and now it has been extended to all people.³² It is the individual who chooses his or her identity, cultural resources and references, whether or not to pursue a cultural activity or practice, whether or not to belong to a community. While Article 15 of the Covenant does not apply the term "community" used in the Declaration, this could suggest that the right to participate in cultural life does not have to be exercised within a community framework. However, the idea is that the concept of community should not be reduced to minorities and indigenous peoples alone, because cultural diversity should be understood in a more profound fashion. States should recognize the diversity of cultural identities of individuals and communities residing on their territory. According to A.H. Robertson, while activity within the community is a typical element, is not indispensable for exercising one's right to participate in cultural life.³³

²⁹ Rodolfo Stavenhagen, "Cultural Rights: A Social Science Perspective," in *Cultural Rights and Wrongs: A Collection of Essays in Commemoration of the 50th Anniversary of the Universal Declaration of Human Rights*, ed. Halina Niec (Paris: UNESCO Publishing and Institute of Art and Law, 1998), 1–20.

³⁰ CESCR, General Comment no. 21, para. 69.

³¹ Tomasz Lewandowski, "Prawo do udziału w życiu kulturalnym," in *Międzynarodowy Pakt Praw Gospodarczych, Socjalnych i Kulturalnych. Komentarz*, eds. Zdzisław Kędzia and Anna Hernandez-Połączyńska (Warsaw: C.H. Beck, 2018), 710–1.

³² See: Czepek and Karska, "The Scope and Importance of Cooperation," 75–89; Elżbieta Karska and Łukasz Dawid Oręziak, "Qualifying for International and National Protection under the Polish Legal Order: Some Remarks in the Context of the War in Ukraine," *Stosunki Międzynarodowe – International Relations* 4, no. 4 (2024), <http://dx.doi.org/10.12688/stomiedintrelat.17794.1>.

³³ A.H. Robertson, "The Right to Education and Culture and Its International Implementation," in *International Institute of Human Rights. Ninth Study Session, Summary of Lectures*,

It seems that the adoption of such an interpretation makes the right more universal.³⁴ In General Comment No 17, the CESCR stated that the concept of “everyone” within the meaning of Article 15 of the Covenant means both an individual and a collective.³⁵ Hence, the right to participate in cultural life may be exercised in three ways: individually by an individual, by an individual together with others and by a community or group as a whole.³⁶ The CESCR stresses the role of the community in cultural participation, but at the same time points to the collective action of individuals.³⁷

Participation in cultural life also includes: the right of everyone to act unhindered, either individually, with others, or as a community, to choose their identity, to identify or not with one or more communities.³⁸ A conflict may arise from the dual nature of the right to participate in cultural life. In Case *Mahuika et al. v. New Zealand*, the Committee on Human Rights decided that

where the right of individuals to enjoy their own culture is in conflict with the exercise of parallel rights by other members of the minority group, or of the minority as a whole, the Committee may consider whether the limitation in issue is in the interests of all members of the minority and whether there is reasonable and objective justification for its application to the individuals who claim to be adversely affected.³⁹

The recognition of the central place of the individual’s choice must not lead to the denying of the validity of communities for the exercise of cultural rights. The dynamism of cultural rights is based on the introduction of equal participation within numerous community affiliations. Communities are places of interaction, creation, criticism and transfer of knowledge. Communities also store and create culture, and pass on its meaning.⁴⁰

Strasbourg July 3–28, 1978, AHR/E/20.

³⁴ Wieruszewski, “Prawo do udziału w życiu kulturalnym,” 1019–20.

³⁵ CESCR, General Comment no. 17, para. 2

³⁶ CESCR, General Comment no. 21, para. 9.

³⁷ Bidault, “Article 15,” 282.

³⁸ Lewandowski, “Prawo do udziału w życiu kulturalnym,” 713–4.

³⁹ Decision of the Human Rights Committee of October 27, 1993 in *Apirana Mahuika et al. v. New Zealand*, Communication No. 547/1993, paras. 9, 6.

⁴⁰ Commentary on the Fribourg Declaration, p. 36 et seq.; Bidault, “Article 15,” 281–2.

International instruments adopt the principle that “No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.”⁴¹ The CESCR and the Special Rapporteur have taken a clear position on this issue. In General Comment No. 21, the Committee stated that

applying limitations to the right of everyone to take part in cultural life may be necessary in certain circumstances, in particular in the case of negative practices, including those attributed to customs and traditions, that infringe upon other human rights. Such limitations must pursue a legitimate aim, be compatible with the nature of this right and be strictly necessary for the promotion of general welfare in a democratic society, in accordance with Article 4 of the Covenant CCPR. Any limitations must therefore be proportionate, meaning that the least restrictive measures must be taken when several types of limitations may be imposed. The Committee also wishes to stress the need to take into consideration existing international human rights standards on limitations that can or cannot be legitimately imposed on rights that are intrinsically linked to the right to take part in cultural life, such as the rights to privacy, to freedom of thought, conscience and religion, to freedom of opinion and expression, to peaceful assembly and to freedom of association.⁴²

4. Respecting and Protecting Cultural Heritage by the State

It should be noted that States also have a number of positive obligations to promote and support cultural life.⁴³ The analysis of the human right to take part in cultural life allows the most basic elements of this right to be identified. The first element of this right is its universal nature. Both the Universal Declaration and the Covenant stress that participation in cultural life should be granted to all community members. Therefore, the state is obliged to disseminate culture and science among all social strata and groups, in

⁴¹ Article 4 UNESCO, Universal Declaration on Cultural Diversity (November 2, 2001).

⁴² General Comment no. 21, para. 19; Krzysztof Orzeszyna, “Convergence of International Humanitarian Law and International Human Rights Law in Armed Conflicts,” *Studia Iuridica Lubliniensia* 32, no. 3 (2023): 247, <http://dx.doi.org/10.17951/sil.2023.32.3.237-252>; Bidault, “Article 15,” 390–1; Krzysztof Orzeszyna, “The Common Core of the Fundamental Standards of International Humanitarian Law and International Human Rights Law,” *International Community Law Review* 25, (2023): 571, <https://doi.org/10.1163/18719732-bja10114>.

⁴³ Krzysztof Orzeszyna, Michał Skwarzyński, and Robert Tabaszewski, *International Human Rights Law* (Warsaw: C.H. Beck, 2023), 79–82.

particular those which are handicapped in this respect for some reasons – be it geographical, economic, historical or otherwise. This obligation is clearly formulated in Article 15(2) of the Covenant, which states that appropriate actions of states should include “those necessary for the conservation, the development and the diffusion of science and culture.”⁴⁴

The second element is openness, which means that cultural participation cannot be reduced to the culture of one country or group of countries. The international community attaches considerable importance to international cooperation in science and culture. This is reflected in Article 15(4) of the Covenant on Economic, Social and Cultural Rights, and in Article 1(2)(a) of the UNESCO Constitution, which obligates the organization to recommend international agreements that may be necessary to promote the free flow of ideas with the use of word and image.⁴⁵ The understanding of cultural rights as the rights of all people should be considered in the context of access to cultural resources and cultural heritage.

According to the CESCR, states should

respect and protect cultural heritage in all its forms, in times of war and peace, and natural disasters; Cultural heritage must be preserved, developed, enriched and transmitted to future generations as a record of human experience and aspirations, in order to encourage creativity in all its diversity and to inspire a genuine dialogue between cultures. Such obligations include the care, preservation and restoration of historical sites, monuments, works of art and literary works, among others.⁴⁶

5. State’s Commitment to Actively Pursue the Right to Take Part in Cultural Life

The right to take part in cultural life is a liberty right and therefore States parties to the Covenant should refrain from interfering with the exercise of this right by rightholders. The CESCR has pointed out, in conjunction with Article 2(2) and Article 3 of the Covenant, that any discrimination in

⁴⁴ Wieruszewski, “Prawo do udziału w życiu kulturalnym,” 1022.

⁴⁵ Constitution of the United Nations Educational, Scientific and Cultural Organization, UNTS Volume Number 4 (p. 275), as amended.

⁴⁶ CESCR, General Comment no. 21, para. 50 a.

the exercise of the right to participate in cultural life on grounds of race, color, sex, language, religion, political or other beliefs, national or social origin, property, birth or other status is prohibited.⁴⁷ It is therefore an obligation on the part of the State to refrain, either directly or indirectly, from interfering in the exercise of the right to take part in cultural life.

As regards the nature of the obligations of States stemming from the right in question, scholars in the field usually divide human rights into those that can be exercised immediately and into rights of a programmatic nature. According to A. Michalska, what is decisive for the characterization of certain rights as programmatic, even regardless of which Covenant they are located in, is not so much the way of formulating the relevant provisions, but the type of those rights. The classification of a right in one category or another does not affect the assessment of the legal nature which is identical for both types of rights. The differences boil down to the methods of their implementation. There are two situations here: the obligation to take action to implement rights and the obligation to guarantee the level of protection required by the Covenants. The first obligation rests with the States from the moment of their ratification. However, the performance of the second obligation depends on the nature of the rights concerned. The obligations of the State resulting from the right of an individual to culture differ in scope, both subjective and objective. What differs is the group of relevant actors: culture creators and recipients, as well as the type of necessary actions that should be taken in order to implement these obligations, e.g. legislative or organizational activities. The full implementation of the right to participate in cultural life is of a programmatic nature. Participation in culture in the so-called developed countries differs significantly from that in developing countries. The capability to exercise this right depends on the prior exercise of other socio-economic rights. The UNESCO recommends, among other things, that States treat the right to participate in cultural life as a human right.⁴⁸ The CESCR, when assessing the exercise of positive responsibilities by States to ensure respect for and protection of the right to take part in cultural life, checks whether the implementation measures are reasonable and proportionate with respect for other human

⁴⁷ CESCR, General Comment No. 20 of 2009.

⁴⁸ Wieruszewski, "Prawo do udziału w życiu kulturalnym," 1023–4, 1026.

rights and the rules of democracy. States should adopt effective mechanisms to respond to violations of the human right to take part in cultural life by adopting appropriate standards for the protection of the right to take part in cultural life. International standards are of a general nature, they provide certain principles that should guide countries in their cultural policies. It can therefore be noted that the right of the individual to exercise the human right to take part in cultural life is largely implemented by the activities of the State.

6. Conclusions

The human right to take part in cultural life is rooted in dignity of the person. This right is an integral part of human rights, therefore it is universal, indivisible and interdependent. The concept of unity of rights is based on the assumption that personal, political, economic, social and cultural rights are equal. This right is vested in all members of the human community. The human right to take part in cultural life is one of liberty rights, therefore States should refrain from interfering with the exercise of this right by the rightholders. At the same time, it is incumbent on the States to actively pursue and positively promote participation in cultural life and the dissemination of culture to all strata and groups of society.

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