

Framework of Cultural Human Rights Indicators – participation, access and contribution to cultural life

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Executive summary

Cultural Human Rights (CHR) have given rise to a vast body of international institutional documentation, particularly from UNESCO, and academic literature, within the framework of social, cultural and economic rights. The literature specifically on CHR is more limited. In Portugal, CHR are addressed in the 1976 Constitution of the Portuguese Republic in relation to cultural identity, cultural freedoms and access to cultural goods, which implicitly ties in with the idea of cultural democracy – a perspective that, more recently, has been explicitly championed, in dialogue with the democratisation of culture, by the National Plan for the Arts and the Porto Santo Charter. Despite the growing importance attributed to CHR within the paradigm of cultural democracy, a degree of uncertainty remains – both conceptual and in terms of operationalisation – regarding a framework of indicators to measure their impact.

Following a methodology that combines normative analysis and a systematic literature review, this project aims to contribute to a framework of CHR indicators capable of measuring the extent to which CHR has been implemented in Portugal. Relevant national and international legislation (around fifty pieces) was analysed, in conjunction with a systematic literature review (comprising a corpus of 192 scientific documents and 1,532 coded extracts), which led to the identification of the relevant indicators (63 in total) and their respective definitions. Seven structural attributes were identified, deriving from the 1976 Constitution and the basic laws; these are cross-cutting and independent of short-term programmes. It is proposed to organise the measurement into three levels, in accordance with the model of the Office of the United Nations High Commissioner for Human Rights (OHCHR): structural indicators (17), process indicators (26) and outcome indicators (20).

Specific regulatory gaps were identified which limit the effectiveness of these rights, as well as gaps in data sources; in the latter case, particular attention was drawn to the lack of a detailed and regular survey of the Portuguese population's cultural practices and participation in cultural life, which limits the ability to measure these.

Recommendations

- Adopt the Framework of Cultural Human Rights Indicators (FCHRI), based on the seven structural attributes identified with indicators at three levels (structural, process and outcome), as a starting point for decision-making on public policy.
- Explicitly reinforce the adoption of cultural rights principles in public policy guidelines and instruments.
- Establish an advisory body on cultural policy that is representative of communities, creators and audiences as a form of cultural governance.
- Strengthen the indicators based on evidence-based research: analysis of case law, data on public budget implementation, coordination with existing sectoral plans, and analysis of the remit of the CCDRs – Regional Coordination and Development Commissions and local authorities.
- Conduct regular surveys on the practices and participation of the Portuguese population in cultural life.

Target audience for the policy brief

Ministry of Culture, Youth and Sports; GEPAC – Office for Cultural Strategy, Planning and Evaluation; IGAC – Inspectorate-General for Cultural Activities; PNA – National Plan for the Arts; INE, I.P. – Statistics Portugal.

Introduction and Problem Statement

CHR remain one of the least developed domains, both in terms of theoretical research, where dedicated scholarly interest has only grown since 2019, and in terms of monitoring from a human rights perspective. The breadth of the concept, much like that of culture itself, which encompasses the arts, heritage, symbolic expression, languages and ways of life (UNESCO-UIS, 2025), highlights its relevance but makes it difficult both to define it in legal terms and to develop instruments to measure the extent to which it is achieved. Consequently, cultural rights occupy a secondary position within accountability systems and monitoring mechanisms and are commonly referred to by human rights scholars as the 'forgotten rights' or the 'Cinderella' of the human rights family (Donders, 2011).

Portugal has demonstrated widespread adherence to international human rights treaties, including the CHR, following the adoption of the 1976 Portuguese Constitution.

The Constitution come to enshrine, alongside economic and social rights, a set of rights relating to the enjoyment, creation and participation in culture, which have guided the development of policies and the national legal and regulatory framework concerning cultural rights (Ramos, 2023). Article 78 of the Constitution explicitly recognises the subjective right to cultural enjoyment and creation, whilst establishing the State's responsibilities and the safeguarding of cultural heritage as one of its fundamental tasks. The presence of frequently implicit references to cultural rights reveals their influence but makes it difficult to identify and measure them as such.

It remains lacking an instrument capable of translating this regulatory framework into concrete measurement. This project aims to address this gap by establishing the analytical basis for the FCHRI centred on three dimensions: access; participation; and contribution to cultural life (UNESCO, 2025, p. 42).

Analysis / Key Findings

I. An analysis of the legal framework

Cross examination of the international context and international law reveals that:

1) There are areas in which Portuguese law falls short of the commitments it has undertaken, namely:

- The approach of the Faro Convention (2005), which focuses on heritage communities and people's rights to heritage, is not fully reflected in a national framework that continues to be based on a classificatory and administrative approach.
- The five elements of General Comment No. 21 of the Committee on Economic, Social and Cultural Rights, namely availability, accessibility, acceptability, adaptability and appropriateness, have not yet been translated into national indicators.
- The gender and minority group dimensions, emphasised by the 2005 UNESCO Convention, are virtually absent from Portuguese cultural legislation.

2) Normative gaps exist relative to the international context.

Gaps with direct impact on the measurement of certain components of the CHR were identified:

- the absence of a specific legal framework on equality, gender and sexual orientation,

which is currently subsumed under the general principle of equality set out in Article 13 of the Constitution, which prohibits discrimination;

- the absence of a general framework for the restitution of colonial-era artefacts and items of provenance applicable to the art market, beyond Law No. 30/2016;
- the lack of regulation governing public access to digitised cultural goods from public collections and the use of generative artificial intelligence on protected works; and
- inter-sectoral coordination consolidated only with education, whilst remaining sporadic in relation to health, the environment, spatial planning or tourism

II. The systematic review of the literature

The aim of the systematic literature review (SLR) was to develop a conceptual framework for cultural rights and to identify the characteristics of the components of access, participation and contribution, thereby providing a basis for the future development of a set of indicators.

The methodological strategy involved screening, content analysis and categorisation, culminating in the organisation of 192 documents into a corpus comprising 1,532 categorised extracts.

- The analysis revealed differences between the dimensions: access is addressed in a multidimensional manner (physical, economic, symbolic and institutional barriers); participation is the most extensively covered dimension in the literature; and contribution is less well established, being associated primarily with creation, innovation and cultural expression.
- The results highlighted the relevance of cross-cutting factors such as gender, age, disability, minority status, education, sustainability and digital transformation, which are considered essential for the development of disaggregated indicators on cultural rights.
- The systematic review made it possible to map the main debates and gaps in the literature, highlighting the under-representation of the 'contribution' component and the scant attention paid to territorial and local dimensions.

the areas of application; seven structural attributes:

(A1) the existence and comprehensiveness of the regulatory framework;

(A2) recognition of substantive rights to cultural enjoyment, creation, participation, identity and future generations;

(A3) implementation of the State's duties under Article 78(2);

(A4) effective mechanisms for participation;

(A5) arrangements for physical, economic, informational and digital access;

(A6) heritage safeguarding regime, with funding;

(A7) mechanisms for cross-sectoral coordination and international cultural cooperation, particularly with Portuguese-speaking language countries.

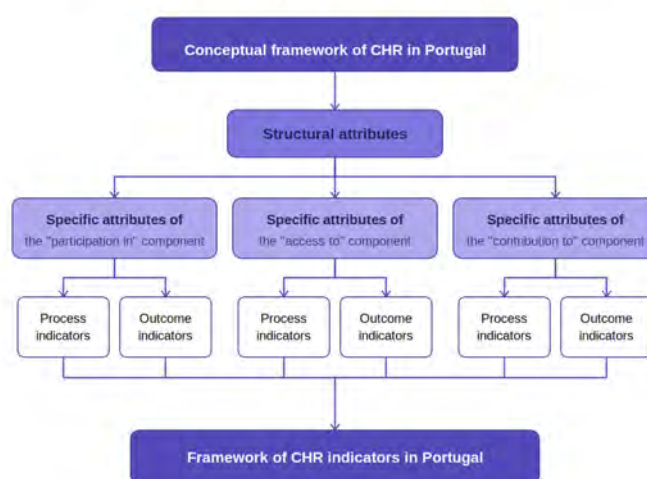
III. Proposed conceptual framework

From the overall analyses, it follows that consideration should be given to:

- four dimensions: substantive rights, State obligations, the underlying principles and

Building on the structural attributes, specific attributes are developed for the dimensions of access, participation and contribution to cultural life, together with their respective process and outcome indicators (Figure 1).

Figure 1. Conceptual structure of the project



Source: own elaboration.



Policy options and Recommendations

The design of the FCHRI, should prioritise structural attributes, as these stem from the Constitution and fundamental laws and do not depend on short-term policies. For each attribute, indicators are envisaged at the three levels of the human rights model: structure (existence of the regulatory and institutional framework), process (implementation, allocated resources, administrative acts) and outcome (actual impact on the population, particularly on vulnerable groups) (OHCHR, 2012).

The typology of present (explicit/implicit) and absent references of a particular classification make it possible, for each right, to distinguish between a direct reference in the national framework, substantive coverage without specific mention, and the absence of such a reference, with an indication of the applicable international source.

To address these shortcomings, the Framework should flag the absence of a cultural framework for equality and gender, the absence of a system for the restitution of colonial-era and provenance-related cultural property, the lack of regulation concerning digitised cultural property and artificial intelligence, and the absence of a permanent advisory body on cultural policy.

To strengthen the framework with evidence, it is recommended that consideration be given to addressing aspects that fall outside the scope of this study, namely: i) an analysis of case law and an analysis of budget implementation and audience

data; ii) coordination with sectoral plans (PNA – National Plan for the Arts, PNL – National Reading Plan, PNC – National Cinema Plan, Strategy for Cultural Heritage); iii) an analysis of the remit of the regional and local authorities in the implementation of local initiatives.

Regarding the instruments used as sources for the indicators, it will be important to continue and update recent mapping studies on the cultural and artistic landscape in Portugal, notably those carried out by Neves et al. (2024), as well as to conduct studies on the cultural practices and participation of the Portuguese population. Although Eurostat and Eurobarometer provide relevant information for characterising cultural participation, their data is highly aggregated, which limits their use for monitoring more specific aspects of cultural rights.

In the Portuguese context, the Survey on the Cultural Practices of the Portuguese (Pais et al., 2022) is also worth highlighting, as it provides a detailed source of information on the cultural practices of the Portuguese population. However, unlike in several countries (such as France, Spain, England, Australia and the USA, amongst others), where such studies are regularly commissioned by government departments responsible for culture, this survey was carried out outside the remit of the central government's cultural administration, which would be desirable, and on a pre-established schedule.

Conclusion

Portugal has a robust regulatory framework and a strong set of international commitments regarding cultural rights, yet lacks a mechanism to measure their effective implementation.

The work carried out provides the conceptual basis for the development of an IFCHRI for Portugal, in line with OHCHR guidelines, based on seven structural attributes and three levels of measurement.

Its adoption would make it possible to identify where domestic law falls short of international standards, highlight the gaps and inform public decision-making with disaggregated data.

The proposed FCHRI serves as a starting point, developed in accordance with scientific criteria, to support decision-making on public policy; its adaptation for practical application will need to be carried out in consultation with the relevant policymakers.

An analysis based on explicit or merely implicit references to 'cultural rights' in policies and policy

instruments has shown that this focus is more prevalent than one might expect at first glance; however, implicit references tend not to accord it the importance it deserves, in terms of its recognition, its presence in public debate and as an exercise of democracy in general, and cultural democracy in particular. The Porto Santo Charter is, in terms of its explicit reference to 'cultural rights', a good example.

This is a complex domain one that has received little attention at international level or in the field of comparative law, and for which there is no existing national framework; this lends the work presented here a somewhat novel character. Whilst it is well-founded, its novelty means that some caution is required when applying it.

A more in-depth examination of the subject would require going beyond the scope of the project but would enable the indicators to be strengthened by linking them to evidence drawn from an analysis of case law (particularly from the Constitutional Court and administrative courts), budget implementation

data, and coordination with existing policy instruments.

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