Open GLAM

Human Rights

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How this area overlaps with open GLAM: National law may recognize rights in cultural heritage and reproduction media via legislation on any of the topics mentioned in [Copyright](#) and [Contracts](#). However, how these rights are claimed, defined, or enforced should be holistically approached according to international human rights conventions recognizing the rights to access and participate in cultural heritage, as well as international measures recognizing rights of vulnerable communities to control manifestations of their cultural heritage.

We could frame these overlapping areas as conflicting, and many people do. But, instead, how might we view these areas as overlapping, requiring negotiation, consultation, and flexibility, and allowing different values or goals to inform that process?

3. Human Rights

An important area to bring into focus for this next phase of open GLAM is human rights. These include the rights that furnish a foundation for open access to cultural heritage, as well as those which might *limit* access or even the application of IPR to certain reproduction media.^{[1](#)}

- **International human rights legal measures provide a foundation for open access to cultural heritage.** A number of international legal measures recognize the rights to education, to access and participate in culture, and to enjoy the arts and sciences and benefit from them. In doing so, these measures seek to conserve, develop, and diffuse science and culture, and protect and promote cultural diversity.
- **These same legal measures provide a foundation to limit digitization and open access to the cultural heritage of vulnerable communities.** The right to access and participate in *everyone's* culture, and how that right is defined, may be limited. International legal measures on human rights obligate states to ensure that special protections are afforded to vulnerable communities to maintain, control, protect and develop their own cultural heritage and its future manifestations. These measures can and should affect the way cultural heritage is accessed, digitized, and made available (or not).
- **GLAMs can voluntarily align with international human rights legal measures.** International human rights measures do not bind GLAMs or private

individuals. Even so, they set important standards we can all adapt our practices to for a more holistic approach to open access.

- **Unjustified IPR in reproduction media reduces cultural diversity.** When IPR is claimed in non-original or basic reproduction media, the alleged rights enable gatekeeping and control over how a work is accessed, reused, and repurposed. This practice negatively impacts cultural diversity in a number of ways.
- **Human rights are of growing relevance to cultural heritage management due to open access.** Once IPR no longer limits access to and reuse of reproduction media, other human rights become increasingly relevant due to the emerging technologies and expanding market conglomerates involved. These are especially related to privacy, data management, artificial intelligence, and similar ethical areas of concern.

A more holistic approach to open access involves weighing and negotiating various areas of law, rather than only relying on entrenched understandings of property and intellectual property law. In practice, this process can be very circumstantial and requires care and attention to the various actors and interests implicated.

3.1. Bringing Human Rights into Focus with Open Access to Cultural Heritage

A number of international legal measures are relevant to this discussion, but are only briefly discussed here.

First, Article 27 of the *Universal Declaration of Human Rights* (UDHR), states “everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancements and its benefits.”² This is important to consider against digital access and digitally-enabled participation.

Second, Article 15 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) also recognizes the right of everyone to “take part in cultural life” and “enjoy the benefits of progress and its applications.”³ States that have signed onto these measures are obligated to ensure the full realization of the right to participate in cultural life through the conservation, development, and diffusion of science and culture.⁴ To aid states' interpretation of the ICESCR, the General Comments advise that participation should extend to “the right to seek and develop cultural knowledge and expressions and to share them with others, as well as to act creatively and take part in creative activity.”⁵ Full realization of this right requires states to satisfy the necessary conditions of availability,⁶ accessibility,⁷ acceptability,⁸ adaptability,⁹ and

appropriateness.¹⁰ This right to participate in cultural life thus requires holistic access and engagement on the basis of equality and non-discrimination.

Third, Article 2 of the UNESCO *Charter on the Preservation of Digital Heritage* (CPDH) expressly states “access to digital heritage materials, especially those in the public domain, should be free of unreasonable restrictions,” while recognizing exceptions for sensitive and personal information.¹¹

Fourth, Article 7 of the UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (CPPDCE) obligates parties to create “an environment which encourages individuals and social groups to create, produce, disseminate, distribute and have access to their own cultural expressions,” paying particular attention to vulnerable communities, and “to have access to diverse cultural expressions” both from within their territory and from other countries.¹² In addition, Article 11 acknowledges the “fundamental role of civil society in protecting and promoting the diversity of cultural expressions” and obligates states to encourage active participation to achieve the Convention’s objectives.

Finally, a number of Declarations and Charters instill a right to education and access to educational materials, such as Article 26 UDHR, Article 13 ICESCR, Article 14 of the *EU Charter of Fundamental Rights*,¹³ and the UN *Recommendation on Open Educational Resources*.¹⁴ These have been particularly important for the COVID-19 crisis.

This list is not exhaustive, yet it illustrates open GLAM’s compatibility and alignment with various international agreements that focus on the human rights aspects of the rights to education, to access and participate in culture, and to enjoy the arts and sciences and benefit from them. This compatibility even extends to the wider open GLAM ecosystem, involving volunteer and user groups and online platforms, as well as the general public. IPR claims in non-original or basic reproduction media of public domain heritage collections interfere with the range of human rights recognized above.

The rights of authors and IPR are considered by these measures. Articles 27 UDHR and 15 ICESCR expressly weigh the public’s right to participate in culture with an author’s right to benefit from “the protection of the moral and material interests resulting from any scientific, literary or artistic production.”¹⁵ The UN provides further guidance for this balance in General Comments No. 17, namely to *not* equate IPR with the human right, which is a fundamental, inalienable, and universal

entitlement inherent to the dignity and worth of an individual or community, instead of a temporary, revocable, and assignable right granted by national IPR legislation or international agreements to incentivize creativity, innovation, and cultural dissemination.¹⁶ In this way, human rights law recognizes that IPR can be alienated from the author and transferred on until its expiration, while the right to access, participate, and be connected to cultural life remains both inalienable and indefinite.¹⁷

Negotiating this balance will be important for future reflexive phases of open GLAM and appropriate IPR claims and commercialization by GLAM institutions.

3.2. Limits to these Rights

At the same time, *everyone's* right to access and participate in culture, and how that is defined, may be limited. States are obligated to ensure special protections are afforded to minorities, migrants, and Indigenous peoples to maintain, control, protect, and develop their own cultural heritage and its future manifestations.¹⁸ In addition, the 2007 UN *Declaration on the Rights of Indigenous Peoples* (UNDRIP) acknowledges a broad scope of rights and sets minimum standards that should be considered by states during legal reform.¹⁹ The Declaration itself is non-binding, but maps onto “various human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights, and international human rights law.”²⁰ For open GLAM, some of the relevant rights to inform good practice include:

- **Article 11** recognizes the “right to practice and revitalize cultural traditions and customs,” including the “right to maintain, protect and develop the past, present and future manifestations of their cultures,” and it obligates states to “provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws traditions and customs.”²¹
- **Article 12** recognizes the “right to the use and control of their ceremonial objects” and the “right to the repatriation of their human remains,” and it obligates states to “enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.”²²
- **Article 13** recognizes the right to “revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places

and persons,” and it obligates states to “take effective measures to ensure that this right is protected and also ensure that indigenous peoples can understand and be understood in political, legal, and administrative proceedings.”²³

- **Article 31** recognizes “the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions,” and it obligates states to “take effective measures to recognize and protect the exercise of these rights” in conjunction with Indigenous peoples.²⁴

The idea that the public domain exists for anyone to reuse and repurpose without restrictions creates tensions with these rights, particularly when considering copyright’s requirement of “originality” to protect cultural materials and the system of proprietization that will accompany the exclusive rights recognized.²⁵ Where materials are not deemed *new* original expressions or fall outside the scope of IPR-protected subject matter, this system considers them part of the public domain.²⁶ This is often the case with traditional knowledge and cultural expressions, like folk songs, graphic motifs, or even sacred texts. Given the international scope of copyright, this means various manifestations of culture might fail standards for national protection and be treated as raw materials appropriate for the public domain.²⁷ In some cases, this has even led to misuse and harm.²⁸

The right to control, or even exclude others from, manifestations of culture is inherent in human dignity and the right to self-determination of one’s cultural identity, rather than rooted in any limited monopoly granted by IPR regimes and tied to a given rights holder.²⁹ To one community, this human right might even limit another community’s desires to preserve, digitize, and extend access to certain cultural objects onsite and online.³⁰ This crucial aspect of human rights and IPR and heritage management is revisited in [*Decolonization and Indigenization*](#).³¹ It is addressed here to illustrate the need for mainstreaming and embedding localized considerations into open GLAM good practice.

These aspects of open GLAM are especially important for vulnerable communities. On national and international levels, communities are often excluded from lawmaking processes and unable to sign on to the legal measures. Despite any recognition of sovereignty, states must act on their behalf, which can result in a particular type of disenfranchisement.³² The UN advises states and other actors adopting intellectual property regimes to give particular attention “at national and international levels to the adequate protection of the human rights of disadvantaged and marginalized individuals and groups, such as indigenous peoples.”³³ It is also important to acknowledge the power and distributional imbalances embedded in these frameworks and discussions, which strive for “development” and may view culturally sensitive materials and knowledge within IPR, public domain, or similar regimes. Scholars such as Margaret Chon, Ruth Okediji, Anupam Chander, and Madhavi Sunder have written extensively on this topic across various IPR contexts.³⁴

3.3. Non-Binding Effect of Human Rights Conventions on GLAMs

But there is another crucial detail we must address. Despite aligning with GLAM missions, these international legal measures bind only the states that sign them and are difficult to enforce. To have any national legal effect, countries typically must transpose them (and the teeth to enforce them) into national law, during which limited implementation or a reduced application of the treaty’s text might occur. Despite this, GLAMs, especially those that are publicly funded, can align with these international principles and implement positive actions around them.

One international convention that has taken hold in various sectors is the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*.³⁵ Patty Gerstenblith has written about how the voluntary alignment of policies to the 1970 UNESCO Convention by archaeological associations, museums, and museums associations came to influence standards for the acquisition of looted objects and their restitution among heritage management practices worldwide.³⁶

In our case, private law (*e.g.*, IPR and contract law) provides flexibility to embed human rights considerations when developing and implementing more holistic open access policies. Open access is a key enabler of access, participation, and enjoyment of cultural heritage as envisioned by Articles 27 UDHR and 15 ICESCR, Article 2 of the CPDH, and the range of measures related to education and access to educational materials. Perpetual copyright in reproduction media thwarts these human rights. At

the same time, the right of vulnerable communities to self-determination and to maintain, control, and protect current and future manifestations of their culture should complement and inform digitization and appropriate open access practices. Similar to how the 1970 UNESCO Convention standards became accepted practice, GLAMs, professional associations, and other owners, can voluntarily revise policies and practices to balance and recognize these important human rights during heritage management.

3.4. Cultural Conglomerates and their Detriment to Cultural Diversity

One final and significant point should be made about the detriment of this practice to cultural diversity. The CPPDCE lists several objectives relevant to cultural heritage management and open GLAM.³⁷ These include creating conditions for cultures to flourish and freely interact, encouraging dialogues to ensure that wider and balanced cultural exchanges nurture intercultural respect, and promoting respect for cultural diversity and raising awareness of its value at local, national, and international levels.³⁸ The Convention cites the freedoms of expression, information, and communication, as well as the principle of equitable access, as fundamental to protecting and promoting cultural diversity.³⁹ It also recognizes “the importance of intellectual property rights in sustaining those involved in cultural creativity,” and encourages support and development of cultural industries to distribute cultural goods and services.⁴⁰

Fiona Macmillan argues that, in reality, many business models and industries developed to commodify creative works have led to a concentration of private power and market dominance at the expense of greater cultural diversity.⁴¹ The market conditions facilitating this include: the unequal bargaining positions of authors and users; copyright’s licensing and assignment mechanisms; strong commercial distribution rights; and copyright’s ongoing expansion through national jurisprudence and international legal measures.⁴² These conditions result in “a high degree of global concentration in the ownership of intellectual property in cultural goods and services” via “cultural conglomerates.”⁴³ Macmillan advances that copyright’s commodification of creativity has thus enabled cultural conglomerates to dominate cultural outputs and consumption patterns. And while they may produce and/or distribute a colossal amount of creative works for consumption, Macmillan warns against confusing *volume* with diversity.⁴⁴ Instead, by controlling the market, these conglomerates can act to filter or homogenize cultural production.

Macmillan's analysis focuses on multinational media and entertainment corporations, but the logic extends to the cultural heritage sector. In our case, GLAMs steward huge concentrations of creative works and other cultural materials that might inspire, inform, or be remixed to create new cultural goods, knowledge, and services in various mediums and formats. Since many of these works are in the public domain, the potential for GLAMs to protect and promote cultural diversity is boundless. But the digitization and application of a new copyright creates a market that enables owners to control how the works are reused, studied, and disseminated. GLAMs also form contractual agreements *with* cultural conglomerates, like commercial photo libraries or technology giants, to digitize public domain collections and commercialize reproduction media. Valid or invalid, that new copyright impedes access to culture and reduces cultural diversity by enabling gatekeeping and control over the production of new works, narratives, and formats. This effectively concentrates the creative development around an entire collection within the control of a single institution. In the aggregate, these conditions result in a high degree of global concentration both due to the ownership of public domain cultural heritage *and* the intellectual property market for derivative cultural goods.

In this way, unjustified claims to IPR in reproduction media can infringe basic human rights around access, participation, and enjoyment of cultural life, and they are detrimental to cultural diversity. Similar to the private power of cultural conglomerates, the significant private power of GLAMs exercised via property *and* intellectual property ownership filters what the public sees, hears, and reads about the collections.⁴⁵ As Macmillan highlights, it is likely this “also controls the way we construct images of our society and ourselves.”⁴⁶ For Macmillan, “the consequences of this are cultural filtering, homogenisation of cultural products, loss of the public domain, and failure of the development process.”⁴⁷ This practice thus poses a direct threat to the aims of the CPPDCE to protect and promote “the varied ways in which the cultural heritage of humanity is expressed, augmented, and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used.”⁴⁸ Due to the IPR claims, the public cannot use, develop, or reflect on what is made available, and they are also unable to challenge the system.⁴⁹ This frustrates cultural diversity, organic forms of creativity, user-led cultural expressions, and knowledge generation by centralizing the authority and cultural production around public domain collections with GLAMs.

3.5. Growing Relevance of Human Rights to the Open GLAM Ecosystem

Lastly, human rights are of increasing relevance in the context of emerging technologies and expanding market conglomerates for a number of reasons.

First, emerging technologies are impacting the ways in which digital heritage is produced, reused, enriched, and recirculated by different people in different manifestations in different parts of the world. The latent ephemerality of digital media combined with the application of (perpetual) copyright claims with each new reproduction format creates impossible conditions for protecting and promoting cultural diversity. Instead, GLAMs could be collecting the new cultural goods that flow from open access, and exploring new conservation methods for emerging and complex digital media formats. Indeed, as art itself becomes increasingly digital in origin, what will be the impact on access to the *future* public domain?

Second, technology conglomerates have become de facto publishing and archival platforms, particularly in areas without government funded institutions or GLAMs to host data. Instead, users turn to YouTube, Twitter, Facebook, or Instagram to upload and store cultural content. This means that technology, software, or interface upgrades, changes to “community guidelines,” and automated erasures can result in significant data losses, particularly where content may be critical of governments or depict important events around political unrest. The lack of sustainable infrastructure and ephemerality of digital threatens our collective memory and the history of these moments.

Third, expanding market conglomerates and their development and commercialization of new products, like artificial intelligence and surveillance technologies, can pose challenges to authorship, copyright, and its enforcement, as well as privacy or the right to be forgotten, among many other human rights. As GLAMs increase or explore new partnerships with market conglomerates, duties to audiences around these issues will intensify but risk being shaped by commercial interests and the private sector instead of public interests and human rights.

These legal and ethical questions are crucial to adopting a more holistic and critical approach to open access to cultural heritage. This particular area is explored further in [***Privacy and Sensitivity***](#) and [***Sustainability***](#).

Continue to [Contracts](#)

Footnotes

1. Human rights and IPR are often framed as being either in conflict or overlapping with each other. The former views strong IPR as incompatible with many economic, social, and cultural rights prescribed by human rights treaties. The latter views IPR and human rights as compatible, while striking a balance between the scope of the monopoly right and public access. See Laurence Helfer, '[Human Rights and Intellectual Property: Conflict or Coexistence?](#)', *Minnesota Intellectual Property Review* 5, no. 47 (2003). [↵](#)
2. [Universal Declaration of Human Rights \(UDHR\)](#), Article 27(1). [↵](#)
3. [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), Article 15(1)(a-b). [↵](#)
4. ICESCR, Article 15(2). [↵](#)
5. '[General Comment No. 21: Right of Everyone to Take Part in Cultural Life \(Art. 15, Para. 1 \(a\), of the International Covenant on Economic, Social and Cultural Rights\), Forty-Third Session, 2-20 November 2009](#)', UN Committee on Economic, Social and Cultural Rights, 2009, 21. [↵](#)
6. Availability is the presence of cultural goods and services that are open for everyone to enjoy and benefit from, like GLAMs, theaters and sports, public spaces like parks, intangible cultural goods, and so on, which contribute to cultural diversity. 'General Comment No. 21', II(B)(16)(a). [↵](#)
7. Accessibility mandates States must provide substantive opportunities to enjoy culture fully, both physically and financially, without discrimination around age, disability, income, or language. 'General Comment No. 21', II(B)(16)(b). [↵](#)
8. Acceptability requires States to adopt legal measures for the enjoyment of cultural rights that are tailored and acceptable to the individuals and communities they involve. 'General Comment No. 21', II(B)(16)(c). [↵](#)
9. Adaptability refers to the flexibility of State measures to be respectful of the cultural diversity of individuals and communities. 'General Comment No. 21', II(B)(16)(d). [↵](#)
10. Appropriateness refers to the realization of specific rights respectful to individuals and communities cultural values, including minorities and Indigenous

peoples. ‘General Comment No. 21’, II(B)(16)(e). [↵](#)

11. ‘[UNESCO Charter on the Preservation of Digital Heritage](#)’ (United Nations Educational, Scientific and Cultural Organization, 2003). [↵](#)

12. [2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions](#) (20 October 2005). [↵](#)

13. [EU Charter of Fundamental Rights](#), Article 14. [↵](#)

14. [UN Recommendation on Open Educational Resources](#). [↵](#)

15. UDHR, Article 27(2); ICESCR, Article 15(1)(c). [↵](#)

16. ‘[General Comment No. 17. The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from Any Scientific, Literary or Artistic Production of Which He or She Is the Author \(Article 15, Paragraph 1 \(c\), of the Covenant\)](#), [Thirty-Fifth Session, Geneva, 7-25 November 2005](#)’, UN Committee on Economic, Social and Cultural Rights, 2005, 17. [↵](#)

17. Carlos Maria Correa, *¿Desea Guardar Los Cambios? Propiedad Intelectual y Tecnologías Digitales: Hacia Un Nuevo Pacto Social*. (Córdoba, Argentina: Centro Cultural de España, 2009). [↵](#)

18. ‘General Comment No. 21’, (II)(E)(5-7). [↵](#)

19. [United Nations Declaration on the Rights of Indigenous Peoples](#) (2007). [↵](#)

20. UNDRIP, Article 1. [↵](#)

21. UNDRIP, Articles 11(1-2). [↵](#)

22. UNDRIP, Articles 12(1-2). [↵](#)

23. UNDRIP, Articles 13 (1-2). [↵](#)

24. UNDRIP, Article 31(1-2). [↵](#)

25. ‘[Note on the Meanings of the Term “Public Domain” in the Intellectual Property System with Special Reference to the Protection of Traditional Knowledge and Traditional Cultural Expressions/Expressions of Folklore](#)’, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge

and Folklore, Seventeenth Session (Geneva: World Intellectual Property Organization, 2010). [↵](#)

26. Anupam Chander and Madhavi Sunder, '[The Romance of the Public Domain](#)', *California Law Review* 92, no. 5 (2004): 1331–73. [↵](#)

27. Madhavi Sunder, '[The Invention of Traditional Knowledge](#)', *Law and Contemporary Problems* 70, no. 2 (1 April 2007): 97–124. [↵](#)

28. Jane Anderson, '[Indigenous/Traditional Knowledge & Intellectual Property, Examples of Use and Misuse of Indigenous Knowledge](#)' (Center for the Study of the Public Domain, 2010). [↵](#)

29. For a discussion of the risks of over relying on economic, social, and cultural human rights to justify IP rules, and at the expense of enabling domestic and localized approaches, see Ruth L. Okediji, '[Does Intellectual Property Need Human Rights?](#)', *New York University Journal of International Law and Politics* 51, no. 1 (2018): 1–67. [↵](#)

30. See Helfer, '[Human Rights and Intellectual Property: Conflict or Coexistence?](#)'; Audrey R. Chapman, '[The Human Rights Implications of Intellectual Property Protection](#)', *Journal of International Economic Law* 5, no. 4 (1 December 2002): 861–

82. See also T-Kay Sangwand, '[Preservation Is Political: Enacting Contributive Justice and Decolonizing Transnational Archival Collaborations](#)', *KULA: Knowledge Creation, Dissemination, and Preservation Studies* 2, no. 1 (29 November 2018): 10. [↵](#)

31. Discussed in *Decolonization and Indigenization*. [↵](#)

32. Lucas Lixinski, *International Heritage Law for Communities: Exclusion and Re-Imagination*, Cultural Heritage Law and Policy (Oxford, New York: Oxford University Press, 2019). [↵](#)

33. '[Substantive Issues Arising in the Implementation of the International Covenant on Economic Social and Cultural Rights, Twenty-Seventh Session, Geneva 12-30 November 2001](#)', UN Committee on Economic, Social and Cultural Rights, 2001. [↵](#)

34. Ruth L. Gana, '[The Myth of Development, The Progress of Rights: Human Rights to Intellectual Property and Development](#)', *Law and Policy* 18 (1996): 315; Anupam Chander, '[The New, New Property](#)', *Texas Law Review* 81, no. 3 (2003): 715–97; Margaret Chon, '[Intellectual Property and the Development Divide](#)', *Cardozo Law Review* 27, no. 6 (2006): 2821–2912; Chander and Sunder, '[The Romance of the](#)

- [Public Domain](#)’; Madhavi Sunder, ‘[IP3](#)’, *Stanford Law Review* 59, no. 2 (2006): 257–332; Sunder, ‘[The Invention of Traditional Knowledge](#)’. [↵](#)
35. [1970 UNESCO Convention on the Means of Prohibiting and preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#) (14 November 1970). [↵](#)
36. [Patty Gerstenblith, ‘The Meaning of 1970 for the Acquisition of Archaeological Objects’, *Journal of Field Archaeology* 38, no. 4 \(November 2013\): 364–73, <https://doi.org/10.1179/0093469013Z.000000000062>](#). [↵](#)
37. [2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions](#) (20 October 2005). [↵](#)
38. CPPDCE, Article 1. [↵](#)
39. CPPDCE, Article 2. [↵](#)
40. CPPDCE, Preamble, Article 2, Article 4, Article 6, Article 10, Article 14. [↵](#)
41. Fiona Macmillan, ‘[The Dysfunctional Relationship Between Copyright and Cultural Diversity](#)’, *Quaderns Del CAC*, 2007, 101–10; Fiona Macmillan, ‘[Cultural Diversity, Copyright, and International Trade](#)’, in *Handbook of the Economics of Art and Culture*, ed. Victor A. Ginsburgh and David Throsby, vol. 2 (Elsevier, 2014), 411–37. [↵](#)
42. Macmillan, ‘[The Dysfunctional Relationship Between Copyright and Cultural Diversity](#)’, 102–3. [↵](#)
43. Macmillan, 101. [↵](#)
44. Macmillan, ‘[Cultural Diversity, Copyright, and International Trade](#)’. Article 4 of the CPPDCE defines “cultural diversity” as “the manifold ways in which the cultures of groups and societies find expression,” which are “passed on within and among groups and societies.” The text expressly includes to “the varied ways in which the cultural heritage of humanity is expressed, augmented, and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used.” [↵](#)

45. Macmillan, '[The Dysfunctional Relationship Between Copyright and Cultural Diversity](#)', 105. [↵](#)
46. Macmillan, 105. [↵](#)
47. Macmillan, 101. [↵](#)
48. CPPDCE, Article 4. [↵](#)
49. Macmillan, '[The Dysfunctional Relationship Between Copyright and Cultural Diversity](#)'; Rosemary J. Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law* (Durham: Duke University Press, 1998). [↵](#)