

Determination of Cultural Norms in Quebec

Georges Azzaria

Professor, Faculty of Law, Laval University

Georges Azzaria teaches Intellectual Property and Sociology of Law at Laval University since 2002. His research interests are mainly in the field of copyright. He previously worked as a legal counsel for different artistic associations.

Abstract

This paper presents the results arising from a study of the various ways in which the Quebec government has acted in the field of cultural affairs. It is based on the assumption that the principal motives behind state intervention in Quebec – the democratization of culture, on the one hand, and support for authors and artists, on the other – are not structurally related to each other, or in other words exist independently. The tension existing between these two poles can be found in the policy guidelines, as well as in the legislation, and will only dissolve through a mechanism of joint management. Therefore, associations of artists, producers and distributors share certain prescriptive domains with the State.

Keywords

Law, Cultural Democratization, Status of the Artist, Public Policy, Quebec

Introduction

It is generally accepted that artists and the public make up the two components of the development of cultural life. In Quebec, as in many Western countries, support for artists and public access to culture are the reasons that prompt the State to develop specific cultural policies. However, it is not as easy to understand how artists and the public cohabit within the same policy. That is the task of this text, which is guided by the following question: how does a ministry responsible for culture implement the two main motivations leading it to take action? This text does not rely on research dealing with the public funding of culture, not because this question is unimportant, but rather because legislation sheds a complementary light on the relationships between the State and culture. This paper will show that the main reasons prompting Quebec's Ministry of Culture and Communications to take action stand "back-to-back" and exist independently of one another. The tension between these two poles is seen in the orientation policies as well as in the laws. Moreover, this tension is only reduced through a co-management mechanism, allowing stakeholders from cultural circles to negotiate the terms and conditions for allaying the tension. The State may then affirm, in its policies and laws, that it wants to both democratize culture and help authors and performers, without having to worry about the overall coherence of its action. Hence, there is no need for the State to attempt to prioritize its reasons for intervening. As a result, the coherence proceeds from what is implicit and materializes at the end of a process that necessarily involves cultural stakeholders. These stakeholders become the bearers of the norm and everything takes place as if it were up to the various stakeholders, and not the State, to reconcile these reasons for acting, even rule on the inevitable disputes that are the lot of cultural policies. In this respect, a form of rationality has progressively taken root in the cultural policies in Quebec and it acts much like an operating procedure.

One of the premises of this paper is that these reasons for intervening must interpenetrate to make the cultural activity functional. In order for the arts and letters to be expressed, it is necessary that the persons who create and perform the works and those who produce or distribute them determine the conditions of this exchange. Between the support for artists and the democratization of culture, it is imperative that some mechanism take charge of the equation. The very coherence of the entire undertaking is dependent upon this happening. The State may, in an authoritarian manner, decide to exercise this role on its own. Laws, regulations, directives or decrees then become the State's tools, and there was a time when Quebec established the working conditions of musicians by decrees. But when carrying out its policy, the State may also call on the main parties concerned, and its role then amounts to one of setting up a structure to promote agreements. In these cases, collective agreements and contracts between artists, producers and distributors are the means whereby the cultural norm is determined. In such cases, the law is negotiated, instead of being imposed.

Statement of Principles

Cultural norms, those that govern the State's intervention, can be traced back to the development of the Welfare State and can be summed up in two notions: the protection of artists as workers and the accessibility of culture as a public service, as a means of promoting the public's emancipation¹. The policies and laws find the justification for their actions in these two notions. However, in the cultural itinerary followed by Quebec, these two reasons for intervening are rarely considered from the standpoint of their complementarity. When they are considered from this vantage point, it is most often side-by-side, for example in separate chapters, without there being a dialogue between two elements of the same problem. One of the trademarks of Quebec cultural policies is the promotion of the two reasons for intervening, without there being any structured proposal for some form of interaction between them.

The Policies

The intention of clearly defining the major cultural orientations of the State was on the agenda beginning in the initial years of existence of the Ministry of Cultural Affairs. The first two documents that testify to this fact, the *White Paper* drafted in 1965 and the *Green Paper* of 1976, served to pave the way; they set the foundations for State intervention in a sector where the past suggested few avenues for action. These policies were at liberty to expound a position which, upon analysis, may be contradictory or incomplete. A large place is given to democratization and, with diverse proposals, these policies take part in an effort to make the arts more accessible. That does not mean to say that support for authors was left aside. Indeed, the first two policies insist on the importance of ensuring artists favourable conditions for creation. As a whole, these policies generally promote a greater intervention by the State in the cultural sector. However, the interaction between the two reasons is not presented as a necessity or even as a challenge that should be taken up. An example may be seen in the following passage from the *White Paper*: "the dynamics of the cultural process are defined in relation to two main poles: on the one hand, that of creation and expression; on the other, that of dissemination and consumption. The intervention and the responsibilities of the State can be divided into two main sectors corresponding to each of these poles"². The distinctive feature of this statement, which can be traced back to the 1992 policy, lies in this idea that the State's intervention must be "divided" in two main sectors. In accepting this approach, one can understand the path followed by Quebec where the

reasons for intervening are precisely delineated and consequently, are not considered in terms of their complementarity. When they are considered in this manner, it is more often than not to set them side-by-side without intertwining them.

Let us now see how the subsequent policies addressed the question. In 1978, the government published a voluminous policy on Quebec's cultural destiny, in which the government gives culture an anthropological definition, taking it beyond the simple sense of arts and letters. In the sections devoted to questions related to artists and the public, the State maintains that its responsibilities must extend to cultural industries, for it is in these industries that the difficulties confronting artists and the difficulties related to public access to works are found together³. Cultural industries are then seen as a way of controlling, via the market, the problem of the reasons for intervening. These industries are the place where the difficulties of achieving harmony between creators and the public are found. In this respect, it appears that when the government emphasizes cultural industries, it fosters, almost without intending to do so, the allaying of a tension for, as the government so claims, it is through cultural industries that the public and creators come together.

La juste part des créateurs (Creators' Fair Share) remains one of the very few, if not the only official Quebec document devoted specifically to the problem of authors and performers. Published in 1980, it crystallizes the clearest moment in the interaction between the two reasons for intervening, i.e. the democratization of culture and support for authors, although this theme is not its prime focus. To sum matters up, the premise found in this document is the following: by promoting creation, the cultural supply is stimulated and, consequently, this contributes to the development of cultural identity. The reasoning is one that seeks to make creators true partners of the cultural industries in order to establish decent working conditions. *La juste part de créateurs* participates, perhaps without intending to do so, in establishing the need for negotiation between artists and the public. How? First, by stating that creators are unorganized and are not members of permanent and effective organizations⁴ and then by proposing the setting up of a copyright payment collection organization for all negotiating sectors⁵. While deploring the absence of standards governing the use of works, which inevitably leads to abuses, the government encourages negotiations with a single spokesperson, the representative of Quebec creators⁶. A structure bringing together all creators could be used to reach agreements between the State and these same creators in matters related to educational institutions and public libraries. One must therefore assume that the State considers that the sharing of works will be achieved most fairly by way of negotiation. Moreover, *La juste part de créateurs* contains one of the rare passages from Quebec policies concerning the articulation of the two reasons, in the name of the general coherence of public action:

"[...] any new policy, if there is to be coherence with the basic orientations of the overall cultural development policy, must strike a dynamic balance between respect for the exclusive rights of creators and the fundamental right that every citizen has to culture. These are not two irreconcilable realities. On the contrary, it is essential that creators and the public participate together, each in their own way, in the exercise of this cultural democracy"⁷.

La politique culturelle du Québec (Quebec's cultural policy), a document dating back to 1992, was an opportunity for a vast synthesis in government thought, first because this policy followed a broad consultation process and next, because it proposes a more explicit arrangement of the reasons for intervening. In the section dealing with support for creators and the arts, the policy reaffirms the importance of creation and arts for society and the need to afford authors and performers appropriate protection. In this sense, the two laws dealing with the status of artists are assets, in that they contribute to

an improvement in the working conditions and the remuneration of authors and performers through negotiations. The policy also pleads for a greater participation by and a better access for citizens to culture. Schools, the media and daily life are identified as key areas for promoting public awareness about cultural activities, and the document suggests a few avenues for improving this access. When trying to determine if the reasons that dictate government action are considered from the standpoint of their complementarity, reference should be made to the policy's conclusion:

"The cultural policy has been devised according to three main lines of action: cultural identity, creation and the arts, and the access for and participation by citizens in cultural life. These lines of action address the needs and characteristics of three separate clienteles: the community, creators and artists, and citizens. Government interventions are planned according to concerns related to these three lines of action and these three clienteles."⁸

Later on, the document suggests that the partnership between all stakeholders remains the key element ensuring the success of the cultural policy, without developing this idea further. This partnership, the benefits of which are alluded to, can of course comprise the negotiation of standards for use. However, things are not explicit and we instead find ourselves in the presence of "separate clienteles", whose interests do not seem to want to converge in the same synthesis. Upon analysis, it appears that this policy, like those that preceded it, only incidentally mentions the necessary interaction between artists and the public.

The Laws

Quebec laws state, more clearly than do Quebec policies, the separation between the reasons for intervening and what seems to be the difficulty of a dialogue. First, it is important to point out that Quebec does not have complete freedom of action to establish its cultural legislation, and the limitation on its ability to pass laws stems from the Canadian Constitution and the sharing of jurisdictions set out therein: the Constitution denies Quebec the power to pass laws in the field of intellectual property and, consequently, in matters dealing with copyright. This situation did not prevent Quebec from passing laws intended to support authors and performers, in particular with the entry into force of two laws on the status of artists in the late 1980s.

The first of the two laws on the status of artists, the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*, applies to fields that are generally associated with the cultural industry and takes up the model of collective agreements. One of this law's objectives is to put in place a negotiation mechanism between artists and producers. The second law, the *Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters*, concerns sectors allied with individual labour relations and sets minimum requirements for contracts. The second law does not make the payment of fees to artists compulsory, even though the wording of section 31 and the comments of the minister responsible for the law's enactment strongly encourage such payment⁹. The artist may therefore refuse the remuneration that would normally be part of his dealings with a distributor. Hence, the artist is at liberty to dispose of his copyright free of charge, even though this is the tangible expression of his wages. It is not certain that the other law on the status of artists offers the same reasoning, since the artist is defined as being the person who offers his services "for remuneration"¹⁰. In the first law, everything takes place as if the very capacity of an artist centers on remuneration, whereas the second law does not set this same condition. This aspect of the question is decisive, for a compulsory remuneration can only promote negotiations between the main stakeholders

and further contribute to the signing of collective agreements. In the second law, the wager of the legislator is to bank first on negotiations between the artist and the distributor instead of introducing a mechanism involving associations in the process: “the aim is not [...] to impose the obligation of a standard contract or a collective agreement [...]. At most, we are establishing the foundations for true negotiations [...] between the signatories”¹¹. As the minister states, the law seeks to deal with the imbalance between the forces present at the time of negotiations between an artist and a distributor to counter the abuses by the latter¹².

Selective actions, such as tax exemptions for artists and government standards for acquiring copyright, complement the field of legislation related to artists. However, these measures in favour of authors and performers basically serve to define more affirmatively one of the State’s lines of intervention, without referring to democratization objectives. What emerges from all these legislative provisions is that the State remains attached to interventions that promote artists to the extent that they find themselves in a context related to their immediate work or the distribution of their works or performances. The role of offering financial support to artists provided by the Conseil des arts et des lettres (CALQ) also points in this direction. It is through this aspect that the laws and the determination of cultural norms intersect. An artist who distributes his works is invariably subject to the market, and the legal apparatus, the regulator, gives the artist the means to negotiate his working conditions and the conditions of distribution. The *non-utilitarian* aspects of the life of an artist, those that are more directly linked to the social measures of the Welfare State – such as a retirement fund – are not among the measures chosen by the State. The ground is thus favourable for these shortcomings in relation to the law to be compensated by solutions negotiated with producers and distributors.

The corpus of laws interested in the democratization of culture includes the laws creating museums, libraries and performance halls, as well as those related to cinema, books and television broadcasting. Like the laws interested in artists, this corpus of laws provides for few measures combining the reasons for intervening that govern the establishment of the cultural policy. Indeed, more often than not, these laws simply state their democratization mandate, without elaborating.

While the State’s policies permit flights of conjecture in those areas where the two reasons for intervening stand side-by-side and even intermingle, the laws have little if anything to say about the question. One could expect to find in Quebec’s laws a few examples of articulation that the policies allude to; however, we are forced to ascertain that such is not the case. Yet *La juste part des créateurs* stipulated that the achievement of a balance between the rights of creators and those of citizens was a prerequisite for coherence. The divergence between this premise and the law that was enacted remains deep. A legislative analysis shows that these rights are stated, as if distinct entities were involved or as if these entities revealed an inextricable conflict. However, because the reconciliation of these two interests is necessary for cultural life to function, it is the stakeholders themselves who, in lieu of the State, have been busy determining the content of these norms.

Implementation

On the basis of the foregoing, it is important to recall that the objectives of the Quebec Government in the cultural field are clearly stated and that there can be no doubt that the State has deemed it necessary to protect artists but also to make their works available to the public. However, these government objectives were not considered *a priori* as being elements that were supposed to interact, whether in the policies or in the laws. The

production and dissemination of culture require agreements in order to function. The painter must agree on the conditions applicable to the exhibition of his works in a museum; the performer must determine ahead of time the terms and conditions of remuneration related to his performance on a record, etc. The normal unfolding of cultural activity requires that agreements relating to the production and distribution of works be entered into.

The preparation and implementation of a public policy may take multiple paths. Several models are based on foundations that vary, on the one hand, between an authoritarian law established without consultation and applied without compromise and, on the other hand, a law that ensues from negotiation and whose effects are flexible. In Quebec, cultural law favours flexibility, by associating the main stakeholders in these two stages of the drafting of the law. The hypothesis defended here dwells on the second stage of the production of the standard, namely the stage during which the State's aims in the cultural field must be implemented. Interest groups – associations of artists, producers or distributors – have set about sharing with the State certain normative arenas and have become, to use the expression of Patrice Duran, “owners of public problems”¹³.

The Mechanism

The following has been said on the subject of the two reasons for intervening of the Quebec Government: neither the laws nor the policies systematically articulate these reasons, preferring to present them one at a time as objectives to be achieved. The government's motivations, the foundations of which can be traced back to the Welfare State, remain just as present as ever. The horizon of the justifications has not changed, but a space for their synthesis has been created. Indeed, the reconciliation of these reasons remains the matter of the agreements which the various cultural stakeholders negotiate with one another, according to a regulation mechanism determined by the State. In the absence of a government standard, regulation is achieved by intermediary corporations with the State's blessing. Without being the sole characteristic, the fact of establishing the norm determining the protection of authors and performers and democratization outside the State domain continues to be a decisive and constant feature of Quebec's cultural policy. In Quebec, it is up to the main stakeholders to give tangible expression to the State's reasons for intervening.

For this purpose, Quebec set up a procedure for the accreditation of various associations by way of the *Commission de reconnaissance des associations d'artistes et des associations de producteurs*. The path leading to the recognition of these professional associations first involves searching for representatives. The Quebec Government has long wanted to have a legitimate representative that embodies the claims of artists. It would obtain this with the two laws on the status of artists. The relevance, even the necessity, of these groups is attested by several sources, which testify to the objective of designating a national representative for each sector and consequently, of giving artists a stronger voice¹⁴.

But there is more. With these two laws, the associations of artists and producers would become full-fledged partners in the implementation of Quebec's cultural policies. Seen from the standpoint of the recognition of associations, the first of the two laws on the status of artists was an opportunity for the Ministry of Cultural Affairs to opt for “the setting up of a negotiating infrastructure and the freedom for the parties to negotiate, with diligence and good faith, minimum conditions”¹⁵. For the State, this involved knowingly orchestrating a withdrawal of the normative content from cultural policies: “the objective is to establish the principle of negotiation and to let the parties negotiate freely and to intervene only in the case of a dispute or of the impossibility of reaching an

agreement”¹⁶. This transfer of responsibilities does not mean that the State is losing interest in the content of the agreements or that it does not participate in them indirectly. However, working conditions established unilaterally by the State has given way to organized negotiations. It is important to recall that in the music sector it was the government decrees which, up until the advent of the first law on the status of artists, had served as negotiated agreements and had set the working conditions of musicians¹⁷. The first of the two laws on the status of artists, the one dealing with performing arts, records and films, contains relatively restrictive provisions that promote a standardization of working conditions. The determination of what constitutes a balance between the rights of authors and performers and those of producers can be established by agreement, and the State does not need to play too great a normative role.

It is a whole different matter in the case of the second law on the status of artists, the one concerning the fields of visual arts, arts and crafts and literature and that provides for the recognition of three associations of artists, one for each discipline concerned¹⁸. With the enactment of this law, the legislator’s intention was as follows: “The recognized association is in a way lifted to the rank of a professional corporation regarding artistic practices”¹⁹. The law puts in place certain conditions that can lead artists and distributors to agree collectively, but these guidelines are on a tight rein, as the legislator seems to want²⁰. Among these conditions, the association may “draw up model contracts stipulating the minimum conditions of circulation of the works of professional artists and propose the use of such contracts to promoters”²¹. Further on, the Act makes express provision for the possibility of a collective agreement on minimum conditions of distribution²². However, the law does not contain the mandatory mechanism of the *Act respecting the professional status and conditions of engagement of performing, recording and film artists*. The particular feature of this second law on the status of artists lies in its section dealing with individual contracts between artists and distributors²³, leaving in the shadow the collective role that the accredited association can play regarding the determination of the conditions of distribution. The cultural co-management sought by the second law on the status of artists is diminished, especially as distributors are far from being governed as strictly as producers under the first law.

Producers and distributors represent the other end of the negotiating spectrum. They are just as necessary as associations of artists if the cultural equation is to function. Some would say that producers and distributors are being asked to shoulder a great deal, when the claim is made that they are necessary partners in the sharing of culture and that they participate, knowingly or unwittingly, in achieving one of the objectives of Quebec’s cultural policy. While the statements of the government do not specifically assign producers and distributors this role, it seems that the co-management structure put in place by the laws dealing with the status of artists promotes such a role. It is then necessary to accept as a premise the idea that producers and distributors, according to their specific activity sphere, democratize culture as soon as they make it accessible to the public. Putting a work in circulation – for example the showing of a film in a cinema theatre, the retail sale of a book or a record, the exhibiting of a work in a museum – becomes an act of democratization from this vantage point. Of course, democratization does not encompass the whole meaning of these acts of putting works into circulation and, apart from public institutions, it is quite probable that cultural democratization is not the prime objective of distributors and producers. For that reason, it is necessary to call on the notion of market and hence cultural industries, to address the question more comprehensively. For the purposes of this paper however, and at the risk of drawing a rough portrait of something that deserves to be portrayed in greater detail, one must be willing to admit that a work that reaches the public participates, by this very fact, in the cultural democratization process. Within this perspective, the producer and distributor serve as relays. This conception of things is not totally inappropriate. To convince ourselves of this point, we simply need consult the indicators generally used to

determine the degree of cultural penetration in a society: statistics on the purchase of books and records or on the number of movie-goers or museum patrons are presented as indices of democratization²⁴. Having said this, the *Act respecting the professional status and conditions of engagement of performing, recording and film artists* has provided for a mechanism for recognizing associations of producers since 1997. The Quebec legislator decided to go ahead with the recognition of associations of producers, having in mind the precise wish of promoting the reaching of agreements²⁵.

The Effects

The co-management structure has therefore been put in place. With the recognition of associations, artists and producers have the tools needed to enter into agreements and, in so doing, to attain the objectives of the cultural policy. However, this structure is incomplete. It is important to reiterate, and this is a shortcoming of the current policies, that only one of the two laws on the status of artists is based on the collective agreement model. The Act that governs performing arts, records and films – sectors that are related to cultural industries – makes it much easier for the State's objectives to be implemented than the other law. As proof of this point, several hundred agreements have been signed between producers and associations of artists under the *Act respecting the professional status and conditions of engagement of performing, recording and film artists* whereas only one agreement has been signed under the other law on the status of artists, more than fifteen years after its entry into force. In summary, two elements are necessary for the signing of agreements on the conditions governing exchanges between artists, producers and distributors: the identification of a representative and a coercive negotiation method.

The first condition, the recognition of a single representative that can speak on behalf of the stakeholders concerned, is achieved by both laws on the status of artists, and they have certainly facilitated the signing of agreements. The agreement between the Quebec Government and the *Union des artistes* on the subject of Place des arts in 1963 – one of the first true democratization worksites of modern Quebec – was founded in particular on the recognition of the *Syndicat d'interprètes québécois* as a valid representative²⁶. The first agreement on reprographic printing in educational institutions of 1984, signed between the Government of Quebec and the *Union des écrivains québécois* represents an even more explicit sign of co-management. The government gives its approval to this agreement in a report to the Executive Council, in which it reiterates the precepts of *La juste part des créateurs*, regarding the balance that should be struck between the rights of authors and the rights of the public to have access to culture, and regarding the principle of negotiation by each party²⁷. Hence, it was both to make works more accessible and to respect copyright that the State, by way of the Ministry of Education, signed this agreement. In the words of one of the artisans of this agreement, the fact that copyright-holders and users were able, each on their own side, to form groups and designate representatives who held discussions on behalf of the other members proved to be an essential condition for the reaching of the agreement²⁸. Finally, the only agreement to be reached in relation to the second law on the status of artists, since the enactment of this legislation, is one that concerns the conditions for using works on the web site of major Quebec museums. The agreement begins by recalling that the association representing artists in the visual arts field is appointed under the Act and that this association is allowed to draw up standard contracts dealing with the conditions of distribution. It would seem that it was thanks to these preliminary considerations, namely the ones seeking to identify the parties involved in order to ensure their legitimacy, that the negotiations were able to begin.

The existence of a coercive mechanism, the second condition for the conclusion of agreements, is much more decisive. The first of the two laws on the status of artists seeks to set up a veritable labour relations system. Under that law, artists and producers must negotiate in good faith, call on a mediator in the event of a dispute and, if the intervention by the mediator is unsuccessful and if the negotiations are for a first agreement, an arbitrator who can hand down an arbitration decision having the same effect as a collective agreement²⁹. Hence, a multitude of artistic production sectors are subject to the conditions of engagement. There are agreements binding, for example, producers of music performances with performers, and others that govern the relations between theatre producers and performers, set designers and playwrights. The reason why there are so many such agreements is that the Act respecting the status of artists that applies to performing arts, records and films promotes, even imposes, their existence. The second law on the status of artists, for its part, does not make the signing of agreements with distributors obligatory, and this difference explains why only one agreement has been tabled for all three sectors covered, despite the presence of a recognized association for each of the sectors represented by the visual arts, arts and crafts and literature, and despite the existence of numerous distributors.

Following an analysis, it is clear that the laws on the status of artists, mainly the first of the two, imposed the setting up of groups and established the negotiating principle. The latter may, of course, be established without the parameters of these laws: the agreement respecting reprographic printing of 1984 or the one respecting the Place des Arts did not need the laws concerning the status of artists in order to be reached. Indeed, authors and performers can form groups on the basis of the existence of a common copyright – this is the case of collectives – or of union-type affinities. European countries generally organize in this manner. In Quebec, the affirmation of a willingness to act in the cultural field encounters the obstacle of the federal jurisdiction over copyright. That is why, in the space left vacant, the only significant role that the State can play is to put in place elements leading to the conclusion of agreements, since it gives the various parties the necessary and effective means to arrive at this end.

Conclusion

In Quebec, the agreements between cultural stakeholders give tangible expression to the resolution of a tension between the State's reasons for intervening, namely the objectives of democratizing culture and of lending support to authors and performers. Hence, there is a Quebec model where officials actively seek to intervene in order to support culture and to develop a specific way of doing things, despite constitutional obstacles.

The putting in place of this co-management model implies the withdrawal of the State from the normative field of culture, as the State no longer defines standards by decrees or otherwise. This method of operation has taken the form of a procedure with the laws concerning the status of artists. The ensuing partnership means that the associations necessarily participate in the implementation of the Ministry's policies. The fact remains that the system is under government control and that the legislator's mark is visible. The State establishes the conditions making it possible for the agreements to take the place of laws. In this respect however, the political policy will be more complete when the second law on the status of artists contains provisions requiring the signing of agreements and, consequently a mechanism for recognizing associations of distributors.

While this approach promotes the role of associations, it is also plausible to deduce that it allows the State to avoid taking a clear stance on its cultural preferences. That way,

the State can express more than one position, promote each of the reasons alternately, without being sharply criticized for adopting a given position. In summary, the State succeeds in intervening without getting involved. It does not have to choose between artists and the public, and the ultimate goals of culture can be intermingled and remain unclear. If the reasons for intervening appear to be antagonisms, it is perhaps because the policies and the laws treat them that way: without looking to develop their complementarity, the conflicting elements of these reasons are highlighted. It seems that when the Quebec State articulates its cultural policies, it stops precisely at the spot where the fair share of artists and of the public is delimited.

Notes

- ¹ In Quebec the affirmation of cultural identity is also explicitly cited as a reason for intervening in the Act and policy of 1992.
- ² MINISTRY OF CULTURAL AFFAIRS, 1965, *White Paper*, Quebec, p. 18.
- ³ MINISTÈRE D'ÉTAT AU DÉVELOPPEMENT CULTUREL, 1978, *La politique québécoise du développement culturel. Volume 2, Les trois dimensions d'une politique : genre de vie, création, éducation*, Quebec, Éditeur officiel, p. 273.
- ⁴ GOUVERNEMENT DU QUÉBEC, 1980, *La juste part des créateurs : pour une amélioration du statut socio-économique des créateurs québécois*, Quebec, Développement culturel et scientifique, pp. 32-33. Also see page 76 on the usefulness of recognized associations.
- ⁵ *Ibid.*, p. 35.
- ⁶ The idea of only one management body is expressed on more than one occasion. See *La juste part des créateurs : pour une amélioration du statut socio-économique des créateurs québécois*, *op. cit.*, p. 45 and pp. 49-51.
- ⁷ *La juste part des créateurs : pour une amélioration du statut socio-économique des créateurs québécois*, *op. cit.*, p. 4.
- ⁸ MINISTÈRE DES AFFAIRES CULTURELLES, 1992, *La politique culturelle du Québec : notre culture, notre avenir*, Quebec, Ministère des Affaires culturelles, p. 137.
- ⁹ Section 31.5 indicates that the contract must indicate the "consideration in money due to the artist". For her part, the minister made the following comment on this section: "this subsection speaks for itself; the monetary compensation – and its payment – depends on the assignments or licences granted [...]". *Projet de Loi 78 : commentaires, article par article*, Quebec, Ministry of Cultural Affairs, December 14, 1988, comments on section 30 subject 5.
- ¹⁰ ***An Act respecting the professional status and conditions of engagement of performing, recording and film artists***, R.S.Q., chapter S-32.1, s. 2.
- ¹¹ *Projet de Loi 78 : commentaires, article par article*, Quebec, Ministry of Cultural Affairs, December 1988, comments on section 30.
- ¹² See QUEBEC NATIONAL ASSEMBLY, *Journal des débats*, 2nd session, 33rd legislature, vol. 30, no 65, November 22, 1988, p. 3271.
- ¹³ "More and more groups or organizations are emerging as owners of public problems. Public action is not only co-produced, it is collectively co-constructed and this is all the more necessary in that the public good is uncompromising in the face of any form of expertise". DURAN, P., 1999, *Penser l'action publique*, Paris, Librairie générale de droit et de jurisprudence, p. 117. See also : MORAND, C.-A., 1991, «La contractualisation du droit dans l'État-providence», in CHAZEL, F. and J. COMAILLE, *Normes juridiques et régulation sociale*, Paris, Librairie générale de droit et de jurisprudence, pp. 139-158 ; and JOBERT, B. and P. MULLER, 1987, *L'État en action : politiques publiques et corporatismes*, Paris, Presses universitaires de France.
- ¹⁴ See in particular, ROUSSEL, G., 1992, «Historique et objectifs des législations québécoises sur le statut de l'artiste», in ASSOCIATION LITTÉRAIRE ET ARTISTIQUE CANADIENNE (ALAI CANADA), *Actes de la journée d'étude sur le statut de l'artiste*, Montréal, ALAI Canada, p. 28.
- ¹⁵ *Ibid.*, p. 18.
- ¹⁶ Note from the Ministry of Cultural Affairs, March 10, 1987, quoted by Ghislain ROUSSEL, «Historique et objectifs des législations québécoises sur le statut de l'artiste», *op. cit.*, p. 20.
- ¹⁷ See for example the first decree of 1975 : *Arrêté en conseil 1854-75*, (1975) G.O. II, p. 2097.

-
- ¹⁸ For its part, the ***Act respecting the professional status and conditions of engagement of performing, recording and film artists*** does not define ahead of time the negotiating sectors and, consequently, the number of associations that can be recognized.
- ¹⁹ Projet de loi 78, *Commentaires articles par articles*, Ministry of Cultural Affairs, December 14, 1988, comments on section 25.
- ²⁰ “[The association] has no express power to negotiate a collective agreement as the latter is not obligatory but rather voluntary”. *Projet de Loi 78 : commentaires, article par article*, Quebec, *op. cit.*, comments on section 26.
- ²¹ ***An Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters***, *op. cit.*, s. 26.8.
- ²² *Ibid.*, s. 43.
- ²³ See sections 30 to 42.
- ²⁴ In this respect, you can consult a relatively recent investigation report on the cultural practices of Quebecers and its conclusion which refers to the notion of cultural democratization. See GAGNON, G., R. GARON, G. HARDY, G. MASSÉ and F. MORIN, 1997, *La culture en pantoufles et souliers vernis : rapport d'enquête sur les pratiques culturelles au Québec*, Sainte-Foy, Publications du Québec.
- ²⁵ See LEFEBVRE, É., 2002, «Du droit d'auteur au statut de l'artiste : étude comparative des législations applicables dans un contexte de droit civil et examen comparatif des pouvoirs de leurs forum décisionnel», in GENDREAU, Y. (dir.), *Copyright Administrative Institutions*, Cowansville, Éditions Yvon Blais, pp. 195-197.
- ²⁶ See DUVAL, L., 1988, *L'étonnant dossier de la Place des arts 1956-1967*, Montréal, Louise Courteau éditrice.
- ²⁷ See *Rapport au Conseil exécutif concernant le règlement de la reprographie d'œuvres protégées imprimées dans les établissements d'enseignement du Québec*, March 9, 1984. The excerpt taken from *La juste part des créateurs* is: “the government considers that it is more justified for everything dealing with reproduction in educational institutions [...] to create compensation based on the principle of a free negotiation between copyright-holders and users of protected works”. *La juste part des créateurs : pour une amélioration du statut socio-économique des créateurs québécois*, p. 43.
- ²⁸ See GAY, M., 1988, «Première convention concernant la reprographie dans les écoles primaires et secondaires du Québec», *Cahiers de propriété intellectuelle*, vol. 1, no 1, p. 122.
- ²⁹ See *An Act respecting the professional status and conditions of engagement of performing, recording and film artists*, sections 27 to 42.