

## Advancing the goals of the 2005 UNESCO Convention on the Diversity of Cultural Expressions in the fields of education, participation of civil society and sustainable development

Mira Burri

Education, participation of civil society and sustainable development have been specified as discrete fields for the implementation of the UNESCO Convention on the Diversity of Cultural Expressions (Articles 10, 11 and 13 respectively). These are areas that are admittedly not at the centre of conventional cultural policies but rather situated in the periphery. Yet, their importance may be increased in the digital age, as it demands a better interlinked and integrated approach towards cultural diversity policies. Their essential contribution to the objective of protecting and promoting cultural diversity may also be augmented in the longer term, if we conceive of its attainment as a continuous, cross-domain and cross-generational process, which ultimately leads to mainstreaming of diversity policies.

In discussing possible avenues for better implementation of the UNESCO Convention in these domains in the digital era, and as a common thread to this report, we seek to clarify two important aspects. On the one hand, we conceptualize digital media (and the Internet in particular) as a *tool* – a means for the better and more efficient attainment of the stated policy goals; on the other hand, digital media create a *specific environment*, which may demand policy changes and new approaches towards ensuring a vibrant culturally diverse environment that is also sustainable over time. Aware of these different effects and instrumentalizations of digital media, as well as cognizant of the practices, which have evolved in various ratifying parties to the Convention in the period since the Convention's coming into force, we seek to formulate recommendations for each of the domains noted – (1) education; (2) civil society participation; and (3) sustainable development. We start with a brief description of the issue areas in light of the legal basis given by the UNESCO Convention and then identify the actions needed in the digital era. It may very well be the case that there are overlaps in the implementation strategies – these are only to be interpreted as fruitful, positive feedback effects.

### I. ISSUE AREAS

#### I.1 Education

Although Article 10 of the UNESCO Convention is framed under the broad title of 'Education and public awareness', its core message is in fact rather narrowly construed. It is meant above all to stir the Convention's parties to 'encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, inter alia, through educational and greater public awareness programmes'.<sup>1</sup> Parties are to engage in cooperation with other Parties, international and regional organizations in achieving the purpose of this article,<sup>2</sup> as well as more concretely, 'encourage creativity and strengthen production capacities by setting up educational, training and exchange programmes in the field of cultural industries'.<sup>3</sup>

The Article 10 Operational Guidelines, which were adopted by the Conference of Parties in 2011, do not necessarily go beyond this narrowly defined mission and only specify that the 'educational and public awareness-raising programmes and measures should highlight the distinct characteristics of this Convention and bring out its specificities in comparison to other

<sup>1</sup> Article 10(a) of the UNESCO Convention.

<sup>2</sup> Article 10(b) of the UNESCO Convention.

<sup>3</sup> Article 10(c) of the UNESCO Convention.

UNESCO normative instruments in the field of culture'.<sup>4</sup> Yet, the possibilities of better interfacing cultural and educational policies are also mentioned,<sup>5</sup> and in this sense, one could argue that a basis for more comprehensive and further-reaching implementation of the UNESCO Convention in the educational domain is created. Indeed, paragraph 3 of the Article 10 Guidelines refers explicitly to the necessity of adopting an integrated approach in the design and implementation of educational programmes that promote the objectives and principles of the Convention, and this 'should involve strengthening the ties between culture and education at the policy, programme and institutional levels'.

The second line of implementing Article 10 of the Convention, as elaborated in the Operational Guidelines, is through the professions in the field of cultural industries, which have undergone and continue to undergo rapid changes. While this is not a particularly broad but rather a focused undertaking, it is one of the rare cases, where digital media are specifically targeted and the need to identify 'skills required and gaps in training, particularly related to digital expertise'<sup>6</sup> mentioned. New information and communication technologies (ICT) are also identified as one of the channels for raising public awareness.<sup>7</sup>

## **I.2 Participation of civil society**

The UNESCO Convention on the Diversity of Cultural Expressions is an international treaty between states but it is also one of those rare documents at the international level that acknowledges the fundamental role of civil society<sup>8</sup> and attempts to mobilize it towards the attainment of the Convention's core objectives.<sup>9</sup> The Article 11 Operational Guidelines specify that civil society plays an essential role in the implementation of the Convention as it 'brings citizens', associations' and enterprises' concerns to public authorities, monitors policies and programmes implementation, plays a watchdog role, serves as value-guardian and innovator, as well as contributes to the achievement of greater transparency and accountability in governance'.<sup>10</sup> In this sense, Parties should encourage civil society's participation by associating it by appropriate means on cultural policy-making, by facilitating access to information relating to the protection and promotion of the diversity of cultural expressions, and strengthening the capacities in this field. Parties could foresee the provision of ad hoc, flexible and effective mechanisms in this regard.<sup>11</sup>

The potential of civil society to act as an innovator and agent of change in the implementation of the UNESCO Convention should also be fully utilized. Parties should encourage civil society to bring new ideas and approaches to the formulation of cultural policies, as well as to the development of innovative cultural processes, practices or programmes that help achieve the objectives of the Convention.<sup>12</sup> In a manner, previously unknown in UNESCO procedures, civil

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<sup>4</sup> Operational Guidelines on Education and Public Awareness (Article 10 of the Convention), approved by the Conference of Parties at its third session, June 2011, at para. 2.

<sup>5</sup> Operational Guidelines Article 10, at paras 3, 5 and 6.

<sup>6</sup> Operational Guidelines Article 10, at para. 4.

<sup>7</sup> Operational Guidelines Article 10, at para. 9.

<sup>8</sup> For the purposes of the UNESCO Convention, civil society is defined as 'non-governmental organizations, non-profit organizations, professionals in the culture sector and associated sectors, groups that support the work of artists and cultural communities'. See Operational Guidelines on Article 11 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Role and Participation of Civil Society, approved by the Conference of Parties at its second session (June 2009), at para. 3.

<sup>9</sup> Article 11 of the UNESCO Convention. Reference to civil society is made, explicitly or implicitly, in several other provisions of the Convention, including Articles 6, 7, 12, 15, and 19.

<sup>10</sup> Article 11 Operational Guidelines, at para. 4.

<sup>11</sup> Article 11 Operational Guidelines, at para. 5.

<sup>12</sup> Article 11 Operational Guidelines, at para. 6.

society may also contribute to the work of the organs of the Convention according to certain set criteria.<sup>13</sup>

### I.3 Sustainable development

Sustainable is such development ‘that meets the needs of the present without compromising the ability of future generations to meet their own needs’.<sup>14</sup> Indubitably, sustainable development has emerged as one of the guiding policy principles of the 20th and 21st centuries.<sup>15</sup> Culture is recognized as one of its constituent pillars, although the cultural aspect was added only at a later stage and its precise meaning and policy implications still remain somewhat fuzzy.<sup>16</sup> Article 13 of the UNESCO Convention on the Diversity of Cultural Expressions was meant to create a clear link to sustainable development initiatives. It urges the Convention’s Parties to ‘endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development and, within this framework, foster aspects relating to the protection and promotion of the diversity of cultural expressions’. In addition, sustainable development features as one of the key principles of the UNESCO Convention and is thus meant to guide and inform all its implementation activities.<sup>17</sup>

The Article 13 Operational Guidelines clarify amongst other things that ‘[s]ince economic, environmental, social and cultural systems are interdependent and cannot be considered separately, sustainable development policies and measures should be formulated, adopted and implemented in concert with all the relevant public authorities in all sectors and at all levels’.<sup>18</sup> The integration of culture into sustainable development policies should in particular entail acknowledgment of: (i) the fundamental role of education for sustainable development and the inclusion of culture in the different aspects of educational delivery to foster an understanding and appreciation of diversity and its expressions; (ii) recognition of the needs of women, of the various social groups mentioned in Article 7 of the Convention, and of disadvantaged geographical areas; and (iii) the use of new technologies and the expansion of networked communication systems.<sup>19</sup>

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<sup>13</sup> Article 11 Operational Guidelines, at paras 7–10 and Annex.

<sup>14</sup> World Commission Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987), part 1, section 2, para. 1.

<sup>15</sup> *Ibid.* The sustainability framework that emerged from discussions subsequent to those of the Brundtland Commission is made up of three elements considered to be of equal significance: (i) *economic development* – reducing and seeking to eradicate income poverty, achieving higher levels of prosperity and enabling continued gains in economic welfare; (ii) *social development* – reducing and seeking to eradicate other dimensions of poverty; improving the quality of education, health, housing and other aspects of the welfare of individuals and communities; and enhancing the quality of social interaction, engagement and empowerment; and (iii) *environmental protection* – reducing pollution and other negative impacts on the environment, mitigating the effects of industrialization and human activity, and seeking to achieve sustainable use of resources in the interest of future generations. Two further elements were added subsequently: *cultural diversity* – the continuance of diverse human cultures from past to future within a context of the globalization of communications, economy and society and the more intensive intercultural interactions that result, and *governance* – the institutional mechanisms, rules and norms that encompass decision-making and behaviour by governments, businesses and citizens, the interactions among these stakeholders and among different policy domains. See D. Souter, ‘ICTs, the Internet and Sustainability: A Discussion Paper’, in D. Souter and D. MacLean (eds.), *Changing Our Understanding of Sustainability: The Impact of ICTs and the Internet* (Winnipeg, CA: International Institute for Sustainable Development, 2012), at p. 5.

<sup>16</sup> D. Throsby, Culture in Sustainable Development: Insights for the Future Implementation of Article 13, UNESCO; CE/08/Throsby/Art.13, 14 January 2008.

<sup>17</sup> Article 6(2) of the UNESCO Convention.

<sup>18</sup> Operational Guidelines on Article 13 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Integration of Culture in Sustainable Development, approved by the Conference of Parties at its second session (June 2009), at para. 7.1.

<sup>19</sup> Article 13 Operational Guidelines, at para. 7.3. For a more detailed list of activities, which serve the goal of sustainable development in the field of culture, see also Article 13 Operational Guidelines, at para. 8. In order to better evaluate the role of culture in sustainable development, Parties are also encouraged to facilitate the elaboration of statistical

In addressing the challenge of operationalizing culture as part of sustainable development, David Throsby has suggested putting particular stress on 5 aspects. These include providing for *intergenerational* and *intragenerational equity*; underscoring the *importance of cultural diversity* (similarly to biodiversity); *approaching risk-aversely situations* which may lead to destruction of cultural heritage or extinction of valued cultural practices; and considering *interconnectedness* – i.e. approaching holistically economic, social, cultural and environmental systems because of their inherent linkages.<sup>20</sup> The strategies for implementation are multifaceted and may affect various policies<sup>21</sup> – digital technologies have not so far been instrumentalized in any particular way.

## II. PRIORITY AREAS OF ACTION

### II.1 Education

To be sure, an effective and sustainable implementation of the UNESCO Convention on the Diversity of Cultural Expressions requires that beyond the few experts and policy makers involved, as well as the special agencies appointed to carry on activities related to the Convention's implementation, larger parts of society at all its levels understand the treaty and its purpose. The concept of 'cultural diversity' does lend itself to creating a positive echo in society, and can be overtime mainstreamed and viewed as an essential element in all facets of societal life. Digital media are a superb tool for the achievement of this objective – either in targeted educational programmes or as a generic means of raising the public awareness and fostering intercultural dialogue.<sup>22</sup> As digital media can be disseminated at a relatively low cost to large number of people and permit modularity and follow-up innovation around existing content, they can not only inform about cultural diversity but also foster creativity and exchange in their own right. As a concrete example for educational uses, one can envision for instance the creation of cultural diversity educational toolkits for early school years, which can be distributed over the Internet and can through interactive forms increase knowledge and understanding of cultural heritage, contemporary cultural expressions, as well as the importance of their diversity and how this diversity can be in fact practiced and sustained.

When thinking about education as a channel to foster cultural diversity in the Internet age (in addition to clarifying and promulgating the UNESCO Convention's objectives), two topics appear particularly important. The first has to do with the intensified but also appropriate use of digital media in educational programmes. The second is media literacy and we share the conviction that media literacy may indeed be central to many of the objectives of the Convention in spurring creativity but also in ensuring equity and development that is sustainable. As a caveat, it should be noted that while stressing these two themes, we leave aside multiple issues, which can be situated at the intersection of culture and education. In particular, we do not tackle those issues, which stem from addressing diversity in education with respect of minorities, traditional communities and languages, which are generally aimed at understanding and nurturing the influence of cultural processes to improve learning outcomes in the schoolroom and education policies.<sup>23</sup>

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indicators, the exchange of information and the dissemination and sharing of best practices (Article 13 Operational Guidelines, at para. 9).

<sup>20</sup> Throsby, *supra* note 16.

<sup>21</sup> UNESCO World Report, *Investing in Cultural Diversity and Intercultural Dialogue* (Paris: UNESCO Publishing, 2009), at pp. 191–219.

<sup>22</sup> UNESCO World Report, 2009, *ibid*.

<sup>23</sup> See e.g. <http://www.unesco.org/new/en/santiago/education/cultural-diversity-in-education/> (last accessed 25 October 2013).

With regard to aspect of using digital media in education appropriately, it should be acknowledged that digital media are already part of the curriculum in schools and in higher education almost in all industrialized countries in multiple and diverse utilization forms (such as educational software, curriculum materials, gaming, mobile computing, and social networks).<sup>24</sup>

It has been argued that digital media have in many senses transformed learning and classroom practices.<sup>25</sup> While this report does not permit an in-depth elaboration of the implications of digital media use in education, we would like to stress that as a matter of long-term fostering of creativity and active cultural expressions, there is a distinct need to adequately address and accommodate the perceptions and wants of the *digital natives* – i.e. those generations of young people born post-1980, with both access to digital technologies and the skills to use them.<sup>26</sup> Digital natives may function differently in the new media environment and have profoundly different understandings of engaging in cultural processes, both online and offline.<sup>27</sup> In some instances, this may call for active engagement by the state or state agencies in new media platforms, or for the creation of specialized platforms with a public interest objective, also for the protection and promotion of cultural diversity.

There is a delicate balance that needs to be attained in this exercise. Key values, such as privacy and prevention of hate speech, must be appropriately addressed, so as to create an environment that is conducive to cultural exchange but is also trusted and secure. At the same time, the degree of intervention must not be so high as to prevent forms of innovation and expressive freedom.<sup>28</sup> There may also be a need to review elements of the existing copyright law, so that access to and use of educational materials is facilitated and uninhibited learning processes enabled.<sup>29</sup> Best practices on open access policies need to be developed and continuously improved.<sup>30</sup>

In designing such policies, there will be a marked difference between developed and developing countries. With regard to shaping policies in developing countries, as well as to cooperation between developed and developing countries in the field of education and digital media, the first-tier of issues will primarily relate to bridging the digital divide.<sup>31</sup> Questions of providing for connectivity will be critical and aid should aim at providing a basic level of networks, hardware and software, so that access to the Internet is adequately secured. This does not however mean that measures, which ensure providing a computer or a mobile phone connected to the Internet would necessarily and automatically close the gap. To the contrary, over the years, it has been acknowledged that there exist no ‘one-size-fits-all’ solutions, as

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<sup>24</sup> See e.g. European Commission, *Survey of Schools: ICT in Education: Benchmarking Access, Use and Attitudes to Technology in Europe's Schools*, Study prepared for the European Commission, 2013.

<sup>25</sup> See e.g. C. N. Davidson and D. T. Goldberg, *The Future of Thinking Learning Institutions in a Digital Age* (Cambridge, MA: MIT Press, 2010); M. Chien, *Digital Media's Transformative Role in Education: Beyond Potential to Essential*, University of Denver PhD thesis, November 2012.

<sup>26</sup> J. Palfrey and U. Gasser, *Born Digital: Understanding the First Generation of Digital Natives* (New York: Basic Books, 2010).

<sup>27</sup> Ibid; also M. Ito et al, *Hanging Out, Messing Around, and Geeking Out: Kids Living and Learning with New Media* (Cambridge, MA: MIT Press, 2013).

<sup>28</sup> J. Palfrey, U. Gasser, C. Maclay and G. Beger, ‘Digital Safety for Young people: Gathering Information, Creating New Models and Understanding Existing Efforts’, in UNICEF, *The State of the World's Children 2011: Adolescence: An Age of Opportunity* (New York: UNICEF, 2011), pp. 50–51.

See also all publications by the Youth and Media project of the Berkman Center for Internet and Society, available at: <http://youthandmedia.org/publications/papers/all/> (last accessed 25 October 2013).

<sup>29</sup> See e.g. W. W. Fisher and W. McGeeveran, ‘The Digital Learning Challenge: Obstacles to Educational Uses of Copyrighted Material in the Digital Age’, *Berkman Center for Internet and Society Research Publication* No 2006-09.

<sup>30</sup> See e.g. S. Shieber and P. Suber (eds.), *Good Practices for University Open-Access Policies* (Cambridge, MA: Harvard Open Access Project and the Berkman Center for Internet and Society, 2013).

<sup>31</sup> See e.g. P. Norris, *Digital Divide: Civic Engagement, Information Poverty, and the Internet Worldwide* (Cambridge: Cambridge University Press, 2001). See also Section 3 of this report.

developing countries have proved to be profoundly diverse with starkly different economic, social and institutional conditions, and technology adoption patterns.<sup>32</sup> There has been a growing understanding that measures for bridging the global digital divide must use tailor-made tools<sup>33</sup> that are meant to provide not only one-off aid but also conditions for sustainable access to information, which go far beyond cheap computers to involve local capacity-building and deeper social and institutional reforms.<sup>34</sup> The parties to the UNESCO Convention on the Diversity of Cultural Expressions should follow the existing best practices in this respect and contribute to a better understanding of which tools work and how they relate to active participation in cultural processes within local and global communities.<sup>35</sup>

It should above all not be forgotten that connectivity is nothing but the first tier. As the Internet becomes ubiquitous and penetrates all facets of contemporary societal life, new and different tiers of division and discrimination seem to emerge. In the national context of industrialized countries, experience shows that what was considered the original digital divide is largely resolved and today 'the digital divide resides in differential ability to use new media to critically evaluate information, analyze, and interpret data, attack complex problems, test innovative solutions, manage multifaceted projects, collaborate with others in knowledge production, and communicate effectively to diverse audiences – in essence, to carry out the kinds of expert thinking and complex communication that are at the heart of the new economy'.<sup>36</sup>

This 'second' digital divide presents a much greater challenge. It relates in essence to *digital literacy* – i.e. to the set of skills needed to efficiently and effectively navigate in cyberspace, to create, contribute, distribute, access, use and re-use content.<sup>37</sup>

Although the use of digital media in contemporary societies is on the rise, there should not be an automatic presumption for digital literacy: 'People who play Farmville on Facebook may (or may not) have the skills they need to search for information about jobs, education and health care. For young people today, it is vital that formal education begin to offer a bridge from the often insular and entertainment-focused digital culture of the home to a wider, broader range of cultural and civic experiences that support their intellectual, cultural, social and emotional development'.<sup>38</sup>

At the same time, it should also be acknowledged that digital literacy has become key in the national cultural and educational policies of many countries,<sup>39</sup> very often as a subset of a media

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<sup>32</sup> See e.g. J. Cave et al., *Trends in Connectivity Technologies and Their Socioeconomic Impacts*, study prepared for the European Commission, Cambridge, 2009, at p. iii.

<sup>33</sup> See e.g. B. Sanyal and D. Schön, 'Information Technology and Urban Poverty: The Role of Public Policy', in D. Schön et al., *High Technology and Low-Income Communities* (Cambridge, MA: MIT Press, 1998), pp. 371–394, at pp. 375–376.

<sup>34</sup> World Bank, 'Building Local Capacity for ICT Policy and Regulation: A Needs Assessment and Gap Analysis for Africa, the Caribbean, and the Pacific', *World Bank InfoDev Working Paper* 16 (2008); ITU and UNCTAD, *World Information Society Report 2007: Beyond WSIS*, (Geneva: ITU, 2007), pp. 56–78. For a theoretical analysis, see M. Warschauer, 'Whither the Digital Divide?', in D. Lee Kleinman et al. (eds.), *Controversies in Science and Technology, Vol. II: From Climate to Chromosomes* (New Rochelle, NY: Liebert, 2008), pp. 140–151, in particular at pp. 147–149.

<sup>35</sup> The above paragraph is based on M. Burri, 'The Global Digital Divide as Impeded Access to Content', in M. Burri and T. Cottier (eds.), *Trade Governance in the Digital Age* (Cambridge: Cambridge University Press, 2012), pp. 396–420.

<sup>36</sup> M. Warschauer and T. Matuchniak, 'New Technology and Digital Worlds: Analyzing Evidence of Equity in Access, Use, and Outcomes', *Review of Research in Education* 34:1 (2010), pp. 179–225, at p. 213.

<sup>37</sup> E. Hargittai, 'Digital Na(t)ives Variation in Internet Skills and Uses among Members of the "Net Generation"', *Sociological Inquiry* 80:1 (2009), pp. 92–113. For other digital inequality classifications, see M. Warschauer, 'Reconceptualizing the Digital Divide', *First Monday* 7:7 (2002); M. Warschauer, *Technology and Social Inclusion: Rethinking the Digital Divide* (Cambridge, MA: MIT Press, 2003).

<sup>38</sup> R. Hobbs, *Digital and Media Literacy: A Plan of Action*, a White Paper on the Digital and Media Literacy Recommendations of the Knight Commission on the Information Needs of Communities in a Democracy (Washington, DC: The Aspen Institute, 2010), at p. 25.

<sup>39</sup> See e.g. D. Frau-Meigs and J. Torrent, *Mapping Media Education Policies around the World: Visions, Programmes and Challenges* (New York: United Nations Alliance of Civilizations, 2009).

literacy agenda, which does not discriminate between online and offline media but approaches them in a technologically neutral manner. The European Union (EU) is a leading example in this regard. The EU has identified media literacy as a priority for the 21st century and taken a number of measures to enhance it across generations. Amongst other things, focus is put on the active involvement of the industry, including all types of media, in the promotion of media literacy initiatives; on the role that the education system can play to promote media literacy as the ability to access media and to understand, critically evaluate, create and communicate media content in the context of EU Member States' lifelong learning strategies; as well as on initiatives to encourage greater consensus on media literacy, by supporting the analysis and exchange of good practices between Member States and the development of better tools to measure levels of media literacy across Europe.<sup>40</sup>

With regard to educational activities to harness media literacy, it is particularly noteworthy that 'cultural awareness and expression' is underscored as one of the key competences.<sup>41</sup> Following this model, it should be noted that there is overall a need to prioritize digital literacy and to design efficient measures that address it in educational, community and cultural contexts, so that not only literacy is enhanced and appropriately used in everyday life but so that the benefits from the expanding media landscape are spread to all.<sup>42</sup>

Finally, as to the last strategic component mentioned in Article 10 with regard to encouraging creativity and production in the cultural industries, there has been some experience already with digital media, and this has been evaluated as highly positive. Indeed, digital media have been conceptualized in many countries as the way to improve efficiency and enhance innovation in the creative industries, often as an element of broader policy agendas.<sup>43</sup> Even in high-cost cultural sectors, like film and TV production, digital media can be beneficial. The UK example for industrialized countries and Nollywood for developing ones are illuminating.<sup>44</sup> The growing importance of the digital games industry can also be mentioned as an illustration in this regard.<sup>45</sup> Parties to the UNESCO Convention can build upon best practices in these areas. A caution may be voiced as to the need to keep up a balance between economic and cultural interests (this may be compromised, e.g. by providing tax breaks to game production companies, which do not necessarily deliver diverse content<sup>46</sup>). Finally, in order to allow true innovation, which uses fully the affordances of digital technologies, there is also a strong need for legal certainty for creative businesses. This need is particularly felt in the field of copyright – for instance, with regard to licensing, orphan works and intermediaries' liability.<sup>47</sup>

## II.2 Participation of civil society

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<sup>40</sup> See Council conclusions on media literacy in the digital environment, 2978th Education, Youth And Culture Council meeting, Brussels, 27 November 2009.

<sup>41</sup> See Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning, OJ L 394, 30 December 2006.

<sup>42</sup> H. Jenkins, *Confronting the Challenges of Participatory Culture Media Education for the 21st Century* (Cambridge, MA: MIT Press, 2009); also *Media Literacy*, second progress report by the Study Commission on the Internet and Digital Society of the German Parliament, October 2011.

<sup>43</sup> See e.g. UK Department for Culture, Media and Sport, *Digital Britain*, Final Report, June 2009, in particular pp. 105–134.

<sup>44</sup> See generally M. Burri, 'Cultural Protectionism 2.0: Updating Cultural Policy Tools for the Digital Age', in S. Pager and A. Candeub (eds.), *Transnational Culture in the Internet Age* (Cheltenham, UK: Edward Elgar, 2011), pp. 182–212; also, S. Pager, 'Digital Content Production in Nigeria and Brazil: A Case for Cultural Optimism?', in Pager and Candeub, *ibid.*, pp. 262–287.

<sup>45</sup> PWC, *Global Entertainment and Media Outlook: 2013–2017* (London: PricewaterhouseCoopers, 2013).

<sup>46</sup> See C. B. Graber, 'State Aid for Digital Games and Cultural Diversity: A Critical Reflection in the Light of EU and WTO Law', in C. B. Graber and M. Burri (eds.), *Governance of Digital Game Environments and Cultural Diversity: Transdisciplinary Enquiries* (Cheltenham, UK: Edward Elgar, 2010), pp. 170–201.

<sup>47</sup> See e.g. *Digital Britain*, *supra* note 43; also *Creative Content in a European Digital Single Market: Challenges for the Future*, A Reflection Document of the European Commission, 22 October 2009.

Digital media have an important role to play in all key aspects of enhanced participation of the civil society mentioned in Article 11 of the UNESCO Convention on the Diversity of Cultural Expressions. We address in particular the potential given by digital technologies to foster participation of the civil society, so that transparency and debate on the implementation of the UNESCO Convention are advanced. On the other hand, we stress the role of civil society in suggesting and implementing innovative practices using digital technologies to better and more efficiently contribute to the achievement of the Convention's objectives.

First, it should be noted that digital technologies through their intrinsic characteristics of low entry thresholds, global reach and instantaneous communication to millions, have significantly transformed patterns of social participation, of engagement, community building and cohesion in national and global contexts.<sup>48</sup> Overall by changing the economics and logistics of information and communication, the Internet has offered powerful facilities for groups and organizations operating outside conventional power structures. Civil society institutions have been 'early adopters' and have successfully used the digital technologies' affordances to further their goals in critical areas such as human rights, development and climate change, as well as in discrete topics immediately relevant to the UNESCO Convention, such as the protection of traditional cultural expressions and minority languages.<sup>49</sup> We have seen a proliferation of both communities and online activities, including for the exercise of social accountability, crowdsourcing of activism, enabling of international solidarity, and real-time organization of offline protest.<sup>50</sup> The voices of the civil society have in the digital networked environment become more audible, as some recent cases, such as the contestation of the Anti-Counterfeiting Trade Agreement (ACTA) and its subsequent effect on real politics, have proved.<sup>51</sup>

The picture is however complex and there are also negative sides to be considered. The democratizing potential of the Internet is seriously undermined by the digital divide: the gap between the 'information rich', concentrated mostly in developed countries and the 'information poor' in the rest of the world is still alarmingly wide.<sup>52</sup> This unequal distribution of resources leads to unequal representation of interests and topics in the online space, which naturally impacts overall public discourse. The global civil society may be therefore often insufficiently strong for any actual institutional change and for real action towards sustainable provision of global public goods.<sup>53</sup>

Linking up to the digital literacy discussion, it appears also that the level of sophistication of the digital skills is critical to ensure real participation, as users' behaviour studies,<sup>54</sup> as well as the acts of mobilizing communities in the recent Arab revolutions<sup>55</sup> show. A recent more comprehensive study has also found that digital media literacy education is associated with increased online political engagement and increased exposure to diverse perspectives.<sup>56</sup> In this sense, there is a strong need to understand and redress the noted imbalances as integral part of economic, social, and cultural development policies.<sup>57</sup>

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<sup>48</sup> B. Cammaerts, 'Critiques on the Participatory Potentials of Web 2.0', *Communication, Culture and Critique* 1 (2008), pp. 358–377; Y. Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (New Haven, CT: Yale University Press, 2006); C. R. Sunstein, *Republic.com 2.0* (Princeton, NJ: Princeton University Press, 2007).

<sup>49</sup> J. Naughton, 'Contested Space: The Internet and Global Civil Society', in H. Anheier, M. Glasius and M. Kaldor (eds.), *Global Civil Society 2001* (Oxford: Oxford University Press, 2001), pp. 147–168.

<sup>50</sup> Civicus: World Alliance for Citizen Participation, *State of Civil Society 2013: Creating an Enabling Environment*, 2013.

<sup>51</sup> See e.g. Freedom House, *Freedom on the Net 2012: A Global Assessment of Internet and Digital Media* (Washington, DC: Freedom House, 2012).

<sup>52</sup> Naughton, *supra* note 49.

<sup>53</sup> I. M. Hoofd, *Ambiguities of Activism: Alter-Globalism and the Imperatives of Speed* (Abdington, UK: Routledge, 2012).

<sup>54</sup> E. Hargittai, *supra* note 37.

<sup>55</sup> See e.g. 'Profile: Egypt's Wael Ghonim', *BBC News*, 9 February 2011.

<sup>56</sup> J. Kahne, N. Lee and J. T. Feezell, 'Digital Media Literacy Education and Online Civic and Political Participation', *International Journal of Communication* 6 (2012), pp. 1–24.

<sup>57</sup> Naughton, *supra* note 49.



In addition, awareness ought to be raised with regard to multiple activities by authoritarian but also some democratic governments to control the Internet, often justified by references to national security and crime prevention, and exercised through ever more sophisticated means of surveillance, censorship and blocking of access.<sup>58</sup> More generally, as the importance of the Internet for all domains of societal life increases, the number of interventions and attempts to change its architecture in order to render the system more closed and controllable also steadily grows.<sup>59</sup> The benefits of the Internet as an enabling space for participation of the civil society, as well as for cultural expression, communication and exchange may be thereby seriously diminished. These debates have so far remained somewhat distant to core cultural diversity policies but there may be an urgent need to holistically approach these topics, also because this may be absolutely critical to sustaining the diversity of cultural expressions in a digitally networked environment.<sup>60</sup>

Civil society may be an important agent of change and innovative entrepreneur in the UNESCO Convention on the Diversity of Cultural Expressions. As civil society representatives are often locally based yet globally connected, they may be better positioned than state agencies to engage in a bottom-up manner and protect and promote cultural practices in ways that both better suit the local communities and are more cost-efficient. Digital technologies may be an excellent tool to both amplify voices and serve local needs, and examples from community radio projects, multilingual blogging or indigenous music promotion illustrate this.<sup>61</sup> Communities, such as *Global Voices*,<sup>62</sup> which brings together more than 700 authors and 600 translators who report on blogs and citizen media from around the world, with emphasis on voices that are not ordinarily heard in international mainstream media, are indeed the very expression of such an engagement and actively contribute to diversity.

### II.3 Sustainable development

Before we discuss selected aspects of the policies integrating culture and sustainable development, where digital media appear of immediate relevance, it should be noted that although there is a clear link between the changing ICT environment and sustainability and although potentially there can be significant improvements to our current approach to sustainable development due to ICT advances, there is still insufficient attention paid in practice.<sup>63</sup> The matrix of ICT, sustainable development and culture is practically unexplored so far.

In this sense, we would like to first stress the need to better understand the impact of digital technologies on the present and future of cultural practices and the effect on the diversity of cultural expressions in sub-national, national, regional and global contexts. It is also critical to raise the awareness of the intrinsic link between cultural diversity and sustainable development, and how it can be enhanced under the conditions of digital media. To be sure,

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<sup>58</sup> R. Deibert, J. Palfrey, R. Rohozinski and J. Zittrain (eds.), *Access Denied: The Practice and Policy of Global Internet Filtering* (Cambridge, MA: MIT Press, 2009); R. Deibert, J. Palfrey, R. Rohozinski and J. Zittrain (eds.), *Access Controlled: The Shaping of Power, Rights, and Rule in Cyberspace* (Cambridge, MA: MIT Press, 2010); R. Deibert, J. Palfrey, R. Rohozinski and J. Zittrain (eds.), *Access Contested: Security, Identity, and Resistance in Asian Cyberspace* (Cambridge, MA: MIT Press.

<sup>59</sup> Naughton, *supra* note 49; also J. Palfrey, 'Four Phases of Internet Regulation,' *Berkman Center for Internet and Society Research Publication* No 2010-9, 1–22.

<sup>60</sup> Burri, *supra* note 44.

<sup>61</sup> See e.g. Burri, *supra* note 35,

<sup>62</sup> <http://globalvoicesonline.org/about/> (last accessed 4 November 2013).

<sup>63</sup> D. Souter and D. MacLean, 'ICTs, the Internet and Sustainability: Where Next?', in D. Souter and D. MacLean (eds.), *Changing our Understanding of Sustainability: The Impact of ICTs and the Internet* (Winnipeg, CA: International Institute for Sustainable Development, 2012), at p. 13. See also D. Souter, D. MacLean, B. Akoh and H. Creech, *ICTs, the Internet and Sustainable Development: Towards a New Paradigm* (Winnipeg, CA: International Institute for Sustainable Development, 2010).

understanding the relationship between digital media and sustainability demands a comprehensive analysis, which ‘must concern itself with the long-term structural changes that evolve as a result of iterative and recursive interactions between those technologies, societies, economies, power structures and cultural identities’.<sup>64</sup>

Without any claim for exhaustion, in the following we would like to stress a few channels, which may be particularly advantageous for sustaining cultural diversity in the digital age. Keywords in this context are *access*, *creativity* and *digitally connecting the past, present and the future*.

#### a. Access

Digital technologies have certainly had an impact on the ways cultural content is created, distributed, access and consumed, as discussed earlier. Some have even argued that the abundance of content is such that it renders cultural policy redundant.<sup>65</sup> While we disagree with this suggestion, we should acknowledge that content (taken broadly in the sense of words, sounds, moving and still images) is now critical. Content is the driver of digital infrastructures, technology and services, of new business and consumer behaviour patterns, and not the other way around. Demand for high-quality, enriched digital content is also expected to continue to grow and so its importance for other fields of governance.<sup>66</sup>

While under the conditions of the digital networked environment, content may have proliferated, this does not automatically mean that it is readily accessible. There are barriers of different types: (i) placed at the infrastructural level (e.g. no access to broadband Internet or failing networks); (ii) placed at the hardware/software level (e.g. lack of interoperability between different types of platforms or software); or (iii) placed at the content level (e.g. due to copyright protection or other fences imposed for instance, through technological protection measures, such as digital rights management systems [DRM]). The barriers could also be of societal character. We conceptualized lacking media literacy as a key hindrance in this regard.

All of these barriers impede the access to cultural content, the engagement in active intercultural dialogue or various creative activities, thus distorting the conditions for a vibrant culturally diverse environment. The trouble when designing appropriate measures to dismantle these barriers to cultural content and foster participation is that they fall in different, often disconnected, policy areas. So, while core cultural policy instruments in the field of protecting cultural heritage remain valid and needed, it could be that in the digital age, many of the critical decisions affecting the conditions for cultural diversity and its sustainability will fall outside the classic cultural policy domain. Questions of telecommunications networks, of standards, of intermediaries’ liability and Internet governance may become immediately relevant. This clearly calls for adopting a holistic approach and interlinking policy domains, so that appropriate instruments and measures are designed. Appropriate governance mechanisms, also perceived as the fifth pillar of sustainable development, appear in this sense crucial.

#### b. Creativity

When thinking more broadly about creativity as the parameter that would secure sustainable cultural diversity in the long run, the challenge is even bigger. Although it is widely recognized that culture, creativity and innovation are core factors in social and economic development, few countries have managed to integrate these concerns into a single coherent approach, or to incorporate them into mainstream policy-making. This is partly related to the different regulatory histories and different lobbying groups, and the path dependencies associated with

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<sup>64</sup> Souter and MacLean, *ibid*, at p. 7.

<sup>65</sup> See e.g. C. Anderson, *The Long Tail: Why the Future of Business Is Selling Less of More* (New York: Hyperion, 2006).

<sup>66</sup> See e.g. Screen Digest, *Interactive Content and Convergence: Implications for the Information Society, A Study for the European Commission*, 2006.

each of these domains.<sup>67</sup> As the Economy of Culture in Europe study acknowledges fostering creativity requires thinking and operating in a transversal manner as it touches upon many policy areas, such as education, social policy, innovation, economic growth, and sustainability.<sup>68</sup>

In terms of promoting creativity, it should also be acknowledged that once established, digital capacity is exploited in all sorts of ways, including many that are unexpected. Today's huge expansion of digital creativity, often on a private, personal and non-commercial basis, may have little economic impact, but has a huge social and cultural impact.<sup>69</sup> Policy-makers should make sure that their actions support and do not restrict such developments.<sup>70</sup> In application of the precautionary principle, policy-makers should carefully observe the evolving processes and sometimes adopt a 'do no harm' stance, rather than intervene with consequences potentially detrimental to creativity. At the same time, as earlier noted, a level of trust and security is also important for the unfolding of creativity online.

When confronted with such complex, multi-directional developments, Parties to the UNESCO Convention should compare data and instruments, assess their impact, and move towards best practices in discrete policy areas, as well as in cross-domain holistically designed agendas. As an element of uncertainty remains, such policies should also be adaptive and allow for correction mechanisms.<sup>71</sup> The UNESCO Convention Parties should also use these policy initiatives to continuously underscore the critical impact of culture in creativity.<sup>72</sup>

### c. Digital memory institutions

Digitization allows all sorts of data – be it audio, video, text or still images – to be expressed in binary digits, in lines of zeroes and ones. This offers the unprecedented opportunity to digitize all cultural heritage, making it available and connected to present cultural processes, as well as retrievable for future generations. This opportunity has been seized by many nations, although developing and poorer countries are clearly lagging behind because of the resource intensive character of digitization projects. The EU has been amongst the leading actors. It has emphasized the political objective of making Europe's cultural heritage and scientific records accessible to all, while at the same time bringing out its full cultural and economic potential. Various initiatives have followed up this objective leading towards *Europeana*: the European Digital Library, as a multilingual common access point to Europe's distributed cultural heritage.<sup>73</sup> *Europeana*<sup>74</sup> was launched in November 2008 and allows Internet users to search and get direct access to digitized books, maps, paintings, newspapers, film fragments and photographs from Europe's cultural institutions. Presently some 29 million objects from more than 2,200 institutions from 36 countries are made available on *Europeana* with numbers constantly rising.<sup>75</sup> The content is also socially connected in various sites and platforms, available through an iPad app, downloadable and malleable under different copyright licensing regimes (such as the creative commons licence). In this sense, *Europeana* not only aggregates content but builds an open, trusted source of cultural heritage, which is also meant to engage users in new ways of participating in their cultural heritage, facilitate knowledge transfer, innovation and advocacy in the cultural heritage sector. The user-friendly format very often

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<sup>67</sup> European Parliament, *Cultural and Creative Industries*, IP/B/CULT/FWC/2006\_169, 31 May 2007, at p. iii.

<sup>68</sup> KEA European Affairs, *The Economy of Culture in Europe*, Study prepared for the European Commission, October 2006, at p. 199.

<sup>69</sup> See e.g. Benkler, *supra* note 48; also E. Von Hippel, *Democratizing Innovation* (Cambridge, MA: MIT Press, 2005).

<sup>70</sup> See e.g. European Parliament, *Cultural and Creative Industries*, IP/B/CULT/FWC/2006\_169, 31 May 2007, at p. 6.

<sup>71</sup> See e.g. Souter et al., *supra* note 63.

<sup>72</sup> KEA European Affairs, *The Impact of Culture on Creativity*, Study prepared for the European Commission, June 2009.

<sup>73</sup> European Commission, *Europeana: Next Steps*, COM(2009) 440 final, 28 August 2009; also European Commission, *i2010: Digital Libraries*, COM(2005) 465 final, 30 September 2005.

<sup>74</sup> <http://europeana.eu> (last accessed 5 November 2013).

<sup>75</sup> <http://pro.europeana.eu/web/guest/about/facts-figures> (last accessed 5 November 2013).

also involves teaching basic digital literacy skills, so that users can make the best of both the digital affordances and the content available.

The challenges related to digitization projects like *Europeana* are however multiple. Some of them may be of technical character relating for instance to compatibility of different formats and standards, or to the availability and quality of metadata. Many others stem from the intellectual property barriers to digitization – to access to contemporary works and dealing with orphan works. These issues are by no means trivial and demand discussions with various stakeholders, so that solutions that serve both public and private interests are found.<sup>76</sup>

The Parties to the UNESCO Convention may foster these debates, as well as make sure that know-how is shared with developing countries too. Building upon such examples, one can also argue that digital media can be seen in general as an opportunity for policy innovation in the field of cultural policy-making, which is often somewhat path-dependent.

### III. RECOMMENDATIONS

Considering the profound changes that the digital environment has brought about in multiple facets of contemporary cultural processes and the powerful tool that digital technologies can be in protecting and promoting cultural expressions, we find it important that the Parties to the UNESCO Convention seek targeted action in the fields of education, civil society participation and sustainable development in implementing Articles 10, 11 and 13 of the UNESCO Convention on the Diversity of Cultural Expressions.

We urge the Parties to the UNESCO Convention to undertake actions in particular in the following three contexts:

**(1) Enhancement of media literacy as the complex set of skills, which permit active participation in the digitally enabled cultural processes.** This initiative must not be a one-off project but a sustainable strategy evolving in educational and non-educational organizations, in state and civil society action. Impact must be carefully assessed and the best-suited tools found, so that individuals and groups of individuals can be actively involved in creating, distributing, accessing, using and re-using cultural content. For developing countries, overcoming the digital divide is a first step in this process and international cooperation must be mobilized to this end. Among other things, attention should be paid to the need to statistically document the impact of the digital divide in the field of media literacy, a task that could be assigned to the UNESCO Institute for Statistics (UIS). Enhancing media literacy and making sure that no societal groups are left behind in this process also clearly relates and contributes to sustainable development.

**(2) Facilitation of civil society participation and fostering of grassroots innovation in the implementation of the UNESCO Convention.** It is commendable that the UNESCO Convention on the Diversity of Cultural Expressions aims to enhance the participation of the civil society. As early adopters of digital tools, civil society representatives may greatly contribute in using the affordances of digital media to design measures that protect and promote the diversity of cultural expressions in the digital age in ways that best accommodate the needs of artists and other cultural professionals and practitioners, as well as local communities. To this end, a conference could be organized by the UNESCO Secretariat, with the collaboration of organizations such as the International Federation of Coalitions for Cultural Diversity (IFCCD)

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<sup>76</sup> See e.g. *Europeana Strategic Plan 2011–2015*, available at [http://www.pro.europeana.eu/c/document\\_library/get\\_file?uuid=c4f19464-7504-44db-ac1e-3ddb78c922d7&groupId=10602](http://www.pro.europeana.eu/c/document_library/get_file?uuid=c4f19464-7504-44db-ac1e-3ddb78c922d7&groupId=10602) (last accessed 5 November 2013).

and the Global Network of Cities, Local et Regional Government (UCLG), to identify such measures.

**(3) Adoption of an interlinked and integrated approach towards cultural diversity policies.** The link between culture and sustainable development is crucial and digital technologies may only be contributing to operationalize this link better. However, as the Internet impacts on multiple policy domains, often with substantial effects on cultural processes, it is important that all policies and their impact are holistically assessed and toolboxes designed that take into consideration the objective of protecting and promoting cultural diversity in a digital environment.. In their reports to the UNESCO every four years, Parties should be invited to identify the actions undertaken, in all sectors, to use the potential of digital technologies in order to integrate culture in their sustainable development policies. In its report, the UNESCO secretariat should also be encouraged to present those actions and to identify the best practices in this regard.