

CONTENTS

Acknowledgments	xi
List of Abbreviations	xiii
Foreword by Mary Robinson	xv
Introduction	1
Scope and Approach	2
Why Have Cultural Rights Been Neglected?	4
Why Are Cultural Rights Important Today?	6
Chapter One Legal History and Contemporary Context	11
A. The Drafting History of Article 27 of the Universal Declaration of Human Rights and of Article 15 of the International Covenant on Economic, Social and Cultural Rights	11
Article 27 of the Universal Declaration of Human Rights	11
Article 15 of the International Covenant on Economic, Social and Cultural Rights	16
B. Culture, Cultural Relativism, Identity Politics	18
C. The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance	28
D. Dialogue Among Civilizations	34
Chapter Two The Right to Participate in Cultural Life in International Instruments and Practice	37
A. International Instruments	37
1. Universal Declaration of Human Rights	37
2. International Covenant on Economic, Social and Cultural Rights	38
3. International Covenant on Civil and Political Rights	38
4. International Convention on the Elimination of All Forms of Racial Discrimination	39
5. Convention on the Elimination of All Forms of Discrimination against Women	39
6. Convention on the Rights of the Child	40

7. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities	41
8. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	42
9. Other Instruments	43
B. Role of the United Nations Human Rights Treaty Bodies With Respect to the Right to Participate in Cultural Life	48
1. The Committee on Economic, Social and Cultural Rights	48
2. The Human Rights Committee	55
3. The Committee on the Elimination of Racial Discrimination (CERD)	55
4. The Committee on the Elimination of Discrimination against Women (CEDAW)	55
5. The Committee on the Rights of the Child	56
C. Role of United Nations Bodies Other Than the Human Rights Treaty Bodies	57
1. The Commission on Human Rights and Extra-Conventional Mechanisms	57
2. The Sub-Commission on the Promotion and Protection of Human Rights	66
3. The United Nations Permanent Forum on Indigenous Issues	70
4. The General Assembly	71
5. The Security Council	72
D. Role of the Office of the UN High Commissioner for Human Rights	74
E. Role of the UN Educational, Scientific and Cultural Organization (UNESCO)	76
F. Cultural Rights and United Nations Operations	83
1. Development and Cultural Rights	83
2. Peace Operations and Cultural Rights	96
 Chapter Three What Are Cultural Rights? The Normative Content of the Right to Participate in Cultural Life	107
A. The Context and Concept of Culture	107
B. The Fundamental Nature of Cultural Rights: Not Every Custom or Rite Is a Right	112

C. The Elements of the Right to Participate in Cultural Life	115
1. Non-Discrimination and Equality	115
2. Freedom From Interference in the Enjoyment of Cultural Life, Freedom to Create and Contribute to Cultural Life	121
3. Freedom to Choose in Which Culture(s) and Cultural Life to Participate, the Freedom to Manifest One's Culture	129
4. Freedom of Dissemination	132
5. Freedom to Cooperate Internationally	135
6. Right to Participate in the Definition, Preparation and Implementation of Policies on Culture	141
7. Other Elements Connected to the Right to Participate in Cultural Life	143
D. State Obligations and Violations	148
The Minimum Core Obligations of the State	153
E. Monitoring Cultural Rights: Indicators and Benchmarks	158
F. Justiciable Aspects of Cultural Rights	160
 Chapter Four Special Groups	163
A. Indigenous Peoples and Minorities: What Are Their Cultural Rights?	163
1. Some Preliminary Considerations	163
2. Special Characteristics of Cultural Rights Pertaining to Minorities and Indigenous Peoples	171
3. Existing and Developing International Standards	173
4. International Jurisprudence and Other Case Law (Permanent Court of International Justice, Human Rights Committee, Organization of American States): Non-Discrimination; Participation Through Own Institutions; Language Rights; Right of Indigenous Peoples to Continue Certain Economic Activities Linked to the Traditional Use of Land and Natural Resources; Competing Rights	176
5. Practice of International Human Rights Treaty Bodies in Examining State Reports	185
6. The Right to Choose in Which Culture(s) to Participate	187
7. Language Rights	189

8. Freedom of Religion	199
9. Education of the Larger Society	201
10. Contact With Kin Beyond Borders	202
11. Cultural Rights, Self-Determination and Autonomy	204
12. Cultural Heritage and Traditional Knowledge	207
13. Positive State Measures	225
B. Other Groups	230
1. Women	230
2. Children and Youth	238
3. Persons With Disabilities	239
4. Migrant Workers, Refugees, Other Non-Citizens	241
5. The Poor	242
Conclusions and Recommendations	245

APPENDICES

Appendix One

Universal Declaration on Cultural Diversity	261
---	-----

Appendix Two

The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights	269
---	-----

Appendix Three

Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples	297
---	-----

Appendix Four

Overview of Select National Constitutions	305
1. Africa (Kenya, Tunisia)	305
2. Americas (Guatemala, Guyana)	307
3. Asia (Bangladesh, Philippines)	310
4. Europe (Bulgaria, Ukraine)	312

Selected Bibliography	317
------------------------------------	------------

Index	327
--------------------	------------