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# Shaping and reshaping cultural identity and memory: maximising human rights through a participatory archive

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*A right to preserve one's culture is recognised in the United Nations human rights treaty system. Individual and collective cultural identity within government and private archives can be enabled through a participatory approach which acknowledges record subjects as record co-creators. This article analyses cultural human rights instruments found in international and domestic Australian laws as warrants for a participatory archive within the Australian context, premised on the recognition of the rights of those who are subjects of the record to add their own narratives to records held in archival institutions, and to participate as co-creators in decision-making about appraisal, access and control, thus shaping and reshaping the archive from their perspective. To this end, it proposes the use of social media to enhance cultural rights and cultural identity. Adopting the principle of rights maximisation, a participatory approach lessens the impact of the right to be forgotten on cultural rights. The article concludes that Australian archival policy makers and jurisdictions which have a human rights regime, have a clear mandate to give priority to the preservation of records of distinctive cultures, in particular those of Indigenous peoples and minorities.*

**Keywords:** cultural identity; cultural memory; human rights; participatory archive; record subjects

## Introduction

Rights to records – public and private – have not always been associated with a right to culture and, specifically, a right to culture as a human right; yet a right to *protection* and *promotion* of one's culture is recognised in international human rights instruments and case law. Culture as a living thing is inclusive of cultural heritage and in international law covers intangible heritage, which includes archives and records in whatever format. Cultural identity is a specific aspect of cultural rights. It has a personal as well as a collective dimension. Individual and collective cultural identity can be enhanced through a participatory approach which acknowledges rights of subjects of the record to

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add their narratives to records held in public and private archival institutions, and to participate as co-creators in decision-making about appraisal, access and control.

The participatory model adopted here focuses on recordkeeping participants who took part in the record's formation and their rights and obligations that have warrants in international and, in some cases, Australian domestic human rights. Archival research has found that literary warrants derived from laws, conventions and other sources establish recordkeeping requirements from authoritative sources which have legitimacy in the discourse from which they arise,[1] in this case international and Australian domestic human rights law pertaining to culture, and in the discourse in which they are applied, in this case a participatory archive. Further archival research has established that warrants found in human rights instruments are particularly significant to rights in records for Australian Indigenous groups but also to Indigenous peoples of other regions of the world.[2]

The right to cultural identity must be balanced with the right to forget actions that may cause extensive harm or hate to those concerned. Retrospectively reshaping the archive to allow for individuals and groups to have their voices heard either through digital annotations or a virtual community space would be of specific benefit to minorities and Indigenous groups as records were often tools of or witnesses to discrimination in many countries. Equally, in an online context, a participatory archive has a prospective value in that it captures the identity of those taking part in its formation and can enhance cultural identity. This article firstly analyses cultural rights found in international and domestic Australian laws as warrants for archival action and secondly considers how a participatory archive can further enhance cultural rights and cultural identity in Australia. While this article focuses specifically on the Australian context, the same approach can be adapted to other jurisdictions as many countries are signatories to the same human rights conventions as Australia. Furthermore, European Union member states are also signatories to the European Convention on Human Rights and have their own domestic human rights regimes.

## Part 1. Cultural rights as collective human rights

Cultural rights have been the least explored of human rights.[3] Human rights are classed as universal individual rights; cultural rights are the only human rights that are not. Cultural rights empower communities and are often regarded as a threat to the nation state.[4] They require an acceptance of cultural pluralism. As Francesco Francioni states:

> Unlike other human rights such as civil, political, economic and social rights, which are premised on the fundamental notion of shared humanity and dignity among all members of the human family, cultural rights hinge on the perceived uniqueness of the legacy that binds a group or community to a *shared memory* upon which the powerful sentiment of *belonging and identity* is built.[5]

The Australian Law Reform Commission recognised that a human right can attach to a group of people united by ethnic origin or religion, and that the individuals comprising certain groups may have needs that are peculiar to those groups. These needs may result from a group suffering discrimination or disadvantage, or it may flow from the particular cultural beliefs or requirements of a group.[6]

### *International human rights instruments and cultural rights*

Culture in the international human rights discourse has been defined by uniqueness, exclusivity, shared memory, language, religion, conventions/mores/traditions or a sense

of belonging and thus self-identification. A separate right to cultural identity developed from both cultural rights in general and in collective rights.[7] Thus the right to cultural identity as a human right has been defined as the right to freedom of cultural identity as an individual and as a collective experience.[8]

A peoples' right to preserve their culture is recognised in the United Nations human rights treaty system.[9] For example, the Universal Declaration of Human Rights (UDHR) 1948 Art. 18, Art. 22 and Art. 27 include cultural rights that are re-confirmed in the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 Art. 15 and the International Covenant on Civil and Political Rights (ICCPR) 1966 Art. 27.[10] ICESCR specifically refers to culture in Art 15. ICCPR recognises the need to protect the cultural, religious and language rights of certain ethnic and cultural groups. ICCPR Art. 27 states:

> In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.[11]

ICCPR Art. 27 was the first, and remains the most important, provision for the protection of minorities. While Indigenous human rights were originally submerged in minority rights, their unique elements eventually led to separate human rights instruments. A right to enjoy one's culture carries specific connotations when applied to Indigenous peoples because their status as peoples entails the right to self-determination.

Other UN instruments that relate to cultural rights may not be legally binding on member states but many UNESCO declarations reference conventions that are binding. The UNESCO Universal Declaration on Cultural Diversity 2001 reiterates existing human rights related to culture. Art. 5, Cultural Rights, provides an enabling environment for cultural diversity. It states:

> Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights as defined in Article 27 of the Universal Declaration of Human Rights and in Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights.[12]

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage 2003 (not ratified by Australia) reflects the incremental expansion of the concept of cultural heritage in international law and its link with cultural rights. This convention expanded 'cultural heritage' beyond the material products of creativity to include practices, traditions, and skills of a community as components of a living culture.[13] If cultural heritage represents social structures and processes which permit the production, evolution and transmission of cultural heritage from one generation to another, archives would contain evidence of these traditions.

Other international provisions related to cultural rights include the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 (Australia originally abstained; US and Israel voted against it, but Australia became a party to the Convention in 2009), which covers minorities and Indigenous peoples in the preamble and in Principle 3. It does not include substantive cultural rights for individuals or communities but rather for states. The World Intellectual Property Organization's provisions for the Protection of Traditional Cultural Expressions/Expressions of

Folklore (TCE)[14] apply to Indigenous and minority groups but have been criticised by some archivists as interference in the concept of public domain.[15] A work in the public domain is free to be used without copyright permission. TCE, on the other hand, uses copyright to make an exception to public domain to protect an intangible expression of traditional knowledge.[16] Archivists in the US have also been concerned with the lack of clarity in the meaning of traditional knowledge and its potential application to other cultural and minority groups. The archival objections have been taken up by the US Library Copyright Alliance (LCA), which published a critique of the WIPO draft provisions on traditional cultural expressions. LCA argued that the WIPO categorisation of traditional cultural expressions was overly broad, protecting works that are currently in the public domain including mythology, the Old and New Testament, legends and works that have typically never been protected by copyright law such as words, games and sports. LCA claimed that the draft treaty provisions conflict with fundamental tenets of US copyright policy and continues to oppose the treaty.[17]

Cultural rights have also been found in rights to privacy, family and reputation. In Australia, personal information covers *sensitive information* that includes race, ethnic or national origins; political, social or religious beliefs or affiliations which provide some protection of cultural identity (*Privacy Act 1988* (Cth), s6, Interpretation). Internationally, ICCPR Art. 17 (1) and UDHR Art. 12 focus on privacy, and ICCPR Art. 23 and ICESCR Art. 10 and 15 on family. The European Convention on Human Rights (1950) Art. 8 and the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (1981) Art. 3, 2 (b) focus on family privacy, which could potentially be extended to groups. From cases heard before the UN Human Rights Committee, it has been possible to find that the protection of cultural expression and heritage may be derived from the protection of privacy and family rights. Rather than an ICCPR Art. 27 matter, privacy (ICCPR Art. 17) and family rights (ICCPR Art. 23) have been invoked successfully to make cultural claims.[18] While privacy does not generally apply to a group, the retention of personal information in records about group members is relevant to a group's cultural identity.

Overall, international human rights instruments have been weak in the area of cultural rights. Nonetheless, Indigenous peoples are claiming recognition of their status and role as cultural subjects of international law, and minorities invoke international law to stop discrimination and gain a right to autonomy of language, religion and a way of life.[19] Thus there has been an incremental evolution in cultural rights and recognition that diverse cultures are the common heritage of all humanity.

### *Cultural rights and the right to be forgotten*

Cultural rights are impinged on by a 'right to forget', or a 'right to be forgotten', that is, the right to have personal data that has served its purpose destroyed or anonymised, which may diminish the 'right to know' what is in the public interest and its corollary 'duty to remember', which have been recognised in the United Nations Commission on Human Rights, the Joinet Report (1997).[20] In the European Union both access and privacy rights are recognised not only as fundamental rights essential to good governance and accountability but more importantly that they apply at the same time.[21] However, communication technologies since the 1980s and more recently large-scale surveillance by governments worldwide have strengthened the call for a 'right to be forgotten' as exemplified in the European Union's proposed Regulation of the European Parliament and of the Council on the Protection of Individuals with Regard to the Processing of

Personal Data and on the Free Movement of Such Data (General Data Protection Regulation),[22] which updates the 1995 Directive 95/46/EC. Steps to pass the Regulation by the Council of Europe are ongoing.[23] A Regulation is directly binding on EU countries. The proposed Regulation focuses on implementation and enforcement, rights of data subjects, erasure in social networks and explicit consent. The proposed 'The Right to Be Forgotten' (Article 17) is couched in much the same terms as previous EU directives on privacy. Art. 17 (3) has a number of important limitations including:

> Exemption from erasure if necessary, where personal data is needed for exercising the right of freedom of expression in accordance with Article 80; for reasons of public interest in the area of public health in accordance with Article 81; (c) for historical, statistical and scientific research purposes in accordance with Article 83; (d) for compliance with a legal obligation to retain the personal data by Union or Member State law to which the controller is subject; Member State laws shall meet an objective of public interest, respect the essence of the right to the protection of personal data and be proportionate to the legitimate aim pursued; … [24]

The right to be forgotten is thus determined in the context of public interest requirements and collective memory which would need to be maximised to the same extent as an individual's right to forget, if given control over records in which he/she is the subject. A European example has been the Hungarian government's intention of returning the records which identify informants from the Communist era archives to the victims of surveillance. Permission to access the files would be granted by the subjects of the files, instead of the institution where the files are currently stored. The arguments in favour of retention by the state put forward by US archivists focused on preserving the evidence and memory in an institutional context which was more likely to ensure that informants could be brought to account rather than give individuals a right to control access to or potentially destroy 'their record'.[25] Some members of the post-Communist government were informants or friends of informants in the previous regime and have good reasons to want to disperse the records. Therefore it is important to analyse why the right to forget is being invoked but equally it should be noted that Hungary has argued that human rights require the records to be returned to the victims. The proposed EU privacy exemptions could be used to ensure the records are preserved. The public interest to know as well as the need to preserve the collective memory of the events in question need to be given equal consideration with the victims' rights, which could be addressed by a compromise of joint control between the government and the victims, an approach not proposed by the Society of American Archivists.

Another example of deleting personal information that limits the public's right to know is the *Court Information Act 2010* (NSW). The Act has been criticised in terms of its privacy provisions, which appear to counter its intention to provide more open justice. It will be a breach of the privacy provisions in the Act if New South Wales courts do not ensure that all personal information is deleted from court documents before they are released to the public.

> In determining whether to grant leave to access 'restricted' information, the court may consider a range of factors. Anything defined in the Act as 'personal identification information' is not available. This includes things like bank account numbers, passport and drivers licence numbers, and material of that sort. News media organisations, as defined, have much wider access to information than members of the public, relating to their proceedings, unless a court orders otherwise.[26]

An analysis of the principles of justice might involve a limitation on the meaning of privacy in the context of open justice.

Privacy and data protection schemes may diminish collective memory by limiting the processing of personal data to its primary purposes. Individual and collective accountability for past actions in post-colonial and post-surveillance societies has been an important archival theme.[27] While human rights have centred on the individual, cultural rights are collective rights that place the individual within a group they have chosen to identify with. A shared memory in terms of social memory construction, a collective right to the truth and the right of reply to redress historical injustices are relevant to cultural rights and cultural identity.

Cultural and privacy rights are not absolute. Each right should be maximised in individual cases in which they apply rather than seen as competing rights. When an individual is given control over records in which he or she is subject, the maximisation principle takes account of the need for accountability for past actions as a collective right. The *maximisation principle* goes beyond the immediate parties to wider interests but it recognises that each party has a right to have their interest identified and taken account of and has been recognised in EU case law.[28]

### *Archival and legal implications of cultural rights in Australia*

If cultural rights are human rights that need to be maximised, what are the legal and archival consequences? Within the Australian context, the most advanced jurisdiction in relation to human rights legislation is the State of Victoria. Cultural rights are specifically articulated in the Victorian *Charter of Human Rights and Responsibilities Act 2006*. Section 19 (1) states:

> All persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language.[29]

Section 19 (1) replicates ICCPR Art. 27, referenced earlier, and provides a definition of 'culture' in terms of human rights law. Art. 27 protects the rights of minorities, that is, individuals who belong to minority groups, which in international law includes Indigenous peoples. Section 19 (2) of the Charter is specifically directed to the distinct cultural rights of Indigenous peoples of Victoria. In the Victorian context, Indigenous and minority rights are recognised in the Charter. The Victorian Human Rights Community Consultation Committee stated that:

> … the Charter should contain specific cultural rights for minority groups, recognising that it is particularly important in Victoria's multicultural society to ensure that cultural heritage and cultural practices are respected and protected.[30]

Victoria is the only Australian jurisdiction that has articulated cultural rights based on international law. Given this limitation, the participation, preservation and promotion of distinct cultures may not necessarily coincide with the nation state, so are archival institutions obliged to collaborate with cultural groups about the preservation, appraisal and access to records that form part of their living cultural heritage? In terms of their legal mandates they may not; but under international law there is a strong case that they have a legal and moral mandate to do so. Castan and Debeljak suggest that:

> Under international law the enjoyment of cultural rights may require positive legal measures of protection, and measures to ensure the effective participation of members of minority communities in decisions that affect them.[31]

In this context, it can be argued that archivists do have an obligation not just to consult but actively participate with members of minority communities to ensure records are made and kept that protect and promote their culture. However, to date there has been a limited application of these rights to archival programs. While public institutions are not the only repositories of archives, given the extent of government activities, they are central to collective memory. The memory of societies as preserved in national archival institutions still reflects the viewpoint of those in power. In Gudmund Valderhaug's words:

> This privileging of public records originates from the assumption that the state and other public bodies are neutral expressions of society and that the records created by such entities will be impartial by-products of administration. But, as Verne Harris notes, '[r]ecords always already express relations of power and invite the exercise of power'.[32]

The power of state institutions has been somewhat modified by a statutory right to know the dealings of government codified in freedom of information or transparency laws which have provided, albeit with significant exemptions, improved access to the records of government, but the state's version of events has remained paramount and rights of individuals and groups to provide their stories, 'a right of reply', very limited. Data protection and freedom of information legislation in Australia entitle the record subject to a right of correction of inaccurate data via annotation which is not as extensive a right as 'setting the record straight' or a 'right of reply' as expressed in the UN Joinet-Orentlicher, Principle 17, 'by virtue of their right of access, to challenge the validity of the information [in archives] concerning them by exercising a right of reply'.[33] These rights are limited to individuals and do not apply to groups, hence they have limited value to cultural rights. Collective memory, to be meaningful to all, must be a shared memory which has the capacity to include divergent narratives. Implementing archival annotation systems as a right of reply and providing rights to control third-party access by the subjects of the record or their descendants would require a fundamental shift in the way archivists work with traditional 'subjects'.

Rights of record subjects to add their narratives to records about them held in public and private archival institutions, and to participate online as co-creators in decision-making about appraisal, access and control, have been limited by competing rights of forgetting and remembering and their potential impact on collective memory, as well as reliability and authenticity issues. However, the requirements derived from cultural human rights and related instruments place responsibilities on archivists to capture information about record formation in archival descriptive systems and recordkeeping metadata, to take account of cultural rights in appraisal and disposal practices, and to involve communities in the management of records that form part of their cultural identity on an ongoing basis. Social and legal mandates for recordkeeping professionals to fully engage with cultural communities are provided by records management standards which require that the regulatory environment be captured in record systems.[34] Cultural human rights as outlined in Part 1 should be registered in archival description as recordkeeping metadata as they fall within the area of mandates, business rules, policies and procedures.[35] In addition, archival description and recordkeeping metadata should capture all context entities involved in record formation. Rights to records created by social media would need to be negotiated including collective authorship.

## Part 2. A participatory archive and cultural rights

If cultural rights do provide a legal and moral mandate for archivists to participate with minority groups, what kind of service model would facilitate it? Since the 1970s, 'activist' archivists have been aware of the need to go 'outside of the walls of the archival repositories'[36] in relation to their activities but it was only in the last decade that they recognised the need to engage with non-professional user groups as participants in archival practices. Participatory archive models such as that of Shilton and Srinivasan focus on involving marginalised communities where records originate in relation to appraisal, arrangement, description and provenance,[37] while that of Huvila decentralises curation to the participants who both contribute to and use the archive.[38] For Huvila:

> In a participatory archive, usability of information does not denote use alone but also denotes a deeper level of involvement in the sense of actual participation in the archive and in the archival process.[39]

This approach also allows communities and contexts to take form within the archive instead of assuming the pre-existence of a community. Huvila further explains:

> Besides the traditional record and archive-centred contexts (an archive as the context of a record), a participatory archive also acknowledges the importance of other than archival and organisational contexts of records, such as those of their originators, curators and users.[40]

The participatory model presented here involves repositioning record subjects, whether an individual or a group, as records agents – participants in the act of records creation and continuing management of the record. In this model, any set of rights requires the recognition of a reciprocal set of duties to the community and to others that arise from one-to-one or multiple socio-legal relationships.[41] The model has been applied in an Australian Indigenous research project led by Monash University.[42] The model builds on the notion of recordkeeping participants as immediate parties or co-creators with negotiated rights and responsibilities in relation to ownership, access and privacy.[43] Archival and other information systems have the capacity to capture all the participants in the creative process as shared 'owners' with multiple identities and roles, which includes cultural identity. In the case of Victoria, section 19 of its human rights charter and international law on protection of culture, to which Australia has acceded, provides a legal mandate for a 'participatory archive' for cultural groups.

A community archive may want to share a space with an archival authority or it may want to have its own space. A very innovative example of a participatory archive has been the Koorie [Victorian Indigenous peoples] Archiving System, which uses web-based technologies to create a *shared space* for Public Record Office Victoria, the Koorie Heritage Trust Inc., the National Archives of Australia, and Koorie communities and individuals to work collaboratively as equal partners to create an archive that:

> … will create a shared, collaborative archival space to bring together and make accessible records relating to Koorie communities and individuals, including written records, oral testimony, photographs, audio and video recordings from government, community and personal sources.
>
> The project will pioneer a model for archival institutions to work in equal partnership with communities to negotiate rights in the records, and to arrange, describe, and interpret them.

> The project will also pilot separating the ownership and control of the content of the records from the technical tasks of storing and accessing them.[44]

Other participatory models that require further research include the personal health record, in which all contributors have ownership rights. This emerging concept is centred on the right of the record subject to amend his/her record beyond correction to contributing to the record itself. For example, in the health context in Australia, the Personally Controlled Electronic Health Record (PCEHR) will allow the patient 'to contribute to his or her own information and add to the recorded information stored in his or her PCEHR'.[45] Ownership of the PCEHR by the patient has been a significant barrier to the participation of medical practitioners in the scheme, and its value in the social media context needs further development.

Social media – the 'participative web' – are tools that may be used by a participatory approach to the management of records but the participatory archive is a concept that exists independently of social media technologies and challenges traditional views of ownership already significantly eroded by the Internet. Our sense of self has become more prominent owing to technologies that allow us to 'self document', that is, capture information on ourselves and through our interaction with government, health and businesses online.

Governments provide blogs for citizens to comment on public issues and to provide an alternative to the official viewpoint, substantially altering the way citizens interact with their elected representatives and thus users' expectations of access and use. In the EU context, it has been described in the following terms:

> Citizens and businesses are empowered by eGovernment services designed around users' needs and developed in collaboration with third parties, as well as by increased access to public information, strengthened transparency and effective means for involvement of stakeholders in the policy process.[46]

In Australia, accompanying the government's announcement of its policy response to the Report of the Government 2.0 Taskforce, a declaration of open government recommended using technology to increase citizen engagement to achieve a more consultative, participatory and transparent government, and to encourage the re-use of government information.[47] Until July 2012, a steering group oversaw a range of initiatives to support the adoption of Government 2.0 principles by agencies in all aspects of their work.

In principle, the participatory web in a government context makes the citizen a first party in a record transaction, not just a record subject – a co-creator and record author. E-government should empower the citizen but has it changed the conventional understanding of the relationship between record subjects as third parties and record creators as the principal parties to the record transaction, which has limited the rights of those captured in and by the record? What are the statutory rights of record subjects to ownership in social media and do they apply to cultural rights?

The ability to co-create and share content has a dramatic impact on record creation but makes many powerful organisations fearful of losing control over ownership of content. There is no clarity as to whether Web 2.0 contributions form part of a public record and will be retained, or how appraisal rules will be applied. Government archival authorities do not appear to be prepared to share control with their users or record contributors. The Australian Government wants to ensure that records created by

interactions with citizens using social media remain their records.[48] As Adrian Cunningham states:

> Ultimately, harnessing the potential of Archives 2.0 is all about being able to relinquish control in order to build value through collaboration.[49]

From a government and organisational perspective, maintaining control over records generated from the participative web remains a major goal[50] and limits the implementation of a participative archive as a prospective tool for cultural rights. It remains to be seen if countries that are encouraging the use of collaborative social Internet tools to interact with citizens will allow narratives from the participants' points of view to be considered part of the public record. The value of a participatory approach lies in a community's or an individual's ability to provide their version of events not only associated with past injustices but also for ongoing actions. It can be argued that the right of a cultural group to have greater control over records that hold its knowledge and practices or to which it has contributed through social media is a right to cultural identity, on the basis of cultural-collective rights as human rights.

Given the unlikelihood that the participative web in the government or private context will give contributors control over their contributions and enhance their cultural identity and memory, the major thrust of archival organisations has been in relation to projects that allow record participants to reshape records already in archival custody. There are some excellent social media applications developed by archival institutions that have included narrative comments by users, for example the National Archives of Australia's *Mapping Our Anzacs*.[51] Public Record Office Victoria's Wiki allows anyone to add descriptive information to a document that has been opened to the public, but it remains unclear as to who owns or preserves these 'annotations'.[52] Annotations should take account not only of additions to records in archival institutions but also those newly created from social media technologies. Preserving and promoting a living culture requires a much more proactive approach. Social media could be used to target specific cultural groups, but archival institutions would need to move away from an open-access model to nuanced access protocols based on community needs.

## Conclusion

Archival science is all about how we organise identity and memory. Archives and records capture and preserve evidence and memory of cultural groups relevant not just to their past but to the continuity of their culture. Adopting the maximisation principle to rights, the right to know the truth does not detract from the right to be forgotten in specific cases. In taking account of changing circumstances, the participatory approach provides a tentative resolution to the tensions between the right to forget and the right to cultural memory and identity. The participatory archive has been enabled by the shift in power to the record subject or group facilitated by technology and changing social conventions and laws. From an access perspective, cultural rights of groups challenge the open-access model of archival institutions; how the records are managed, archival description and appraisal methods, and notions of record formation and associated rights. Social networking tools can be used both to redress past injustices and to promote distinctive cultures, in particular those of Indigenous peoples and minorities, an approach that fits comfortably in countries which have a rich multicultural heritage, but which is also important to countries which have a history of repressing minorities.

Australia has a weak legal human rights framework but is a signatory to many international conventions on human rights that serve as norms to follow, including the right of a cultural group to have greater control over records that hold its knowledge and practices or to which it has contributed. Developments in archival organisations in Australia have shown they have the technological capacity to provide for alternative narratives in their records that focus on an inclusive national and ultimately global cultural heritage that respects diversity but much remains to be done in relation to cultural rights. Policy makers in Australian archival institutions and other jurisdictions which are signatories to international human rights conventions and have their own domestic human rights regimes have a strong mandate to make it a priority to adopt the participatory archive to enhance cultural rights, for example using as a model the warrants outlined in this article. Outstanding issues include ensuring that recordkeeping metadata reflects the new realities of the range of contributors to the record's formation and the regulatory environment of human rights in relation to the capture, preservation, use and access in or outside archival institutions. The major challenge is the ownership and control of records created by social media.

## Endnotes

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