28 Role of UNESCO in Human Rights Implementation

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Introduction

The protection and promotion of human rights and fundamental freedoms is an intrinsic element of the UN Educational, Scientific and Cultural Organisation (UNESCO) Constitution, which was adopted in London on 16 November 1945. Its Preamble notes: “The wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of men.” Moreover, Article 1 of the Constitution states that the purpose of UNESCO is “to contribute to peace and security by promoting collaboration among nations through education, science and culture in order to further universal respect for justice, for the rule of law and for human rights and fundamental freedoms, which are affirmed for the peoples of the world without distinction of race, sex, language or religion by the Charter of the United Nations”.

It is often overlooked that UNESCO was actively involved in the elaboration of the Universal Declaration of Human Rights and also assisted in drafting the two international covenants, which today provide the basic framework for all human rights jurisprudence. UNESCO, thus, has a mandate provided by its Constitution to contribute to the promotion of all human rights and a special responsibility with regard to certain rights in education, culture and cultural diversity and freedom of expression and opinion.

The role of UNESCO in standard setting

UNESCO has adopted about 60 standard setting instruments relating to human rights.1 Some of which include: the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005); Universal Declaration on Bioethics & Human Rights (2005); Convention for the Safeguarding of the Intangible Cultural Heritage (2001); Recommendations Concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace (2001); Universal Declaration on the Human Genome and Human Rights (1997);

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and Promotion of the Diversity of Cultural Expression, which was adopted by the General Conference at its 33rd session in 2005.\(^2\) These conventions, declarations and recommendations mainly address the right to education, the protection of moral and material interest resulting from scientific, literary or artistic production and the right to take part in cultural life and protect cultural diversity and world heritage. UNESCO has conducted research in order to clarify the role of these rights and to suggest measures for their implementation. It has an acknowledged role in the field of human rights education. It has also tried to integrate a human rights based approach into all phases of its programme of competence. Indeed, the Medium-Term Strategy 2002–2007 defines the promotion and protection of human rights as one of the priorities of the Organisation.\(^3\)

A few words about the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expression. Its negotiations reveal an ideological divide between the perspective that culture and therefore cultural goods and services need to be submitted to market forces, like all other commercial goods and services, and the insistence from developing countries as well as the European Union that cultural diversity and all issues that flow from it, including cultural goods services, need to be cherished, nurtured and protected. For over 60 years, nurturing cultural diversity had never been the subject of an international instrument or a recognised human right. It was only part of the different rights embodied in the Universal Declaration. Thus, this Convention marks a turning point in the new approach to rights in this millennium.

The monitoring mechanism of these standard setting instruments is based, as with other human rights instruments, on a State reporting procedure, as established in Article 4(6)\(^4\) and Article 8 of its Constitution. Reports by States Parties are examined by a 30 member Committee on Conventions and Recommendations, presently chaired by Brazil’s Ambassador/Permanent Representative to UNESCO. As with the human rights mechanisms in Geneva, Member States have tried to address the reporting burden on States Parties. Indeed, the Committee on Conventions and Recommendations is presently examining a number of options to reform these reporting mechanisms, keeping in mind similar efforts being made in Geneva. Several transitional measures have been recommended to the Executive Board.\(^5\) These measures are applicable only to the conventions and recommendations entrusted to the Committee on Conventions and Recommendations.

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\(^2\) More specifically, it was adopted on 20 October 2005. It follows the Universal Declaration on Cultural Diversity of 2 November 2001.

\(^3\) 31 C/4, paras. 90–92.

\(^4\) Article 4(6) states that “[t]he General Conference shall receive and consider the reports sent to the Organization by Member States on the action taken upon the recommendations and conventions or, if it so decides analytical summaries of these reports”.

\(^5\) 165 EX/Decision 6.2 of the Executive Board.