CONFERENCE READER

European **Music** Council

A Regional Group of the International Music Council

european
forum
on music

90 | IEC Ⅱ /TYPE Ⅱ HIGH POSITION
SUPER AVILYN CASSETTE SUPER HIGH RESOLUTION

B: SUPER PRECISION ANTI-RESONANCE CASSETTE MECHANISM

PHOTO TAKEN FROM UNSPLASH.COM

Looking Back - Looking Forward:
The Future of Europe's Musical Roots
7 - 10 June 2018 in Oslo, Norway

CONFERENCE READER

8TH EUROPEAN FORUM ON MUSIC

Looking Back – Looking Forward: The Future of Europe's Musical Roots

7-10 June 2018

Sentralen, Oslo, Norway

Published by

The European Music Council (EMC) is a platform for representatives of National Music Councils and international organisations involved in various fields of music amongst many European countries. As a European umbrella organisation, it gathers the European members of the International Music Council.

The European Music Council contributes to a better mutual understanding among people and their different cultures and to the right for all musical cultures to coexist. Therefore it provides exceptional value to its membership by building knowledge; creating networking opportunities as well as supporting and enhancing the visibility of initiatives that help sustain people's participation in music and cultural life.

PREFACE

Background

Eight years ago, the European Music Council recognised the need to create a space for its members and all people interested in exchanging, building knowledge, meeting other professionals and amateurs related to the music and cultural field. A place where people could share their know-hows, learn from their encounters and build strong international, European and local relationships. Since 2010, the EMC has had the pleasure to organise each year a Forum in a different European city hosted and co-organised by partners based in the country. Various themes as Cultural Diplomacy last year in Pafos, Cyprus, or Music and Cultural Identity in 2016 in Wroclaw, Poland, have been at the centre of many interesting panels and discussions. Becoming a yearly rendezvous for various stakeholders in the music field, the European Forum on Music aims to create more awareness on actual needs and/or challenges of the sector and to be a European platform for exchanges.

Conference Description

This year's edition of the European Forum on Music (EFM) **Looking Back – Looking Forward. The Future of Europe's Musical Roots** takes place from Thursday, 7 June until Sunday, 10 June 2018 in Oslo, Norway. The EFM, annual conference of the European Music Council (EMC), will be hosted by the Norwegian Music Council and is part of the European Year of Cultural Heritage 2018. The aim of the Year is to showcase Europe's heritage as a rich and diverse mosaic of cultural and creative expressions and to underline a sense of belonging to a common European space.

Cultural heritage, including musical heritage, is not only a legacy from the past. It can also help to shape the way forward and influence future developments. With this edition of the EFM, we would like to look at the importance and the value of musical heritage for our future European society. Music and intangible heritage in general are confronted with a variety of challenges: from participation and access to music to environmental threats. What is needed today to make sure that we can still enjoy Europe's musical roots in the future?

ACKNOWLEDGEMENTS

EUROPEAN FORUM ON MUSIC PROGRAMME

THURSDAY 7 JUNE 2018 - NORWEGIAN MUSIC COUNCIL

- From 17:30 – **Summer Party, welcome evening for EFM participants**

FRIDAY 8 JUNE 2018 - SENTRALEN/ OSLO CITY HALL/ DET NORSKE TEATRET

- 08:30-09:15 – **Registration and Coffee**
- 09:30-10:15 – **Opening of the 8th Forum on Music**
- 10:15-11:00 – **Keynote Speech** by **Ferdinand Richard** (Chair of the Roberto Cimetta Fund)
- 11:00-11:30 – Coffee Break and Finger Food with Music
- 11:30-13:30 – *In parallel*
    - **Panel Discussion and Workshop**: **Global Warming Awareness**
      with **Beatrice Gabor** (MAINOI Association), **Peder Karlsson** (End Ecocide Sweden), **Bård Vegar Solhjell** (Norwegian Music Council & WWF Norway), **Linneá Svensson** (Greener Events Foundation)
    - **Panel Discussion and Workshop**: **Freedom of Expression**
      with **Jan Lothe Erikson** (SafeMUSE), **Srirak Plipat** (Freemuse), **Sina Winter** (From the Vastland) and workshop by **Sara Whyatt** (advisor of the Working Group Arts Rights Justice Europe and UNESCO Expert on freedom of artistic expression)
- 14:00-16:00 – **Reception** on invitation by Oslo City Hall
- 17:00-18:30 – **Joint Session with the European Theatre Convention: The Future of Performing Arts in Europe. Cultural Policy & Funding Mechanisms of the EU**
  with **Barbara Gessler** (European Commission, DG EAC) at the Det Norske Teatret

SATURDAY 9 JUNE 2018 - SENTRALEN

- 09:00-09:30 – **Registration and coffee**
- 09:30-11:00 – *In parallel*
    - **Panel Discussion**: **Oral Transmission as Intangible Cultural Heritage**
      with **Katarina Barruk** (Sami artist), **Antoni Beksiak** (composer**), Mihály Rosonczy Kovács** (artist), **Gerhard Sammer** (EAS), **Kati Taal** (CIOFF), **Manu Théron** (artist)
    - **Panel Discussion**: **Rostrum+: The Future of Recent Musical Repertoire**
      with **Therese Birkeland Ulvo** (composer), **Stefan Forsberg** (Konserthuset Stockholm), **Davide Grosso** (International Music Council), **Joanna Grotkowska** (Polish Music Council), **Pascale Labrie** (European Broadcasting Union)
- 11:00-11:30 – Coffee Break
- 11:30-13:00 – **Music in the Future: European Agenda for Music (EAM):** Group discussions on the implementation of the EAM
- 13:00-14:30 – Lunch at Sentralen
- 14:30-16:00 – **Project Presentation – Idea Hub in Groups**
- 16:00-18:30 – **Market Place**: a place for networking and present your organisation and projects with Thea Breivik from Creative Europe Desk Norway and Kate Deans from Creative Europe Desk Scotland and coffee break
- 18:30-19:30 – **Conference Wrap Up** by Gretchen Amussen (European Music Council) & Katarina Barruk (Sami artist)
- From 20:00 – Musical dinner

INTRODUCTION

The European Music Council is proud to present this conference reader for the 8th European Forum on Music on *Looking Back – Looking Forward. The Future of Europe's Musical Roots* in Oslo, Norway. A selection of 13 articles, extracts from publications and reports, was put together in order to accompany our delegates through the different themes at the heart of this year's Forum. Divided in five main topics that represent key challenges of the music sector in the future for the European Music Council, the conference reader aims to provide additional views and analysis to the panels. Putting the European Year of Cultural Heritage 2018 in the centre of our Forum, we would like to initiate discussions on how we can put together the best conditions for the future generation while preserving our cultural heritage. What conditions are needed to safeguard what we appreciate today as European musical heritage? How can we guarantee freedom of musical expression and how can we secure the future of democratic values? In which way can music contribute to a sustainable environment? How do we want the musical landscape to look like in the future?

The 8th European Forum on Music conference reader is made out of five sections, which correspond for the most to our conference panels. As music is part of the concept of culture, we have chosen to select articles that give a more general view on the topic and not necessarily a music-centred one. A first chapter will give an introduction to the notion of global warming and how to attain a sustainable development thanks to culture. The second part of the conference reader is a reminder of the different threats on culture and music and how they could be overcome – as the needed improvement of (artistic) freedom of expression. An overview of cultural policy as well as past and present funding programmes for culture in Europe will be then presented. The extracts shared in the chapter on Oral Transmission as Intangible Cultural Heritage will explore different ways to preserve intangible cultural heritage and for which reasons it would be important to do so. Finally, the excerpts suggested to guide our delegates on the theme of recent repertoire will attempt to give glimpses of the challenges of modern music composers.

This conference reader presents only a small selection of existing articles, links, activities related to the different topics presented. The articles presented here are only suggestions of readings and will try to be complementary to the panels and discussions during the European Forum on Music.

The European Music Council wishes you a good reading and remains available in case of any enquiries regarding this brochure.

GLOBAL WARMING AWARENESS

Introduction

In a global context of urgency, we tend to be overwhelmed on how to take action and to empower ourselves on how to deal with the various impacts of global warming on earth and on human beings. We are always seen as the initiators of this world catastrophe but no other counteraction role has been given to us yet. The impacts of climate change can be measured and noticed all around the world[1] and are therefore central topics in major summits between countries as for example the United Nation Climate Change Conference[2]. However, there is a big gap between the actions taken by various states and their inhabitants. Each individual has its own set of beliefs and perception of society and earth. We believe that a change can only be accompanied by challenging these individuals' perception of nature and climate disruptions as they will then urge and model actions to be taken on a local and then global scale. In the first article presented here, the philosopher Charles Taylor[3] in its interview with Timo Berger and Kai Schnier for the magazine Kulturaustausch is convinced that this change is possible through a redefinition of our society's position and link to nature. This can be achieved through culture, which encompasses all spheres of human life as well as artistic processes and results[4]. Enabling the population to view nature differently and think development in a sustainable way (towards ecological quality, equity, equality, justice and many more) is key. The second article, an extract from the conclusions of the EU funded COST Action *Culture in, for and as Sustainable Development*, also underlines the fact that there is no unique way of attaining a sustainable development[5] for all. It will be shaped by diversity as it is the main aspect of culture. In the last article written by the Cultural Network for Transition PULSE[6], we are reminded of the essential role of the cultural sector in this process, being a platform where people meet, exchange and interact. Spaces for imagination; learning and experimenting; public reflection and dialogue can be therefore created through cultural activities. Making a shift towards a more sustainable development, which will enable the ecological crisis to be tackled, can't be made without changing the society first. The cultural actors should therefore take upon a role model not only by initiating dialogue and creating space but also by taking action as setting frameworks, working with Scientifics and being innovative.

---

[1] https://royalsociety.org/~/media/Royal_Society_Content/policy/projects/climate-evidence-causes/climate-change-evidence-causes.pdf
[2] https://unfccc.int/process/conferences/what-are-united-nations-climate-change-conferences
[3] Charles Taylor is a Canadian philosopher, biography on the Encyclopedia Britannica
[4] Referring to second article – definition of culture by Raymond Williams
[5] Referring to the UN report *Our Common Future*, the Bruntland Report (1987), to be found here: http://www.un-documents.net/our-common-future.pdf
[6] https://www.pulsenetwerk.be/

1.1 »Ich bin überzeugt, dass wir uns ändern können« Charles Taylor, Interview by Timo Berger und Kai Schnier. First edition of the interview was translated in German and published in the magazine KULTURAUSTAUSCH 1/2018 – Erde, wie geht's?

1.2 Three roles for culture in sustainable development, Thriving on complexity
Dessein, J., Soini, K., Fairclough, G. and Horlings, L. (eds) 2015. Culture in, for and as Sustainable Development. Conclusions from the COST Action IS1007 Investigating Cultural Sustainability. University of Jyväskylä, Finland

1.3 Culture as a driver of transition - Pulse – Cultural Network for Transition – June 2016

1.1 »Ich bin überzeugt, dass wir uns ändern können« Charles Taylor, Interview by Timo Berger und Kai Schnier.
First edition of the interview was translated in German and published in the magazine
KULTURAUSTAUSCH 1/2018 – Erde, wie geht's?

"I am convinced we can change...."

The challenges of climate change are overwhelming but before we can save the planet we must first save ourselves, says philosopher Charles Taylor.

Mr. Taylor, you have been living on this planet for 86 years. How's our earth doing today compared to how it was the past?

Much worse of course. Today we are witnessing very big events, the sea is rising, hurricanes are getting more frequent, desertification is taking place, air pollution is a dangerous reality in China, India and elsewhere. Of course, many of these things started developing in the past, but in my younger days people were yet to see the systematic nature of things. We were worried about overpopulation, about hunger and the great political struggles: We asked ourselves how democracy could be expanded, how leftist modes of thinking could be spread. But all of these questions were much less existential than what we have to talk about today.

Many of the problems you discuss are man made. Does our species simply not care enough about our home planet?

I am not sure if it's that we don't care. It is probably more that the implications of the decline of our environment and of climate change are too worrying to be taken seriously. The potential effects of climate change are so catastrophic that they tempt us to turn a channel, as if we were watching a hockey game on TV. There is a sense of having an inability to counteract an issue of such enormous scale - and that produces a switch off. You start to think: "Well, what can I really do about that?" So we have developed a tendency not to face up to the issue. In some sense, we feel like a doctor has told us that we only have a couple of weeks to live and we decide to live it up rather than worry about it. The other reason is of course related to the geographical and psychological distance of the consequences of climate change.

So will the consequences of climate change have to hit us closer to home to spur us into action?

It's a terrible thing to think of course, but yes, I believe so. Compare the issue of climate change with the financial crisis of 2008. Back then the immediacy of the threat was imminent. From one day to the next people got a slip from their employer and were out of a job. And as a result governments immediately took action. With climate change it is different. Maybe a really big catastrophe has to happen before people wake up. In a sense, these catastrophes are already happening and will happen soon: The cyclones in the Bay of Bengal are getting bigger and bigger. Lots of Bangladeshis will suffer. Desertification in Sudan is real and there is hunger and displacement.

So in particular the West is yet to feel the consequences of climate change?

In a sense, yes. But that is now changing. Look at the storm Harvey, look at what is happening in the Gulf of Mexico. As catastrophic as these events are, one can hope that a smaller and smaller number of people and people in charge will be able to "switch off". Fewer and fewer people will be able to deny what is happening. At the same time that

gives us a course of action. We can say for example: Donald Trump's policies will make the next storm even bigger. This is the realization that we have to ram home.

Or maybe we just have to accept that we are an intrinsically unsustainable species. Our obsession with growth, how we run our economies, all works in direct opposition to the well being of the planet ...

Surely as a species we are the first with the ability to destroy the very basis of life. One might say that earlier versions of ourselves, maybe even the earliest hominids, had a more sustainable connection to the planet, but I am not even sure if that is true. Even our ancestors killed entire species, hunted mammoths and changed the face of the earth considerably via agriculture and forestry. Now we are just doing it on a grander scale, a massive scale that endangers the planet. But unsustainability has been part of our DNA for longer. That doesn't mean we can change our ways, however.

How could that look?

We will have to fundamentally redefine our relationship between us and the planet. We have to create a whole new way of thinking about our place in the world. In the 21st century, we don't have autonomy from the planet, but the planet doesn't have autonomy from us either. We are living in the anthropocene, an age where the two concepts of humanity and nature have begun to merge. We as humans are in this day and age in fact an integral part of nature. So we have to start thinking about ourselves in that very way. The planet would be a very different place without us. Think of it on a scale that is easier to understand: You as an individual and as a group with your peers make up and define the nation state. There is no nation state without individuals. In the same sense, there is no nature as we know it without humanity. The two concepts are intrinsically interconnected because we have altered the planet on such massive scale already. We always lived with the idea that there are humans and there's nature and if we damage bits of it, it can repair itself. But now there isn't any way for us to take ourselves out of the equation.

What does that mean with regards to climate change?

It means that our discussions of nature and our discussions about society cannot be separated from each other anymore. That is a radical shift in our thinking of course. It means that creating a healthy, just and functioning society means creating a better planet, because we are a part of that very planet – and we also create better preconditions for sustainability to begin with. It is important to make this shift in thinking, because it can inspire the way we try to change our societies and economies in practice. For example, when we think about green economies and more sustainable industries, we also have to think about what is sustainable for our societies. Under that precondition a global shift to renewable energy has to be thought through very carefully.

Could you explain that?

Well, certainly a shift to a greener economy would be utterly necessary. And certainly producing more steel, more coal and so on is utterly unsustainable. But, on the other hand, the stability of our western industrial societies depends on everyone getting a job and along with globalised trade, automation and artificial intelligence, a green economy

1.1 »Ich bin überzeugt, dass wir uns ändern können« Charles Taylor, Interview by Timo Berger und Kai Schnier.
First edition of the interview was translated in German and published in the magazine
KULTURAUSTAUSCH 1/2018 – Erde, wie geht's?

might undercut a huge number of jobs. Now environmentally that might be a much needed change, but simply introducing such change might make our societies less "healthy" in a way – and if you think human society and environment as part of the same concept, then neither of the spheres can get better without the other one being good in the first place. In France and the USA there are enormous rust belts. Of course we could impose a more sustainable economy and close down the factories there, but we have to first think about a follow up plan. Will we just accept that people will be out of a job and accept instability? Or will we come up with new concepts of engaging them? Because it will not be enough to simply say: "Well, for the sake of the climate you lost your job and now we will give you social security, money, to make up for it." That's not going to satisfy people, they want to be given the sense that are making a contribution.

So, if we want to save the planet, we need to save ourselves first?

The fact is, that we cannot leave a whole number of people behind. Especially not in a quest as big as tackling climate change. Inequality and abandonment will create societies that are unable to work together anymore. And we need cohesion to take meaningful action. We have to avoid getting into a relationship with large parts of society similar to how the US-Democrats were with working class in 2016. They gave them the feeling that they weren't being listened to. The only discourse they could offer was condemnatory. You are backward, you are illiberal, you are deplorable. If we go about the issue of climate change and creating ecological change in the same way, then we lose a large part of the people and cannot make a coalition with them. One of the most important cancers working away at democracy is impotence. People do stupid things when they feel impotent, like voting for Trump. You can get them out of that faster if you have some avenue, some means by which they can take control of the situation.

How does that translate into a pro-climate action plan?

One of the ways towards successful change is when local communities decide that conditions are terrible and have to be changed. Climate change seems to be an issue that can be only be worked on an international, global level. But in reality the changes have to happen in local communities. People need to get a sense that they can change things for themselves. We have to get to them and get them interested in the issues that matter. There needs to be an immediate sense that, yes, we have a plan.

Empowering people and integrating them on the local level sounds like a great idea. But how can we foster local action?

For example by new modes of participation. My niece works in the United States, in the rust belt, where she works with any community which wants to come together and make a plan for the future. She talks about possibilities, sounds out people about future options. That kind of facilitation will be integral. This sort of work should be valued and not treated as a form of voluntary work. We also need to think of new models of involving people. The political scientists Patrizia Nanz and Claus Leggewie refer to a new advisory political branch called "Die Konsultative". It would be a sort of fourth estate, in which people from all generations and backgrounds act as a kind of consultation board to politicians. This could be one of many routes towards sustainable change.

THREE ROLES FOR CULTURE IN SUSTAINABLE DEVELOPMENT

Thriving on complexity

Few things in human life are more powerful than ideas and concepts, and culture is one of the most influential in all walks of life.
(Graham Fairclough)

Both culture and sustainable development are broad concepts, covering different spheres of life from past to future. Trying to define the roles of culture in sustainable development opens up questions about what we mean by culture, how it is related to various types of development and how it lives with diverse interpretations of sustainability. In this chapter we examine some of the difficult ideas that underpin culturally-focused and culturally-informed sustainability. This involves reconsidering apparently familiar ideas such as culture, and even 'development'. It is also necessary to explore what lies behind the two terms sustainability and sustainable development: are they interchangeable, complementary or in conflict? And where do social and cultural sustainability intersect, interact or overlap?

Culture

As Raymond Williams now-famously said, 'culture' is one of the two or three most complicated words in English usage [1]. There have been, and will continue to be, many attempts to list all the things the word embraces. Whilst used in different ways in several

1.2 Dessein, J., Soini, K., Fairclough, G. and Horlings, L. (eds) 2015.
Culture in, for and as Sustainable Development. Conclusions from the COST Action IS1007 Investigating Cultural Sustainability.
University of Jyväskylä, Finland

distinct intellectual disciplines and distinct systems of thought, culture is additionally also an everyday concept, it has 'public' meanings and understandings, and is used in many different ways and contexts. Its meaning has changed through time as well, from early ideas of culture as action in real life-worlds and its interaction with nature, which are essential aspects for anthropological use of the concept even today, to culture as the cultivation of the human mind and behaviour.

We define culture as a loosely integrated totality of practices, institutions and mechanisms that deal with the production, distribution, consumption and preservation of collectively shared meanings, as well as the explicit and implicit rules that govern the relevant processes. The cultural system is only relatively organised and embraces the tensions and internal contradictions of the social and spatial world, in which it appears, perpetuating and subverting its norms of behaviour and power relations, as well as providing loopholes for escape from its everyday routines to imaginary spaces.

(Hannes Palang)

Williams came up with three main meanings of culture that have become popular both in research and policy: culture as the general process of intellectual, spiritual or aesthetic development, culture as a particular way of life, whether of people, period or group, and culture as works and intellectual artistic activity [1]. Often, however, two distinct higher level distinctions are drawn, broadbased and narrowly-defined: a 'broad, life-style-based concept referring to all domains of human life', which is akin to Williams' 'way of life', an anthropological-archaeological interpretation, and on the other side, a 'narrow, art-based culture referring to both the general process of intellectual and spiritual or aesthetic development and its results' [2]. Many policy conventions and declarations define culture in a broad way, but in politics and in public discourse culture is often treated in a narrower sense. In addition to these two formulations, we can bring in the symbolic dimension of culture: culture as semiotic, drawing on symbols as vehicles, arguably as the broadest view of all, including as it does both intentional and unconscious behaviour. In this publication we settle on a usage of the term culture that encompasses all these perspectives, whilst recognising the possibility, indeed necessity, of both subdivision and overlap.

Development

Development - perhaps more precisely qualified as 'human development' – usually entails intentional as well as unintentional processes of change and evolution towards a new situation that is better in social, cultural, and environmental terms. This can for example be expressed through high level values such as democracy, health, food and water security, equality of opportunity and access to resources, social equity, justice or economic prosperity. The latter is sometimes foregrounded to the partial exclusion of the others, but such a focus on economic growth, especially if accompanied by social and cultural inequalities, or without regard to environmental balance, cannot move towards sustainability.

Development has been described, in the UN Development Programme (UNDP) first Hu-

21

1.2 Dessein, J., Soini, K., Fairclough, G. and Horlings, L. (eds) 2015.
Culture in, for and as Sustainable Development. Conclusions from the COST Action IS1007 Investigating Cultural Sustainability.
University of Jyväskylä, Finland

man Development Report in 1990 as a process ('the enlargement of relevant human choices') as well as an achievement ('the compared extent to which, in given societies, those relevant choices are actually attained') [3: 17]. It will generally also involve specific goals of the type emphasised in sustainability, notably equity, justice and responsibilities within and between the generations. This can entail a spontaneous evolution towards such goals, without self-conscious or intentional actions, or it can refer to (social) processes that are deliberately designed to transform a social environment and which may be instigated by institutions or actors not necessarily belonging, or deriving from, the place or community in question.

As well as recognising this broad spectrum of development, we are also in this document strongly aware that the concept of development cannot be objectively defined but is value-laden in ways that are specific to culture, context and history or time. It is therefore a continuously (re-)negotiated concept. Whether a situation, context or place is regarded as being more developed than another, or not, or a particular development proposal is regarded as being 'good' or 'bad', depends on the viewpoints and agenda of those assessing the changes. The introduction of a new crop variety in a farming system, for example, might be an improvement for some people because of its better production and/or better social and economic conditions, but others might consider this as a decline through, for example, its impact on biodiversity or landscape character, or through loss of economic independence; both viewpoints may be culturally-informed assessments.

Culture is often considered as a positive cause or result of development. But might it sometimes be a hindrance or obstacle to development, for example if entrenched tra-

ditions, tastes or ways of thinking discourage change or adaptation to new technologies or ways of life? It is possible in some circumstances to question how far every aspect of a particular culture can be valued. As already mentioned, development can be defined in terms of achievement as well as of process, taking various directions, and potentially forward and backwards. It is also common for development to be seen as a continuous evolutionary path; but the trajectory can be changed, or even broken, for example by political, social or technical ruptures.

Sustainability or sustainable development?

In our work we have taken the Brundtlands report on sustainable development and the pillar-approach to sustainable development as one of our principal starting point. ● The Brundtland definition of 'sustainable development' is world-famous: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". Although the definition talks about sustainable development, sustainability has also become popular. The two terms are often used interchangeably; are they therefore synonyms? Presumably not - a number of governments and global business corporations are prepared to discuss policies for sustainable development, but pull back from sustainability. It may be that for such governments sustainable development is 'safe' in its implication that any type of development can go ahead as long as it is mitigated usually in practice environmentally, occasionally in theory at least socially. 'Sustainability', in contrast, with its implication that an association with further development is not essential, can seem threatening to those sectoral interests for whom 'growth' (usually defined as economic

22

1.2 Dessein, J., Soini, K., Fairclough, G. and Horlings, L. (eds) 2015.
Culture in, for and as Sustainable Development. Conclusions from the COST Action IS1007 Investigating Cultural Sustainability.
University of Jyväskylä, Finland

growth) is the only way ahead. This would suggest that 'sustainability' is a term with a more reaching set of objectives and values, one that can support de-growth and no growth agendas as well as growth, one that might have social equity and justice not economic prosperity as its goal.

Sustainable development or sustainability is usually seen as a win-win-win solution between ecological (protection), social (justice) and economic (viability), hence the widely-used model of the three pillars, or axes [4]. Other pillars like institutional, cultural and other dimensions of sustainability have been proposed [5]. Our position is that, whilst acknowledging some shortcomings related to the pillar model (reduction of reality and

culture and leading to sectoral rather than cross-sectoral/disciplinary thinking), we also recognise their value as metaphors in sustainability debates, as relatively well-accepted and understood tools, and therefore as means to explore the role of culture in that framework and bring it to the policy debate.

THE MANTRA OF OUR COMMON FUTURE AND ITS CULTURAL VISION

Almost three decades since its publication, the report Our Common Future, popularly known as the Brundtland Report (1987) has become a cornerstone of the conceptualisation of sustainable development and is today still one of the most cited documents in sustainability discourses. Its introductory statement has acquired the status of an indisputable definition turned into a mantra: 'Sustainable development … meets the needs of the present without compromising the ability of future generations to meet their own needs.' However, taken out of its context, this statement sounds ambiguous. It may be interpreted at least in two ways: as a need to save resources for the next generations, and as recognition of the present's limited possibilities to solve the sustainability problems that will be left to our successors.

To cope with this ambiguity, it is worthwhile to re-contextualise the vision of sustainable development that the report offered:
(1) It is based on a new holistic developmental model, denying the narrow preoccupations and compartmentalisation of national economies, characterised by three important aspects: the imperative of limits, a changed developmental aim, and differentiated approaches to achieve these ends.
(2) In this vein, the report suggested – in the name of our common future – a global redistribution of the causes, consequences, benefits, and responsibilities of development.
(3) Our sustainable future can be guaranteed only by a drive for new type or form of development, one beyond the motivation of purely economic profit: the necessity to satisfy human needs and aspirations, declared to be the major objective of development.
(4) The report suggests resetting the direction of urbanisation, by 'taking the pressure off the largest urban centres and building up smaller towns and cities, more closely integrating them with their rural hinterlands'.
(5) Although culture is not especially accentuated in the report, its role is crucial as a new value promoter and pattern maker: it begins in chapter 1 by stating that 'To successfully advance in solving global problems, we need to develop new methods of thinking, to elaborate new moral and value criteria, and, no doubt, new patterns of behaviour'.
Thus the report marked the cultural turn to a new developmental path.

(Svetlana Hristova)

23

Some scholars think it less a problem to define sustainability than to find ways to achieve it, and this has been explored in a number of ways. Perhaps some of the most familiar is the spectrum from '(very) weak' to '(very) strong' sustainability [6], or the distinction between 'broad' and 'narrow' sustainability [7]. Such concepts are important, in particular when the substitution of various forms of capital (social, human, natural, economic) are being negotiated in the face of developmental change. Another relevant discussion concerns the intrinsic and instrumental values of both culture and nature, and how they should be understood, balanced and treated in a sustainable manner. This is an important issue when culture is used purposively as an instrument in development (e.g. to boost creative industries). Questions such as which and whose culture is used, and for what purposes, are deeply founded on issues of power.

Sustainable development does not mean the same in all parts of the world, and current meanings are subject to change over time. Nor can it be understood independently of cultural context(s). There is no single definition of sustainable development or sustainability that works for all circumstances, and it is necessary to acknowledge the diversity of these meanings. Meanings are shaped by diversity in human life-modes and by adaptations to living conditions that vary around the world; even more so by aspirations and needs or wants. Consequently the key ideas and values of sustainable development, inter- and intra-generational equity, justice, participation and gender equality, and ecological quality vary from culture to culture, and within them [8][9].

The undefined 'needs' mentioned by the Brundtland's definition are not on the whole consistent across the globe, through all levels of society, or at different stages of life, or even when filtered through ideology or faith. One person's need is another person's excess or dearth; when one set of 'needs' is fulfilled, another (often someone else's) is denied.

(Constanza Parra)

Social and cultural sustainability: same or different?

Until now the cultural aspects of sustainable development have mainly been discussed or elaborated as a part of the social pillar of sustainable development, or else combined with social sustainability (socio-cultural sustainability). In the former case cultural issues are solely considered as part of the social dimension; in the latter there is recognition that culture is different from social but the difficulty of separating them in practice or existing policy means that they are kept linked. Only a very few researchers (e.g. [11][12]) or policy documents have tried to separate them, yet not necessarily with a proper way to make a difference between them. Are they the same or different? Are cultural issues, as many actors consider, a part of the realm of social issues, or (as implied above) does culture act through societal frameworks and mechanisms? How to separate the cultural and the social in sustainability?

These questions lead us to discuss the relationship between society and culture. In its broadest sense culture covers all spheres of life, and therefore also of society.

24

Defining culture in this way, however, makes it so full of meaning ('conceptually obese') that it may cease to be a concept with practical use. Yet, much research in the social sciences (particularly since the so called 'cultural turn') recognises not only the separateness but also importantly the interlinkedness of culture with society and/or social structures. In Habermassian thought, for example, the constituents of the life-world are seen as individuals, culture and society; many commentators have also added concepts of power, and emphasised the symbolic as well as material importance of all these things.

In this document, we assume that culture and society have to some degree an iterative and reciprocal relationship, in which culture constructs society but society also shapes culture. To make an analogy, people have for thousands of years designed their architecture to contain their specific, culturally constructed lifestyles and economic activities; yet once built, the architecture in its turn shapes and changes how people live, so that their future 'ways of living', their culture, fit into the (by then) pre-existing structure. Whilst society and culture are in many ways interlinked and constitutive of each other, however, their different constituencies nevertheless allow for distinctive social and cultural dimensions in sustainability.

Policy

Policy can be almost as challenging a word as culture. It has so many actual or potential meanings that it can be overloaded, impossible to use without qualification. It is often taken to refer to 'public policy' defined by governments at various levels, but individuals and social groups have policies as well, explicitly or not.

Policy is in fact highly plural and highly diverse. It can be created at any scale from the smallest community or municipality, through business or industrial corporations and all levels of municipality up to and including a 'World City' like London, to regions and upwards to nation states, federal states, and supra national communities such as the EU, NATO or global multinationals such as Shell, Rio Tinto or Google. Policies can be bottom up or top down; in both cases they may be democratic or participatory, or not. They may be mandatory rules or optional guidance, bedded in law or in custom, or ideologically -based. Whilst increasing attention is being given to integrated policy and planning processes, and to holistic thinking about development, policies still usually arise from particular sectoral groupings, or specific areas of governance, or particular government departments. These different origins, and their relationship (or lack of) to each other, may prevent successful functioning or lead to unintended consequences.

23

Culture as a driver of transition

Pulse – Cultural Network for Transition – June 2016

In 1972, the Club of Rome calculated that if we do not change our way of living we are heading for ecological and economic disaster by 2050. Following years of denial and business as usual, the risk now is that the ecological crisis has become too serious to cope with. At the same time, the awareness that the earth's resources are finite is greater than ever. Now, if our purpose is to establish a sustainable way of 'buen vivir' (living well) we have no choice but to respect ecological limits.

It is no longer possible today to imagine a world without global inter-dependence between societies. This means that the ecological crisis is not only a worldwide environmental crisis, but that it also creates more global social injustice than there has ever been. In order to give 10 billion people a worthwhile existence by 2050 and also respect our ecological limits, we shall have to change our social, moral and cultural frameworks.

In other words, developing a viable and just society involves more than working on a balanced ecosystem; it also includes social justice. There must be an intensive process of transition in which everyone helps build up a new, sustainable local-global model of society, and the development of 'ecological citizenship' is an essential component of this.

The cultural sector has huge potential when it comes to making a contribution to this transition and developing ecological citizenship, which gives everyone the opportunity to commit on both a local and global level. The imagination, shared vision and common set of values found in culture give meaning to our individual actions and the systematic underpinning of our society. Culture helps citizens to deal with the increasing complexity and uncertainty in our society and makes people think about the future, in dialogue with their fellow citizens. The cultural sector has an essential role to play in the task of involving people in thinking about how we want to live together and about how we want to relate to our surroundings, and in translating this thinking into actual action.

The role of culture: creating a space

Fundamental changes – a transition – in a society, in a way of thinking and living, require more than a rational, management-driven approach: they also have to be embodied and embedded, and must literally be given room. A process of change can only succeed if as many people as possible are involved in the process.

The cultural sector considers the transition towards a sustainable society to be the main challenge for 2020. To make this transition possible, we are aiming not only for a change in individual lifestyles, but also to encourage new practices in research, education, economics and political decision-making. Our goal is a societal and cultural 'mindshift'.

The sector will use its powers to involve both civil society and policy-makers in devising and shaping this sustainable and just future. The power that the sector possesses lies in its ability to create a range of places within society where people, groups and the players in civil society can meet and inspire each other, and where processes of reflection and action can be linked together. In this vision statement we highlight three particular areas that are intrinsically bound up with the cultural sector: space for the imagination, space for experiments in and practices of transition, and space for

reflection and public dialogue. It is with these spaces, created through cultural activities, that culture can fulfil its role as a driver of transition.
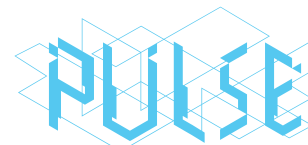
Creative space for the imagination

Imagination, inspiration and creativity are important keys to the achievement of change. The cultural sector is, more than most, a creative space in which social change can be imagined. What visions of the world, man and life do we want to take as the basis for the development of a resilient society? Art and culture are realms for reflection on such major issues in relation to sustainability.
Space for the imagination creates a shared outlook. It gives meaning to human activity. It enables new ideas to be envisioned and new lifestyles and prospects for action to be explored. It embeds sustainability in everyday life. But for artists, imagination also means claiming freedom and experimenting, making room for critique and provocation, embracing heterogeneity and wanting the impossible. Space to question existing conventions and to repeatedly revise them in complete openness.

This freedom to think creatively about the ordering of society is a laboratory of the imagination, and autonomous art plays a pioneering role in this. Art makes it possible to experiment with the meanings, images and stories on which a society lives and to explore its possibilities and limits, all this with relative independence from prevailing values and norms. In the arts, fundamental reflection is developed on a number of themes that we associate with ecology and sustainability (refuse, economics, social inequality, the landscape, transport, wastage etc.).

Artistic creation is driven by the complexity of our society and surroundings and by critical reflection, not by notions of efficiency founded on economics. In the discussion of a transition to a sustainable society, the space for the imagination would appear to run counter to the extreme urgency of and drive for efficiency. A creative process can however give rise to surprising alternatives precisely by detaching itself from goal-oriented thinking.

Imagination would appear to be linked a priori to the arts sector, but in fact it applies to all areas of culture. So the space for imagination is an important part of the whole cultural sector. The creative process that takes place there fuels the thoughts and actions of this cultural sector.

Space for learning, experimenting and experience

A transition to a sustainable society requires that citizens have as much and as relevant knowledge as possible. It is a positive trend that a huge amount of information on sustainable alternatives for organising society is currently in circulation. At the same time, for many citizens it is too great a challenge to distinguish from this rampant growth of complex information those parts that they can make use of.

In the near future it will be essential to gain a more profound knowledge of the fundamental causes (where is our system failing?), possible alternatives (being able – and daring – to conceive of another world) and successful experiments and practices. This sort of knowledge engages citizens and inspires them to take action.

Alternative and inspiring learning and experimentation spaces are essential in order to achieve this 'deeper' and complex form of knowledge. The cultural sector can create this sort of laboratory space in civil society in order to set up, repeat and scale-up experiments. Our tradition of individual

learning and acquiring knowledge has to be supplemented with processes of social and collective learning: gaining experience together, experimenting with alternatives and sharing knowledge.
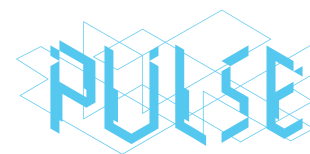
The cultural sector, with all its experience of learning processes (techniques drawn from socio-cultural education, community development, socio-artistic practices) can undoubtedly make a fundamental contribution to creating these collective learning and experiential spaces and to the development of prospects of concrete action, which would make a more sustainable lifestyle attractive. Special attention is hereby paid to the involvement of all the stakeholders, and especially to increasing the resilience of special target groups. Only then can we call it a just transition into sustainability.

These learning spaces can be created, stimulated and supported in both a local and a supra-local setting. Local community-forming initiatives close to people's daily lives make change concrete, attractive and feasible. Supra-local initiatives create a greater global consciousness and the prospect of justice.

Political space for public reflection and dialogue

In order to make a transition to a just sustainable society realistic, intense and ongoing public dialogue will be essential. The cultural sector has the role and the possibility of creating spaces for public reflection and dialogue where new connections are created between one citizen and another and between citizens and policy-makers. Issues are turned into a public matter and in other words are also politicised: they lead to public and political debate, where opposing arguments take shape – thus 'political' in its most original sense.

The essence of a living democracy is after all precisely that there are lasting conflicts and tensions between players who give shape to society on the basis of differing views and interests. In this political space, the starting point is no longer consensus as an ideal to be pursued, but an openness to complexity and difference. 'Transition' and 'sustainable development' are after all not concepts set in stone over which there is any consensus.

There are nuances that are repeatedly shifting, advocates and opponents of particular emphases. Furthermore, the concept of sustainable development itself is a principle to be aimed for and which has to be constantly repositioned depending on its context. But the differences between the players in this political space are also considered worthwhile. One of the concerns that is high up the agenda of the cultural sector is that all population groups can have their ways of life, needs and interests represented in the public space, and also that nature and 'things' are given a voice in the debate. It is only in this way that a basis is created that will enable the change in the social structures and systems to take place.

As a productive sector, culture also acts as an example in this public space. The sector will itself pursue a sustainable policy in various fields. The sector is making pioneering choices in terms of programming, organisation, staffing, HR policy, infrastructure, production and transport. Socially-Responsible Entrepreneurship is a clear choice in the cultural sector too. Working towards sustainability implies consistent choices.

In short, the cultural sector as a whole reaches a lot of people, draws its vigour from these people's involvement and itself has the capacity to mobilise large groups of people. A sector that has

'encounters' at its heart is perfectly suited to intensifying public dialogue, fuelling debate and urging people to let their voice be heard and so bring about change.
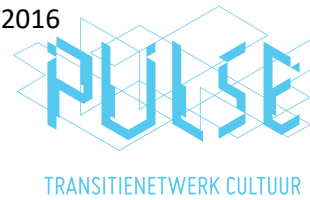
The sector-wide network behind Pulse has formulated a number of ambitions for the cultural sector so as to be able to fulfil its role as the driver of transition. They have been noted down in 'a sustainability agenda for the cultural sector for the 2017-2020 period'.

A sustainability agenda for the cultural sector (2017-2020)
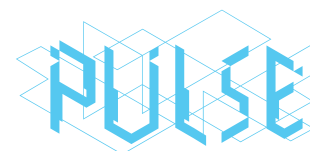
As a cultural sector we want to contribute to the transition to a just and sustainable society. To this end we are expressing a number of aims that we would like to take up with the whole of the heterogeneous cultural sector. These aims should be seen in the light of the vision outlined above. To achieve these aims, it is necessary to have a framework for recognition and support.

1. We endorse the UN Sustainable Development Goals (2015). On the basis of a critical-reflective position, we translate the SDGs, use them as guidelines, express clearly our contribution to their achievement, and communicate this to society.

We are systematically reducing our ecological footprint and therefore also the CO2 emissions resulting from our work. We are integrating the SDGs into our missions and operations and making our contribution visible.
We are working on the politicisation of sustainability issues: we are increasing awareness, putting sustainability issues on the social agenda and making them the subject of public discussion.

2. We are cooperating within the sector to reinforce the transition to a just and sustainable society.

We are making time, room and expertise available to work together on transition; we are organising sector-wide initiatives.

3. By means of co-creation we are working with other sectors on the transition to a just and sustainable society. In this way, culture, ecology and the social and economic realms form important pillars of this transition.

We offer inspiration by sharing cultural practices that critically question social developments and imagine a sustainable future. Together with other sectors we are developing broadly supported images of the futures and implementing them in projects. We bring several sectors and the scientific research community together, stimulate cooperation and experiment and thereby reinforce the transition on local, regional and international levels.

More Food for Thought

- Alliance for Culture - *No Sustainable Development without Culture*
https://allianceforculture.com/no-sustainable-development-without-culture/

- Culture 21 - *Agenda 21 for Culture*: http://agenda21culture.net/sites/default/files/files/culture21-actions/c21_015_en.pdf

Cultural policies and sustainable development:
http://www.agenda21culture.net/sites/default/files/files/documents/en/dsostenible-eng.pdf

- IETM - *Arts for the Planet's Sake   Arts and Environment:*
https://www.ietm.org/en/system/files/publications/ietm-art-for-the-planets-sake_jan2016.pdf

- IFACCA – *Arts And Ecological Sustainability*: http://media.ifacca.org/files/DArt34.pdf

- Journal of Environmental Sustainability - *Environmental Sustainability: A Definition for Environmental Professionals:*
http://scholarworks.rit.edu/cgi/viewcontent.cgi?article=1007&context=jes

- Royal Society - *Climate Change   Evidence & Causes:*
https://royalsociety.org/~/media/Royal_Society_Content/policy/projects/climate-evidence-causes/climate-change-evidence-causes.pdf

- UN - Report *Our Common Future:* http://www.un-documents.net/our-common-future.pdf

- UNESCO - Report *Our Creative Diversity:*
http://unesdoc.unesco.org/images/0010/001016/101651e.pdf

Universal Declaration on Cultural Diversity:
http://unesdoc.unesco.org/images/0012/001271/127162e.pdf

Culture: a Driver and an Enabler of Sustainable Development:
http://www.un.org/millenniumgoals/pdf/Think%20Pieces/2_culture.pdf

Culture in Sustainable Development: Insights for the Future implementation of Art.13:
http://unesdoc.unesco.org/images/0015/001572/157287E.pdf

More: Julie's Bicycle, COAL, ASEF, Creative Carbon Scotland, Cape Farewell, Green Music Initiative, EE Music Initiative, MAINOI Association, End Ecocide Sweden, WWF Norway, Greener Events Foundation

In German:
- http://magazin.cultura21.de/_data/magazin-cultura21-de_addwp/2010/12/MA-Lisa-Grabe-c21-ebooks.pdf

- https://www.kulturmanagement.net/Magazin/Ausgabe-64-Nachhaltigkeit,3 p5-7 + p36-37

In French:
- http://reseauculture21.fr/wp-content/uploads/2012/06/cahierspecial_cultureetDD.pdf

ARTISTIC FREEDOM OF EXPRESSION

Introduction

In the history of humanity, there have always been threats to our human rights including - artistic - freedom of expression. Although the concept of human rights is not so new[7], the process of establishing a more global as well as binding protection of these has been very long. The *Universal Declaration on Human Rights*[8] (UDHR) was created by the United Nation Commission on Human Rights[9] and ratified in 1948. This document as well as the Convention of the United Nations Educational, Scientific and Cultural Organization (UNESCO)[10] adopted in 1945, acknowledge freedom of expression thus implicitly artistic expression as a basic human right. These two essential documents are part of many other national, regional, international declarations, conventions, treaties etc.[11] aiming to preserve various specificities of these rights. Why arts and its expressions should be safeguarded and also regarded as a commonly violated natural right is emphasized in the report *Exploring the connections between arts and human rights* of FRA – the European Union Agency for Fundamental Rights. According to the report, first article of this chapter, arts is often seen as an answer to what it means to be a human being while human rights give tools to people to be so. Therefore not only it is essential to give space for arts to be embraced but also to be protected from threats coming from governments, religious authorities, violent groups, cultural institutions, NGOs, financers or artists themselves pressured by other groups. This issue is also at the heart of our second presented article, a chapter written by Ole Reitov[12] on challenges of artistic freedom in the UNESCO publication *RE/Shaping cultural policies - A Decade Promoting the Diversity of Cultural Expressions for Development*. Preserving arts and artists is indeed not the "privilege" of institutions or governments but should be part of our daily lives. The organisation Freemuse[13] in its report *The State of Artistic Freedom* in 2017 alarms us on the "emergence of new global culture of silencing others". This culture is described in five main similar features as being a global phenomenon, practiced by multiple actors, taking place on new platforms and being little punished for. It is therefore a challenge to be embraced by the cultural and the music sector, as it often suffers from censorship and other threats to basic human rights.

---

[7] https://www.britannica.com/topic/Egyptian-law
[8] http://www.un.org/en/universal-declaration-human-rights/
[9] http://www.ohchr.org/EN/HRBodies/CHR/Pages/CommissionOnHumanRights.aspx
[10] http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html
[11] https://www.researchgate.net/publication/301221198_International_Protection_of_Human_Rights
[12] Co-founder and former director of Freemuse
[13] https://freemuse.org/

2.1 What can human rights do for arts?
Exploring the connections between arts and human rights (Report of high-level meeting; Vienna, 29-30 May 2017)

2.2 RE/Shaping cultural policies - A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 - 2005 Convention Global report - UNESCO - chapter 10 - Challenges of Artistic Freedom

2.3 The State of Artistic Freedom - Freemuse 2018
Chapter 2: The state of artistic freedom: The emergence of a new global culture of silencing others p. 25-28

Commonalities between arts and human rights

There are many overlaps and commonalities between the fields of the arts and human rights. Both are concerned with questions of what is (and what is not), humanity, identity, dignity, of communicating empathy, of the transformation of lives, of visions for the future and of the mission of mankind, of the full development of the person. Both are universally applicable. There is a great deal of shared space

> "The arts question, or give contours, to what it is 'to be', while human rights empower people to be who they are."

between the disciplines, which should be captured and utilised more consistently in order to push forward with mutually beneficial agendas in both fields. Human rights, and sometimes the arts, raise a key question: "How do we make the future more attractive than what now exists?"[1] The arts question or give contours to what it is to be, while human rights empower people to be who they are.

Human rights can facilitate the creation of spaces for artists and art to engage and flourish, through recognition and protection of the right to be creative, unpredictable, confronting, subversive, beautiful and ugly. Human rights provide the protection needed to break out of dogma, opening up possibilities for new thinking, which are often foregrounded in art. Much of the human rights agenda is directed at bridging attitudinal disparities, such as prejudices based on race, religion, gender, age, nationality, culture and identity. Art can help to overcome those barriers, by bringing a counter-discourse, contesting privileged narratives and perspectives.

The fields of neurobiology and psychology bring insight to the impact of art on our inner selves.[2] Art invites us to consider, to ponder, to reflect, to participate, and to respond. Art inspires "feelingful thinking".[3] The arts dignify human experience by giving voice to thoughts and feelings, which trigger recognition of one's own humanity, and hence the contemplation of our

> "Art inspires 'feelingful thinking'."

collective humanity. The aesthetic experience is one of confrontation with our logical "rational" self, our physical perceptions, our intuition, and our emotions.[4]

There are a number of organisations devoted to the dual causes of art and human rights. One example is Musicians for Human Rights.[5] Its mission is to foster humanism through music, for example by gathering leading musicians to perform for and with vulnerable groups (e.g. refugee children) or human rights organisations, to receive lectures from human rights experts, and to commission new pieces of music about human rights principles, historical events, or personalities.

What can human rights do for arts?

"There is a human right to create art, to admire it, critique it, challenge it, be provoked by it, respond to it, and to ignore it".[6] All those involved in art have human rights, whether it be in relation to the creation, the production, the composition, the distribution, the dissemination, and/or the display of art. Art of

> "There is a human right to create art, to admire it, critique it, challenge it, be provoked by it, respond to it, and to ignore it."

---

[1]   Comment from a participant.
[2]   See, e.g., Fineberg, J. D. (2015), *Modern Art at the Border of Mind and Brain*, Lincoln, University of Nebraska Press.
[3]   Rose, Gilbert J. (1996), *Trauma and Mastery in Life and Art: Expanded with an Original Docudrama*, Madison Connecticut, International Universities Press.
[4]   Julian Fifer of Musicians for Human Rights.
[5]   See www.musiciansforhumanrights.org/.
[6]   Facebook post to one of the participants.

course includes all types of arts, such as the visual arts, music, digital art, architecture, cinema, sculpture, crafts, literature, fashion and photography, and in all styles. All persons have rights to enjoy and have access to art and cultural institutions.

Relevant rights

For the sake of brevity, reference is made to the relevant rights in the EU Charter of Fundamental Rights. The relevant rights are however widely recognised in other European and global human rights documents. The rights of most relevance to art and artists are freedom of expression in Article 11 and the right to cultural diversity in Article 22. Article 13 specifically recognises that "the arts … shall be free of constraint".

European states are also bound by the International Covenant on Economic Social and Cultural Rights (ICESCR) which recognises cultural rights in Article 15. There are also a number of UNESCO instruments which are of relevance to supporting the rights of artists, particularly the UNESCO Recommendation Concerning the Status of the Artist 1980 and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005. Attacks on sites of cultural significance, or cultural items, are recognised as war crimes in some circumstances under the laws of armed conflict and international criminal law.[7]

One of the most comprehensive reports on artistic freedom was compiled by the UN's Special Rapporteur in the field of Cultural Rights in 2013, entitled "The right to freedom of artistic expression and creativity".[8] There are also civil society organisations which work and report on artistic freedom, such as the Copenhagen-based Freemuse,[9] which focuses on artistic freedom and the rights of musicians in particular, and PEN International,[10] which focuses on the rights of writers. The International Council of Refugees Network ("ICORN") constitutes an independent network of cities, mainly in Europe with some in the US, which provide temporary refuge to, as well as working and performing possibilities, to persecuted artists and artists.[11]

The work of such organisations is crucial in raising the profile of artistic rights, as witnessed by the rise in questions on artistic freedom raised during the Universal Periodic Review ("UPR") process in the UN. These are largely driven by the efforts of Freemuse and other civil society organisations in monitoring artistic freedom, writing up relevant country reports and lobbying states to ask such questions.[12]

Artistic freedom

Artistic freedom is one aspect of freedom of expression. However, concerns over freedom of expression tend to focus more on the news media, rather than upon artists and the arts. The rights of journalists and the press have dominated questions regarding free speech. For example, "freedom of the press" is often explicitly protected in constitutions or domestic laws, whereas "artistic freedom" rarely receives such explicit recognition as a human right. There is a dearth of research on and attention to artistic freedom.

> "Concerns over freedom of expression tend to focus on the news media, rather than upon artists and the arts."

---

[7] See, for example, Rome Statute of the International Criminal Court, Article 8 (2) (b) (ix).

[8] United Nations (UN) (2013), Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed, *The right to artistic expression and creativity*, UN doc A/HRC/23/34, 14 March 2017.

[9] See www.freemuse.org.

[10] See www.pen-international.org.

[11] See www.icorn.org/icorn-cities-refuge.

[12] Reitov, O. (2015), 'Challenges to artistic freedom', in UNESCO, *UNESCO Global Report 2015*, 'Reshaping cultural policies', Chapter 10, pp. 195-196.

Artistic creations may have multiple meanings, some of which may not even be the meaning the artist intended to convey. An artist cannot control the various meanings ultimately attributed by their audience. Whether ambiguous or not, art attracts (dis-)proportionate amounts of controversy. Controversy is not itself a bad thing, as it provokes discussion in society, and is an important antidote to complacency. Hence, controversy should be embraced. In particular, it must not of itself lead to greater suppression and censorship of art.

Threats to artistic freedom

Threats to artistic freedom can arise from government regulations and laws. At the governmental level, threats to the arts may be seen in crackdowns on free speech in various countries. Other threats to artistic freedom can arise from laws regarding blasphemy, obscenity, morality, defamation, national security laws, or overly rigorous classification systems.

Copyright

Copyright laws help to protect the material interests of artists.[13] They are a form of intellectual property which is protected under Article 17 (2) of the Charter. However, developments in international economic law have led to the extensions of copyright laws long beyond the lives of authors and artists to the point where it is arguable that copyright terms are now routinely too long.

Copyright laws do not equate with the rights of artists under Article 15 (1) (c) of the ICESCR "[t]o benefit from the protection of the moral and material interests resulting from any … artistic production of which he is the author". For example, copyright laws can vest in companies which do not have rights under Article 15(1) (c). Article 15 (1) (c) does not dictate that current intellectual property protection is the only or even the most desirable form of such protection.[14]

Copyright laws can constrain the derivative use of certain art by subsequent artists. This issue is probably now more important in the digital age, and is of particular importance with certain art forms, such as rap music and its frequent use of "sampling". Furthermore, copyright litigation is notoriously complex and expensive. Accordingly, copyright holders can abuse their rights by threatening litigation.[15]

Artists commonly assign their copyright to corporate publishers. Such assignment may sometimes arise under duress, due to the imbalance of power between the contracting parties, and the common lack of alternative financial means for the artist. Artists too often sign away their copyright, and also control of the work. This can mean that the work is later used in a way which contravenes the artist's own preferences, such as in the advertising of a particular product.[16]

> "Artists too often sign away their copyright, and also control of the work."

---

[13] See also Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed (2014), Copyright policy and the right to science and culture, UN doc A/HRC.28/57, 24 December.

[14] See Committee on Economic Social and Cultural Rights (2006), General Comment 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', UN doc. E/C.12/GC/, 12 January.

[15] Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed (2013), The right to artistic expression and creativity, UN doc A/HRC/23/34, 14 March, paras. 82 and 84.

[16] *Ibid.*, para. 80.

The dominant legal conceptions of copyright law are based on Western concepts of individual ownership.[17] Accordingly, they do not "fit" with alternative notions of creation and ownership, such as those which have traditionally prevailed in Indigenous communities. Furthermore, copyright laws arguably provide insufficient protection to certain artists, such as those who popularise non-fictional stories.

Access to funding

The right to culture in Article 15 ICESCR grounds a progressive duty upon States parties to provide adequate funding to art and the arts.[18] Nevertheless, arts funding has plummeted under austerity policies across many European states.[19]

> "Arts funding has plummeted under austerity policies across many European states."

Furthermore, it is important that such funding be provided without "strings attached", such that art is funded on merit rather than message. Funding must not be used by governments to politically shape art. Funding should be governed by bodies which operate independently, "at arm's length", from the political leadership to allay fears of the politicisation of funding priorities.

Access to public space

Some of the most important art is "street art", which is displayed for free, such as wall murals and street performances. Such art can make an impression on those who do not go out of their

> "The increasing privatisation of public space inhibits creativity in this arena."

way to seek artistic engagements in museums and the like, and are also accessible to those with fewer resources to access art, such as the homeless.[20] The increasing privatisation of public space inhibits creativity in this arena. Furthermore, it is concerning that governments might take a stricter approach to regulating or censoring street art as opposed to advertising billboards in public spaces.[21]

Non-state actors and arts

Non-state actors can also threaten artistic freedom. From a human rights point of view, non-governmental drivers of censorship are more difficult to address than State censorship. States have direct human rights duties under international law whereas non-state actors generally do not. States nevertheless have duties to protect human rights, such as the right to freedom of expression, from undue interference by non-state actors.

---

[17] See, for example, Davis, M. (1997), Indigenous Peoples and Intellectual Property Rights, Parliament of Australia, Research Paper 20, 1996-1997.

[18] See Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed (2013), The right to artistic expression and creativity, UN doc A/HRC/23/34, 14 March, para. 90 (h).

[19] See, e.g., Guardian series, European Arts Cuts, 3 August 2012.

[20] Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed (2013), The right to artistic expression and creativity, UN doc A/HRC/23/34, 14 March, para. 65.

[21] See Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed (2014), Promoting and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, UN doc A/69/286, para 86.

Non-state "censorship" can arise from religious fundamentalists (seen at the most extreme level in the murder of the *Charlie Hebdo* cartoonists) and morals campaigners (who might for example object to art relating to sex, gender or gender identity). Of relevance here is the notion of a "heckler's veto", which applies where the adverse reaction of an audience prompts the removal of a work of art. Art is particularly prone to offending people, compared to other forms of expression. Sometimes art will outrage, and provoke an extremely antagonistic reaction from those who disapprove. Enormous pressure can follow to effectively compel the withdrawal of an artwork. Social media now provides a ready platform for the application of such pressure. Such adverse reactions also increase instances of self-censorship, which is when artists "give up" on pursuing certain controversial topics due to fear of an official or unofficial backlash.[22]

> "Of relevance here is the notion of a 'heckler's veto', which applies where the adverse reaction of an audience prompts the removal of a work of art."

Market censorship[23]

Cuts in government funding have increased corporate power over the arts, which was already substantial. This trend increases the likelihood of effective market censorship of art. For example, advertisers may wield power without transparency and accountability, placing behind-the-scenes pressure on outlets, such as radio stations or museums, to withdraw or refuse to display certain artworks.[24]

Certain producers or distributors of art, such as film and television studios, radio stations and music production companies, are increasingly becoming part of ever larger corporate conglomerates. A decrease in the range of corporate owners increases the monopoly

> "A decrease in the range of corporate owners increases the monopoly power of existing owners, which endangers market pluralism, and decreases opportunities for the wider release of challenging and unfashionable artworks, or of the work of low profile artists."

power of existing owners, which endangers market pluralism, and decreases opportunities for the wider release of challenging and unfashionable artworks, or of the work of low profile artists. Furthermore, contemporary corporate conglomerates may have far less understanding of artistic values than older media conglomerates, as art and media may not even be their main business focus.[25]

Much art and art exhibitions is funded, at least in part, by sponsors. Historically, private patronage has been crucial in the dissemination of art, and the raising of the profile of artists. The Medici of yesterday have been replaced by the patrons of today (modern day Guggenheims) as well as rich corporations. Sponsorship is undoubtedly important for the flourishing of arts, especially with the decline in available public funding, but it can also place artists in difficult moral situations. There is a danger of capture, of subtle censorship, or of artists

---

[22] Indeed, participants at the meeting raised the intriguing idea of trying to organise an exhibition of the work that artists have refrained from creating, due to such pressures.

[23] See also Report of the UN Special Rapporteur in the field of cultural rights, Farida Shaheed (2013), The right to artistic expression and creativity, UN doc A/HRC/23/34, 14 March, paras. 74-78.

[24] A notorious example of this phenomenon concerned the refusal by radio stations across the United States to play songs by the Dixie Chicks, after the band's lead singer criticised then President George W. Bush on stage in 2003. This ban was driven in part by pressure from advertisers, see Carpowich, M. (2015), 'Are the Dixie Chicks and Country Radio Finally Ready to Make Nice?', *Huffington Post*, 20 November.

[25] See Kovach, B. and Rosenstiel, T. (2007), *The Elements of Journalism*, New York, Three Rivers Press, making this point about media outlets in general, on pp. 30, 62, 71 and 156.

2.1 European Union Agency for Fundamental Rights,
Exploring the Connections between Arts and Human Rights,
report of High-Level Meeting _ Vienna, 29-30 May 2017

being forced to associate with businesses that they fundamentally disapprove of.[26] Corporate sponsorship is often granted to boost a company's brand, and thus can be swiftly withdrawn if a company perceives possible brand endangerment through association with a controversial artwork.[27]

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

Chapter 10

Challenges of artistic freedom

Ole Reitov[1]

KEY MESSAGES

>>> *Recognition and protection of artistic freedom is germane not only to the being and creative practice of artists themselves but also to the rights of all cultural professionals.*

>>> *Fundamental freedoms are an essential ingredient of the wellbeing of citizens and societies, in the dynamics of social development and for the stability of the arts and cultural and creative industries sectors.*

>>> *Restrictions to artistic freedom and access to artistic expressions generate important cultural, social and economic losses, deprive artists of their means of expression and livelihood, and create an unsafe environment for all those engaged in the arts and their audiences.*

>>> *In 2014, Freemuse registered 237 attacks on artistic expression. However, threats to artistic freedom are under-reported in comparison to threats to journalists and other media professionals. This leads to a limited picture of the true scale of the challenge to creative free expression, in particular the physical threat to socially engaged artists and practitioners.*

1. Executive Director, Freemuse, Copenhagen, Denmark

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

237
reported and verified attacks on artists in 2014

9 Newly imprisoned

3 Killed

30 Prosecuted

41 Detained

2 Abducted

33 Still imprisoned

16 Attacked

13 Persecuted, threatened

90 Censored

Creation

Distribution

Production

Participation

monitor violations

defend artists' rights

support artists at risk

enforce human rights legislation

self-censorship

corporate interests

political interference

religious interference

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

Threats to artistic freedom are a highly topical issue today. To date, however, the protection of artistic freedom has not been a topic on which Parties to the 2005 Convention on the Protection and the Promotion of the Diversity of Cultural Expressions (hereafter the Convention) have been asked to report specifically. Since, for this reason, there is little that can be learned from their Quadrennial Periodic Reports (QPRs),[2] this chapter will focus on explaining the importance of the issue and the increasing international climate of awareness, both governmental and non-governmental, that has emerged around it, before advocating more systematic monitoring of artistic freedom in the implementation of the Convention and thus greater attention to the topic in the reports submitted by Parties.

The first Guiding Principle in Article 2 of the Convention affirms that 'cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed'. Artistic freedom is one of these fundamental freedoms and it is for this reason that, as this chapter will demonstrate, it should figure more substantially in reports produced by Parties in the years to come.[3] In order to make its case, this chapter will explore some of the forces and factors that constrain or threaten artistic freedom. It will review the debate that has taken place at the United Nations on the issue (bringing it to the forefront of public attention in the international community). The chapter will also describe some of the efforts of both government and civil society entities that constitute good practice in this regard.

2. The Quadrennial Periodic Reports are available at *http://en.unesco.org/creativity/monitoring-reporting/periodic-reports*

3. As pointed out by the UN Special Rapporteur in the field of cultural rights, to advocate for artistic freedom is not to suggest 'that additional rights should be recognized for artists. All persons enjoy the rights to freedom of expression and creativity, to participate in cultural life and to enjoy the arts. Expressions, whether artistic or not, always remain protected under the right to freedom of expression (Shaheed, 2013).

> " *When citizens as members of audiences or publics are free to attend and take part in public artistic events of their choice, enjoy artworks in their homes without fear of hindrance or interference, the quality of life for individuals and societies is inevitably enhanced*

Finally, it will propose some building blocks for a monitoring system on artistic freedom in the future implementation of the Convention.

The recognition and protection of artistic freedom is germane not only to the being and creative practice of artists themselves but also to the rights of all cultural professionals. Fundamental freedom is an essential ingredient of the wellbeing of citizens and societies, in the dynamics of social development and for the stability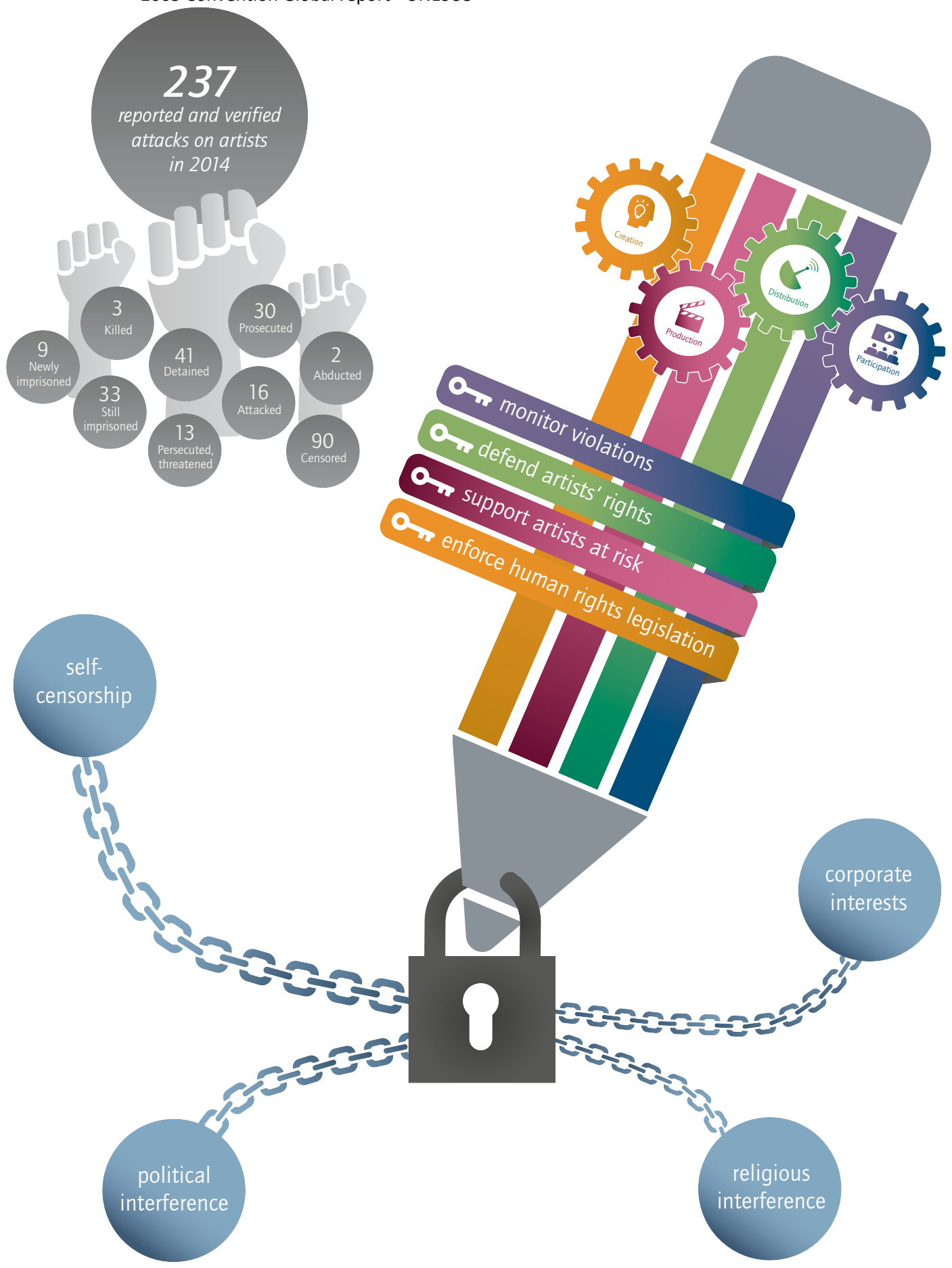 of the arts and cultural and creative industries sectors. The growth and flourishing of the latter are striking in countries that respect and protect the freedom of artistic expression and at the same time have established intellectual property rights mechanisms for the fair remuneration of artists and producers. The capacity to imagine, create and distribute free of governmental censorship, whether pre- or post-political interference or the pressures of non-state actors, allows both artists and artistic producers to concentrate their efforts on the processes of creation, production, distribution and dissemination called for by the Convention. And when citizens as members of audiences or publics are free to attend and take part in public artistic events of their choice, enjoy artworks in their homes without fear of hindrance or interference, the quality of life for individuals and societies is inevitably enhanced.

Artistic expressions are highly diverse. They may take the form of literature, performing arts – such as music, dance and theatre – moving images and all forms of the visual arts, including street art. They may be embodied in physical products such as printed books or sculptures, digital products such as streamed films or music files or in performances such as concerts or theatre. Some artistic expressions simply entertain us or appeal to our sentiments. Others may provoke us, generate debate or make us reflect, particularly when they are vectors of dissent or indignation. When art provokes in this way, it is inevitable that certain interest groups may wish to regulate or censor it. States, however, are in principle obliged to protect artists' rights to freedom of expression, in other words, to promote artistic freedom.

ARTISTIC FREEDOM IN THE 2005 CONVENTION

Although the term artistic freedom *per se* is not used in the text of the Convention, it is clear that its intent, notably by virtue of the first of its Guiding Principles, already mentioned, resonates fully with the belief that it is essential to protect the freedom of expression in a range of culture-related domains. It is important to note that the Preamble of the Convention also reaffirms that 'freedom of thought, expression and information, as well as diversity of the media, enable cultural expressions to flourish within societies'. The reference to diversity of the media is important, for artists play as important a social role as journalists, media workers and media outlets do. It is only that they operate through different channels: as one musician expressed it, 'Rappers are the CNN of the street'. Indeed the search for appropriate tools to monitor respect for artistic freedom in the context of the Convention can follow the lead set by analogous approaches in the field of media. Such tools would embrace both respect for artistic creation as well as the freedom of disseminating and obtaining access to artistic expressions.

2015

2005 Convention
Global Report

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

It is noteworthy that Article 7.2 stipulates that 'Parties shall also endeavour to 'recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and their central role in nurturing the diversity of cultural expressions.' As we shall see below, some Parties have cited measures to promote artistic freedom. Some of these measures may well be directly or indirectly linked to the Convention, whereas others probably respond to the increasing number of initiatives from Civil Society Organizations (CSOs) across the world, which are advocating and defending artistic freedom in times when it faces widespread threats, as well as to the debate at the United Nations.

CENSORSHIP AND ITS DISCONTENTS

The rights of artists to express themselves freely are under threat worldwide, especially where artistic expressions contest or critique political ideologies, religious beliefs and cultural and social preferences. Various interest groups seek to regulate and control the artistic expressions they consider undesirable; and every year, as records show, artistic expressions, whether books, films, musical genres or paintings, are censored or attacked, while their creators themselves are brought to trial, physically assaulted, imprisoned, abducted or even killed (Freemuse, 2014). In 2014, Freemuse registered a total number of 237 attacks and violations against artistic freedom (Figure 10.1).[4]

4. The statistics reflect stories collated and published by Freemuse on artsfreedom.org during 2014 and include attacks on authors, musicians, film makers, visual artists etc. but do not reflect attacks and killings of cartoonists and journalists as these are considered media workers and cases are monitored by other organizations. The Freemuse statistics are not a complete survey and do not present the full picture of the situation globally. Many artistic freedom violations are never made publicly known and, in many countries, access to information is limited. Only recorded and verified censorship cases and attacks on specific individuals, events, art venues, shops and artworks are included in the Freemuse statistics. Governmental pre-censorship practices and self-censorship by artists based on fear cannot be measured in numbers.

Figure 10.1

Total number of freedom of expression violations by sector and by type of violation (2014)

Source: Freemuse, 2014.
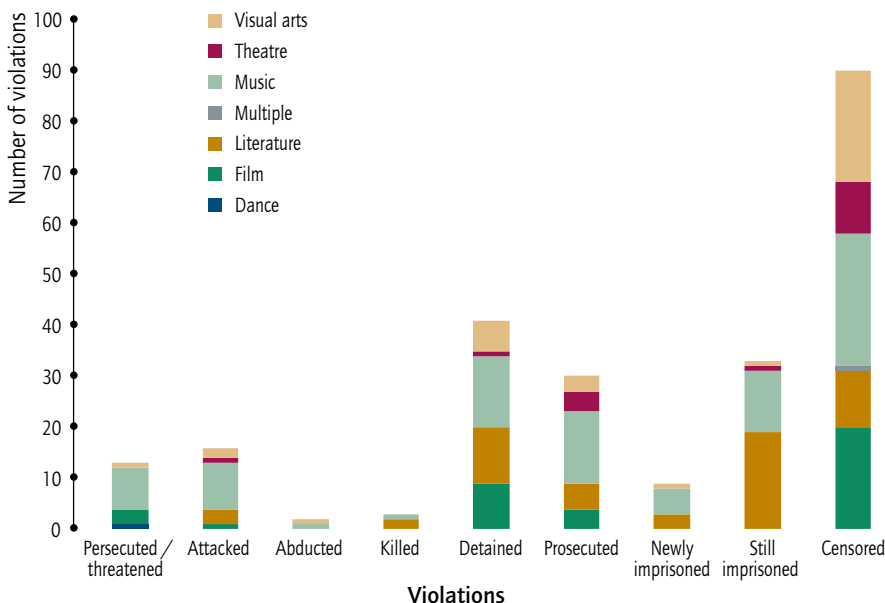
Although many covenants and declarations guaranteeing freedom of expression have been ratified by governments, censorship and other forms of repression are still practised across the world – not just by States, but also by religious power groups, corporate interests and non-state actors. These behaviours take place within States rather than between or among them. They often reflect the control and/or domination of expression in the public sphere by particular groups or forces within societies. Politically motivated censorship and persecution are regular occurrences in some countries, especially when artworks addressing police brutality, corruption or abuse of power are deemed 'anti-national' by states rather than as significant contributions to democratic dialogue. In some countries, ministries of information or culture intervene directly in matters relating to broadcasting and arts institutions, issuing 'messages' or providing 'blacklists' to producers and venues to avoid presentation of 'undesirable artists'.

See *http://artsfreedom.org/?p=8615*

Many countries have *censorship boards*. In some cases, these boards are totally dependent on political directives from the state. In others, the cultural industries themselves have established 'self-regulation' bodies such as film censorship or certification boards (that in some cases include industry professionals as well as representatives of civil society). Pre-censorship may include administratively complicated and time-consuming procedures where several offices are involved in giving permits to manuscripts, performances, exhibitions, etc. Censorship board practices are frequently non-transparent; some are clearly influenced by external power groups and government ministries.

Non-state actors are also involved. We are all familiar with instances in which religious entities pass judgements on artistic creations and wish to prevent or censor artistic expression; artists across the world have been attacked for 'blasphemy and outraging religion' in a form of moral policing exercised by various fundamentalist groups, guerrillas and militias (albeit sometimes manipulated indirectly by governmental forces).

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

Corporate interests may also restrict artistic freedom. The underlying motivations include the desire to silence criticism from artists of corporate practices or to stop them from (ab)using their brands, but corporations may also dominate markets; some may also be linked to political or religious interests. A study carried out for UNESCO in 2006 on 'The protection and promotion of musical diversity' described the situation in the following terms:

'There are various ways in which musical diversity might be threatened. Especially in music, globalization brings with it an ever-spreading power of a relatively homogeneous western-sponsored pop music, backed by enormous marketing budgets. This music can displace local musical traditions (Letts, 2006).'

Self-censorship is also an issue. Artists and arts producers/venues (festivals, galleries, cinemas, etc.) self-censor for a number of reasons, including fear of causing controversy or offence, fear of losing financial support or a combination of these. Self-censorship may also stem from very real threats from religious groups from all faiths, surveillance from intelligence services, extremists, drug cartels and other criminal groups. It is difficult, or even impossible, to measure or to confirm the extent of self-censorship and few people wish to admit to self-censoring.

"

The rights of artists to express themselves freely are under threat worldwide, especially where artistic expressions contest or critique political ideologies, religious beliefs and cultural and social preferences

These various forms of censorship impact all the dimensions of the value chain: from creation to access. Countries applying pre-censorship of any artistic expression before its dissemination have already planted a self-censorship filter (political, social, cultural, religious, etc.) in the mind of the creator.

"
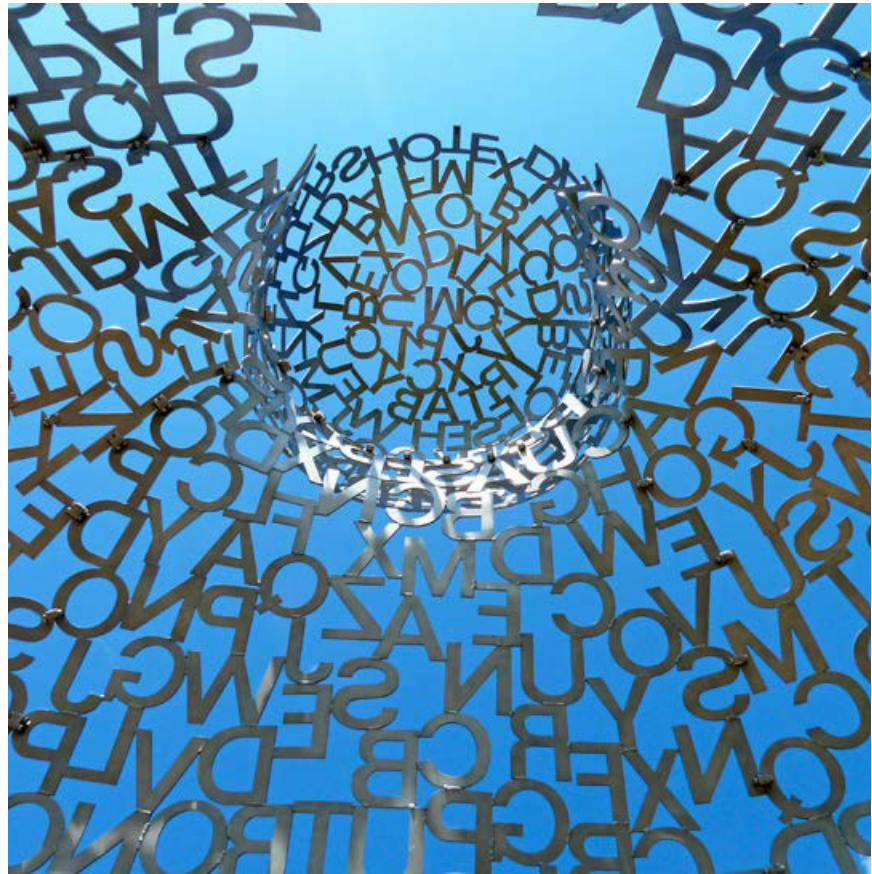
*I*magine a world with no artists, no honest expression, no light, no beauty, no truth.

That's the world we would inhabit without artists, journalists or any cultural voices freely expressing themselves.

In my 33 years at CNN, I have seen the power of the spoken word, the power of the visual world, become the most important pillars of a properly functioning democracy and any healthy civil society, and therefore our quality of life.

Journalism, like any form of art or culture, is not just about freedom of expression, but crucially, it is about freedom of thought. And it is about increasing the diversity of cultural expression. True art is about standing up to state-sponsored propaganda and resisting the herd mentality. Today however, we see journalists and artists in too many parts of the world declared the enemy. The rising tide of nationalism and identity politics has sucked us into its net.

I believe most journalists and artists use their voices and their platforms responsibly, knowing that we must always speak the truth, whether it's comfortable or not. Never letting anyone browbeat us into believing that they have a monopoly on the truth, and never being afraid of power but always holding it accountable.

Imagine a world without people willing to fight that fight.

Christiane Amanpour

*CNN chief international correspondent and UNESCO Goodwill Ambassador
for Freedom of Expression and Journalist safety*

2015

2005 Convention
Global Report

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

This filter limits the creative process or narrows it down to what the artist believes the censor is ready to accept. For example, a film-maker who gets permission to produce a film based on a detailed manuscript with location descriptions will further have to consider in the production phase whether certain camera angles, use of buildings, combinations of images and words and the like may provoke further censorship once the film is completed. Should the film survive the scrutiny of the censor, it may still be restricted in terms of access to circulation, length of time for distribution and age restrictions. Given all these limitations, the film-maker may very well abstain from addressing certain 'sensitive' gender, minority, linguistic and national cultural identity issues.

> "
> *Restrictions to artistic freedom and access to artistic expressions generate important cultural, social and economic losses, deprive artists of their means of expression and livelihood*

Box 10.1 • *The 104 EX/3.3 UNESCO procedure concerning human rights and fundamental freedoms*

In accordance with Article 1, Paragraph 1 of the UNESCO Constitution adopted in 1945, UNESCO contributes to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

For this reason, in 1978, the Executive Board of UNESCO put in place a confidential procedure to examine communications (complaints) received by the Organization concerning alleged human rights abuses in its areas of competence, namely education, science, culture and information. This procedure is defined by decision 104 EX/3.3 of the Executive Board and implemented by the Committee on Conventions and Recommendations.

The purpose of this procedure is to seek an amicable resolution to cases that are brought to the attention of UNESCO:

• by establishing a dialogue with the relevant governments to examine in complete confidentiality what could be done to promote human rights, within the Organization's mandate;

• by acting "in a spirit of international cooperation, conciliation and mutual understanding ... and recalling that UNESCO should not play the role of an international judicial body" (paragraph 7 of 104 EX/Decision 3.3).

Summary of the application of the procedure defined by 104 EX/Decision 3.3:

From 1978 to 2013, 586 communications were considered by the Committee on Conventions and Recommendations. The results concerning alleged victims (or groups of alleged victims) for this period may be broken down as follows:

• released/acquitted: 221
• released after completion of sentence: 16
• authorized to leave the State in question: 21
• authorized to return to the State in question: 35
• able to resume their employment or activity: 29
• able to resume a banned publication or broadcast programme: 14
• able to resume normal life following a cessation of threats: 5
• able to benefit from changes in certain education laws that were discriminatory towards ethnic or religious minorities: 10
• religious minorities able to obtain passports and/or grants, or receive diplomas: 12
• able to resume studies: 9
• Total number of communications settled: 372

(The 214 remaining cases concern communications that are inadmissible or whose examination has been suspended or is under way.)

Although the effects of censorship can be easily identified in cases where artists are imprisoned or killed, the social and economic repercussions of restrictions to freedom of artistic expression and access to them are more difficult to measure. Yet, there is little doubt that restrictions to artistic freedom and access to artistic expressions generate important cultural, social and economic losses, deprive artists of their means of expression and livelihood, and create an unsafe environment for all those engaged in the arts and their audiences. Infringements upon artistic freedoms affect all age groups; in many societies restrictions and censorship of artistic expression particularly discriminate against minorities, women artists and female audiences. Many societies persist in de-motivating and restricting women in the exercise of their rights and many women making a living as artists continue in several societies to be ostracized.

THE DEBATE ON ARTISTIC FREEDOM AT THE UNITED NATIONS

Freedom of expression as a basic human right has long been a core issue at the United Nations. Debates related to it have emerged on several occasions and in different forums, linked particularly to political control and religious sentiments. Today, the international politics of the post-9/11 world have provided a context in which artistic or ideological questioning of religions has sparked heated disputes within and between countries. In this context, and after several years of often acrimonious debates, the UN Human Rights Council released a General Comment in July 2011 on Article 19 (Freedoms of opinion and expression)

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

of the International Covenant on Civil and Political Rights, which stated that 'prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant'.

Debates specific to artistic freedoms have also taken place at UNESCO. Already in 1980, UNESCO Member States adopted the Recommendation on the status of the artist stipulating that 'freedom of expression and communication is the essential prerequisite for all artistic activities' and enjoining Member States to 'see that artists are unequivocally accorded the protection provided for in this respect by international and national legislation concerning human rights' (UNESCO, 2015b). The issues embraced and promoted by the Recommendation include the education of artists, labour and social rights – including rights to establish independent unions and the free international movement of artists and the stimulation of public and private demand for the fruits of artists' activities.

More recently, freedoms indispensable for artistic expression and creativity were the subject of the first report on the right to freedom of artistic expression and creativity published by the UN Human Rights Council in March 2013. In this report, Ms Farida Shaheed, Special Rapporteur in the field of cultural rights, addressed the multi-faceted ways in which the freedoms indispensable for artistic expression and creativity may be curtailed. She underlined the growing worldwide concern that artistic voices have been or are being silenced through various means and in different ways. Her report identified laws and regulations restricting artistic freedoms as well as economic and financial issues significantly impacting on such freedoms. It pointed out that their underlying motivations are most often political, religious, cultural or moral, or lie in economic interests, or are a combination of these. She therefore called upon States to critically review

their legislation and practices that impose restrictions on the right to freedom of artistic expression and creativity, taking into consideration their obligations to respect, protect and fulfil this right. In some countries, artists openly critical of a government are still systematically persecuted and accusations of 'separatism', 'terrorism' or being 'unpatriotic' are levelled at their work. The Special Rapporteur recommended to Member States that they abolish 'prior-censorship bodies or systems', noting that 'prior censorship should be a highly exceptional measure, undertaken only to prevent the imminent threat of grave irreparable harm to human life or property'. Of special significance was her injunction to decision makers, including judges, that they take into consideration 'the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision'. She also reminded States to abide by their obligation to protect artists and all persons participating in artistic activities or dissemination of artistic expressions and creations from violence by third parties and added that 'States should de-escalate tensions when these arise, maintain the rule of law and protect artistic freedoms.'

Since the launch of the UN Special Rapporteur's report, side events have been held during regular UN Council on Human Rights sessions in Geneva, with guest artists talking of their experiences. In June-July 2015, artistic freedom was once again discussed in the UN Human Rights Council. A resolution on 'the right to freedom of expression, including in the form of art' was proposed by Benin, Latvia, Uruguay and the USA. The text was intensely debated but had to be withdrawn at the last moment due to lack of majority support from other Member States.

In addition, the Council's UN Universal Periodic Review (UPR)[5] – providing CSOs' and Member States with an opportunity to review, comment on and make recommendations on all aspects of the UN Declaration on Human Rights – is now starting to receive reports on violations of artistic freedom that were almost non-existent in the UPR's first cycle. This is because during the 2014-2015 period, the international CSO Freemuse made it a priority to submit with partners UPRs focusing on artistic freedom and has prepared seven submissions in collaboration with national, regional and international partners on the state of artistic freedom in Belarus, Egypt, Iran, Lebanon, Turkey, USA and Zimbabwe (Freemuse, 2015). These UPRs provide information on a wide range of issues on artistic freedom such as legal frameworks and legislation (constitution, security and terrorism legislation), freedom of association and of assembly, freedom of expression and creation for female artists, transparency in the enforcement of censorship legislation, etc.

ARTISTIC FREEDOM IN THE QUADRENNIAL PERIODIC REPORTS

Although Parties to the Convention were not specifically asked to report on artistic freedom, 13 Parties made specific reference to freedom of artistic expression in their QPRs, and another 6 to freedom of expression in general (Table 10.1). Nine countries made references to both.

Seven reports referred to freedom of expression as being protected under law, five of which have legal protections that extend to artistic or creative expression.

---

5. UPR involves assessing a State's human rights records and addressing human rights violations wherever they occur. The UPR will assess the extent to which States respect their human rights obligations set out in: (1) the UN Charter; (2) the Universal Declaration of Human Rights; (3) human rights instruments to which the State is a Party (human rights treaties ratified by the State concerned); (4) voluntary pledges and commitments made by the State (e.g. national human rights policies and/or programmes implemented); and, (5) applicable international humanitarian law.

2015

2005 Convention
Global Report

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

While there were few references to collaborations with ministries engaged with justice or legal affairs, cooperation with ministries of foreign affairs was often cited, although usually in connection with international cultural exchange. The foreign affairs ministries and/or international development agencies of several countries have developed new programmes to promote freedom of expression and/or 'the right to arts and culture' as part of their new culture and development strategies. Thus, Sweden states that 'Culture … has a central role in Swedish assistance to promote democracy and freedom of expression, which is a Swedish priority in development cooperation'. Much of this work is done through the Swedish International Development Cooperation Agency (Sida), which has funded numerous organizations that promote freedom of artistic expression. The Swedish Institute, a government agency under the Swedish Ministry of Foreign Affairs, provides spaces for dialogue and forums that have a human rights perspective, notably including freedom of expression. The Swedish Arts Council has also actively supported the safe city system for artists.

Understanding the purposes of the Convention is a challenge mentioned in several reports. For example, Austria reflects that the Convention leaves 'considerable room for interpretation' adding that 'the wide range of themes covered by the Convention is an advantage as well as a disadvantage – allowing the definition of priorities adapted to the specific circumstances, while at the same time lacking clear indicators to assess the implementation progress'. It would be safe to assume that understanding the concept of freedom of artistic expression equally leaves room for interpretation. One Party, Latvia, states its intention 'to pay particular attention to defending social rights of and defining the status of artists'. All the reports refer to engagement with CSOs. With the exception of Denmark, it is not clear whether such engagement relates in any way to issues of artistic freedom (see section on CSOs below).

> " Violations of artists' rights to freedom of expression have not been monitored, documented or addressed systematically - if at all - by intergovernmental organizations or major international human rights organizations

Table 10.1

Specific references to freedom of artistic expression and freedom of expression in general in QPRs (2012-2014)

	Artistic freedom of expression	Freedom of expression
Armenia	●	●
China (Hong Kong)	●	
Côte d'Ivoire	●	●
Denmark	●	●
Dominican Republic	●	●
Egypt	●	
Germany	●	●
Latvia	●	
Lithuania		●
Mexico		●
Namibia	●	
Peru		●
Portugal		●
Serbia	●	●
Sweden	●	●
Syria	●	●
Tunisia		●
Ukraine	●	●
Uruguay		●

Source: QPRs, 2012-2014

Note: Most references are limited to mentions of protections in law, events with a free expression component, existence of refuges and support from government ministries, with few showing substantive activities.

Very few reports have made reference to specific activities promoting freedom of expression, but mention of seminars, prizes and other events focussing on freedom of expression supported by culture ministries was made by Armenia, Lithuania, Mexico and Portugal. These were often held within larger events such as literary festivals.

Research based on sources other than the QPRs shows that some countries support artistic freedom either nationally through arts councils or internationally through development organizations or sections of ministries of foreign affairs, but this is not reflected in their reports. For example, Denmark, through its Ministry of Foreign Affairs, integrates culture in sustainable development policy in two ways: funding civil society organizations and development programmes in partner countries. The Danish Centre for Culture and Development (CKU) implementing the Ministry's policy, supports art, culture and creative industries in Africa, Asia and the Middle East. In close cooperation with Danish embassies and representations, CKU implements the Danish Strategy for Culture and Development, 'The Right to Art and Culture' (Ministry of Foreign Affairs of Denmark, 2013). One of CKU's strategic priorities is to ensure freedom of expression for artists and cultural actors. Another case is that of Norway, which hosts and co-funds the international secretariat of the International Cities of Refuge Network (ICORN) under which more than a dozen Norwegian cities host artists at risk, as well as around 30 other cities in Europe and elsewhere. The Norwegian Ministry of Foreign Affairs cultural cooperation grant scheme describes its 'overriding objective … to strengthen the cultural sector in the South and thus strengthen civil society and help it become a change agent and driving force in efforts to create a more transparent and democratic society' (Norwegian Ministry of Foreign Affairs, 2010). Projects that promote freedom of expression are one of the priorities listed and grants are given to international and local freedom of expression civil society organizations.

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

Most States provide support to a wide range of artistic expressions. Some States – especially in the Northern hemisphere – provide this support without direct political influence. This is often done through semi-state or 'arm's-length bodies', which prioritize non-mainstream artists who are at the cutting edge of artistic expression. Several States support cultural exchange programmes through civil society organizations (CSOs). Some programmes provide assistance to overseas CSOs that are marginalized or not supported by the arts councils in their own countries. Support may be given to exhibitions, music performances at festivals, seminars, etc. or through 'artist in residence' programmes.

In a global economy increasingly dominated by commercial interests, state sponsorship may offer greater freedom to artists than market forces may provide. Indeed, the UN Special Rapporteur has expressed the view that 'public agencies should function as a financial backup for programmes that do not attract corporate sponsors, based on the understanding that they cannot interfere with contents'. Some States employ or fund the work of artists. When artists are free to associate, produce and disseminate their arts without political interference such support securing the social status of the artists can also be considered as a form of support to artistic freedom.

CIVIL SOCIETY ORGANIZATIONS (CSOS) MONITORING ARTISTIC FREEDOM

A few observations would be in order here with regard to the role of civil society organizations in this field (Box 10.2). Violations of artists' rights to freedom of expression have not been monitored, documented or addressed systematically – if at all – by intergovernmental organizations or major international human rights organizations. International reports on violations of human rights giving priority to the monitoring of freedom of expression focus almost entirely on media freedom, with no or limited reference to censorship and persecution of artists and artistic productions.

Figure 10.2

Violations of the right to freedom of artistic expression (2010-2013)
Source: ARTICLE 19, 2010-2013

Grounds for restricting artistic expression

35.7% Political criticism

22.4% Sex, sexuality and nudity

16.6% 'Traditional' or religious values

10.8% Offence or insult

4.9% Insult against state symbols
4.7% National security
1.8% Public order
0.7% Privacy

Interferences by art form

28% Music

22.3% Film, video and television

16.1% Literature and poetry

11% Painting, printing and drawing

5.3% Cartoons
4.4% Photography
4.0% Theatre
3.8% Satire and comedy

2.4% Graffiti
1.5% Dance
1.1% Sculpture

Perpetrator

77.3% State

7.6% Private business

4.9% Public pressure

2.8% Website or social media
2.1% Broadcaster
1.3% Publisher
1.1% Religious institution or representative
0.8% Festival
0.6% Militant groups
0.4% Others

States do not on the whole provide annual statistics of works that have been pre-censored, banned or temporarily halted while being 'under consideration'. Given the hidden nature of self-censorship, statistics do not reveal how artists themselves have held back in the ways already mentioned above.

The advocacy of artists' organizations and associations worldwide has tended to focus on protection of authors' rights and the social status of artists.

Global advocacy for and systematic monitoring of violations of artistic freedom has been carried out mainly by two CSOs – PEN International and Freemuse.[6] Others such as Article 19, include freedom of artistic expression as part of their broader free expression work (Figure 10.2).

6. Freemuse initiated and co-organized the first world conference on artistic freedom in 2012: 'All that is banned is desired'. See *http://artsfreedom.org*

2015

2005 Convention
Global Report

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

Box 10.2 • *Arts and artists' organizations advocating artistic freedom*

Artsfex, an international CSO network concerned with the rights of artists to freedom of expression, distributes news on attacks against artistic freedom, its members occasionally draft joint appeals and some network members engage in joint projects.

ArtistSafety.net (formerly known as freeDimensional) is an international volunteer network that provides case management and information services for artists, culture workers and communicators facing risk or danger as a result of their work empowering communities and 'speaking truth to power'.

Arts Rights Justice (ARJ), a network of European arts organizations, collects information and provides training for arts groups, including the production of a toolkit and a website.

Artwatch Africa, of the Pan-African CSO Arterial Network, aims 'to assert, promote and defend artist rights and freedom of creative expression for artists and cultural practitioners in Africa'. This is done through training courses, workshops, activities and monitoring. In 2014 Artwatch Africa published the first report 'Monitoring freedom of creative expression', a compilation of information on the status of freedom of creative expression gathered in 32 African countries.

Freemuse, is the first international CSO dedicated to documenting, monitoring and defending freedom of musical expression. It has published country and thematic reports and books on the mechanisms and effects of censorship of music. Since 2012, it documents and monitors violations of artistic freedom and publishes cases online. Freemuse engages in court cases and prison visits, provides advice to artists at risk and coordinates the Annual Music Freedom Day. Freemuse has consultative status with the UN and has been consulted by the Special Rapporteur in the field of cultural rights as well as UNESCO.

Index on Censorship produces in-depth reports on issues of the day, commentary from people who have experienced repression alongside expert commentators.

Institute of International Education (IIE) launched a fellowship programme to provide assistance to artists at risk in 2015.

International Cities of Refuge Network (ICORN), an association of 50 cities around the world providing safe houses and safe city residencies for artists at risk

National Coalition Against Censorship (NCAC) runs an Art Advocacy programme dedicated to working directly with individual artists and curators involved in censorship disputes in USA

PEN International 'Writers in Prison' has been monitoring and advocating for writers for six decades. It has an extensive network of over 140 centres in more than 100 countries. It has consultative status at UNESCO, and at the UN, playing an active role within these forums. Its activities include lobbying, organizing panel debates at literary events, producing anthologies of threatened works, and raising emergency funds for an individual at risk programme.

SafeMUSE, initiated by musicians' and composers' associations in Norway, and the *Helsinki International Artist Programme (HIAB)* provides short term residencies for music creators and artists.

Siyah Bant has created a website that documents arts censorship in Turkey and has put together publications on case studies of censorship in the arts in Turkey and on artists' rights, the legal framework pertaining to artistic freedom in the country and the ways in which these laws are applied.

Freemuse, Index and ARJ have produced guides to the legal framework and its impact on artistic freedom. Some guides explain how artists can organize campaigns and connect to international networks advocating artistic freedom.

The International Freedom of Expression Exchange, although largely representing press freedom groups, on occasion includes pieces from its members on attacks on artists. The capacity of the few organizations specializing in documenting and advocating artistic freedom is limited – especially in light of the attention and resources allocated to the defence of media freedom. A member of the Artsfex network of CSOs concerned with freedom of artistic expression has identified the following challenges:

■ There is no established 'connected community' of freedom of expression activists in the cultural sector;

■ Threats to artistic freedom are under-reported in comparison to threats to journalists and other media professionals;

■ There is often a disproportionate focus on one country to the exclusion of others;

■ This leads to a limited picture of the true scale of the challenge to creative free expression, in particular the physical threat to socially engaged artists and practitioners.

In terms of statistics, PEN International publishes extensive lists of attacks on writers and journalists, typically around 900 annually,[7] and Freemuse publishes an annual list of attacks on musicians and on artistic freedom. In 2014, Freemuse registered 237 attacks on artistic expressions as indicated in Figure 10.1 above. Article 19 made a breakdown in 2014 of registered cases, which show that music is the most persecuted art form, that political criticism leads to most prosecutions and bans, and that States were by far the most perpetrators (Culture Action Europe, 2015).

Twice a year the PEN International Writers in Prison Committee publishes a case list of writers around the world who are detained, on trial or otherwise persecuted for their writings or for their peaceful political activities.

7. See Pen International: *www.pen-international.org/*

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

> "
> *Music is the most
> persecuted art form*

For PEN International the term 'writer' can include print and internet journalists, bloggers, non-fiction authors and essayists (non-fiction writers), as well as poets, playwrights, fiction writers, literary publishers and translators (referred to here as 'practitioners or professionals of literature') and song-writers. In some cases, it is difficult to assess whether a practitioner or professional of literature or song-writer has been persecuted because of their literary work or lyrics or due to a combination of these and their political activism.
Moreover, many practitioners or professionals of literature combine their literary work with journalism, blogging or commenting.

However, an analysis of PEN International's Case List for 2014 suggests that approximately 26 practitioners or professionals of literature and song-writers were detained, on trial or otherwise persecuted in 2014 due to their literary work. Most of these were based in Asia and the Middle East (62%); regional breakdown as follows: Asia and Pacific (10); Middle East (6); Africa (4); Europe (4); Americas (2) (Figure 10.3). Of the 26, their professions are given as follows: song-writer (7); fiction writer (5); poet (5); literary publisher (2); literary translator (2); playwright (1); or more than one of these categories (4) (Figure 10.4). Three of the 26 are female while the remainder are male.

In 2014, as part of its Artwatch Africa initiative, the Arterial Network published *Monitoring Freedom of Creative Expression*, a compilation of information on the status of freedom of creative expression gathered in 32 African countries (Artwatch Africa, 2013). The report concluded that 'artists remain at particular risk in certain countries and that religious and social groups often try to interfere by blocking their different world views

and alternative narratives. There are very serious instances of contraventions and restrictions to freedom of creative expression on the African continent.' Although state imposed censorship is a major obstacle to artistic freedom, the report points out that customs and traditions cannot be ignored when analysing the issue. In particular, in several societies, women are prevented from expressing themselves or from taking an active part in cultural life. It also observes how state support is frequently (mis)used to control artistic expressions and that 'although a majority of countries have adopted cultural policies frameworks, these policies are rarely accompanied with implementation and monitoring mechanisms.' Although artists are the main targets of censorship, the report points out that, obstacles to freedom of artistic expression impact not only artists but 'a wide range of people who participate in the creation, production, distribution and dissemination of artwork.'

Although the negative effects on creativity and economy are difficult to measure, the report concludes that 'censorship practices are still imposed at various stages of artistic creation.' In 2014, Artwatch Africa recorded more than 20 incidents of censorship, intimidation,

threats and imprisonment, out of which, 9 were related to the music sector, 6 were in the field of cinema, 5 related to literature and 2 to the visual arts. However, this figure does not fully reflect the reality. According to Artwatch, many artists, either censored or harassed, prefer to stay under the radar and not communicate about their cases because of fear of repression. What is more, the report does not deal with self-censorship, which is a major result of repression in Africa.

SOME WAYS FORWARD

The following main recommendations emerge from the present analysis:

■ Multi-faceted strategies of support for artistic freedom are clearly needed, ranging from direct support to artists and cultural actors, to fostering networks involved in documenting, monitoring and advocating artistic freedom, establishing platforms for dialogue and implementing existing legislation on the topic. Creating safe spaces for artists is increasingly essential, but first the rule of law must be guaranteed. Any cases brought against artists for their works should be conducted under fair trial and according to universal human rights standards.

Figure 10.3

Share of artists detained, on trial or persecuted for their literary or musical work in 2014, by region

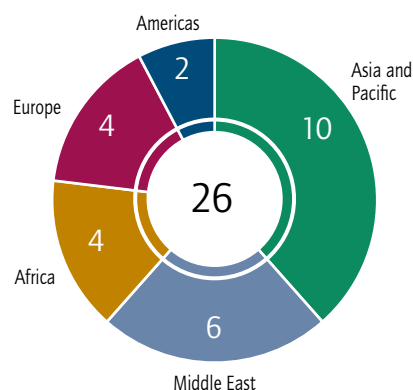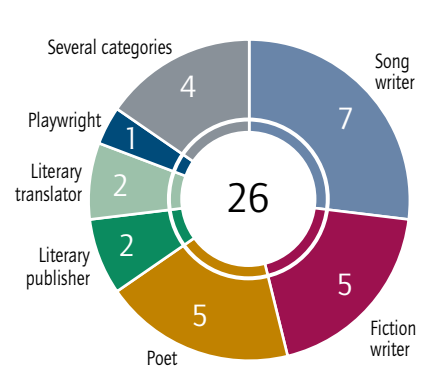Source: PEN International's Case List, 2014

Figure 10.4

Share of artists detained, on trial or persecuted for their literary or musical work in 2014, by profession

Source: PEN International's Case List, 2014

2015
2005 Convention
Global Report

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

■ Transparency and openness are crucial. This includes access to trial hearings and court documents for media and international observers. Legislative bodies and censorship boards should specify why and how artistic productions are censored, introduce complaints systems and publish decisions.

■ States should consult CSOs whose focus is on, or includes, the promotion and protection of freedom of expression, notably artistic freedom. Similarly, the work of these CSOs should be supported and the country's cultural strategy should be informed by them, whenever possible. National Human Rights Institutes could also play a central role in helping States develop and secure documentation and monitoring artistic freedom in collaboration with national and international CSOs working for the protection of artists' rights.

■ Documenting and monitoring artistic freedom is essential. Parties to the Convention may be inspired and learn from existing media monitoring tools. Already, the UNESCO Culture for Development Indicators manual suggests that countries with relevant statistical data resources should consider providing an additional indicator on the perception of freedom of expression that would describe 'Percentage of the population who perceive that freedom of expression is fully guaranteed in their country' (UNESCO, 2014a). The 'media development indicators' developed by UNESCO under the International Programme for the Development of Communication, however, go further than this. They actually provide a framework that could be adapted to enable the assessment, promotion and protection of artistic freedom (UNESCO, 2008). Elements of these guidelines that might be adapted to artistic freedom include the following:

• Freedom of artistic expression is guaranteed in law and respected in practice

• Regulatory system works to ensure artistic pluralism and freedom of expression and information

• The State does not place unwarranted legal restrictions on artistic expression

• Artistic expressions are not subject to prior censorship as a matter of law and practice

CORE INDICATORS AND MEANS OF VERIFICATION

In light of the issues discussed, the guidelines presented above and the indicator framework (see the chapter entitled 'Towards a Monitoring Framework'), the following core indicators and means of verification may be put forward in regards the topic of this chapter:

Indicator 10.1

Legislative base for freedom of expression is a) guaranteed by law and b) respected in practice

Means of verification

• Evidence of the main binding instruments and universal recommendations and declarations affecting freedom of expression that have been ratified by the State or whose content and principles have been incorporated into national laws

• Evidence of violations of freedom of expression

Indicator 10.2

Policies and measures that promote and protect artistic freedom are a) established, b) evaluated and c) functioning

Means of verification

• Evidence of policies and strategies that recognize and support the right of artists to create, disseminate and/or perform their artistic works

• Evidence of policies and strategies that recognize and support the right of all citizens to freely access and enjoy artistic works both in public and in private and to take part in cultural life without restrictions

• Independent bodies established to receive complaints and monitor violations to artistic freedom (e.g. censorship)

• Evidence of government support for transparent decision-making on funding/grants/awards (e.g. through independent committees and/or arm's-length bodies)

• Initiatives taken by States and by CSOs to protect artists at risk, such as providing safe houses, safe cities, guidance and training

Indicator 10.3

Policies and measures that recognize and promote the social and economic rights of artists are a) established, b) evaluated and c) functioning

Means of verification

• Evidence of social protection measures that take the status of artists into account (e.g. social security, health insurance, retirement benefits, etc.)

• Evidence of economic measures that take the status of artists into account (e.g. employment, income and tax frameworks)

• Artists have the right and are organized in trade unions or professional organizations that can represent and defend the interests of their members

2.2 RE/Shaping cultural policies -
A Decade Promoting the Diversity of Cultural Expressions for Development in 2015 -
2005 Convention Global report - UNESCO

"

CONCLUSION

This chapter has argued that promoting and protecting artistic freedom ensures creative diversity for the benefit of humankind. It has also explored some of the ways in which, today, artistic freedom is threatened or even deliberately curtailed by States, civil society pressure groups and militant organizations, as well as by commercial enterprises. These threats run counter to the respect for human rights and fundamental freedoms upheld by the Universal Declaration of Human Rights and the United Nations Charter. They also hamper the objective set out by the Convention of creating and sustaining a climate encouraging freedom of expression, together with the conditions that lead to the flourishing of the social and economic rights of artists and cultural workers. It is for these reasons that the monitoring and the implementation of the Convention should be enhanced and strengthened by including data pertaining to artistic freedom and measured in terms of the indicators presented above.

*A*rtistic expression is not a luxury, it is a necessity- a defining element of our humanity and a fundamental human right enabling everyone, individually and collectively, to develop and express their humanity and world view. Explicitly covered in the two main international Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, and the Universal Declaration of Human Rights, artistic freedom had received little attention in human rights forums when I took up the issue in 2013. Threats to artists and artistic expressions were evident, but few artists engaged with the UN human rights system.

Having consistently addressed this question since then, I am pleased to note a growing realization of the crucial role artists and artistic creativity play in our societies, and the vitality of ensuring that artistic voices are not silenced by different means. Cultural expressions do not only entertain; they contribute to social debates and invite us to think. The growing engagement of various stakeholders around artistic freedom is encouraging. Much still needs to be done, however, to ensure access to and participation in artistic endeavours, especially in public spaces. Catalyzing ongoing critical thinking about the 'identity, values and meanings' we wish to choose for our lives, artistic expressions and creativity can play a significant role in many arenas, from social reconciliation processes to everyday life. This chapter on the status of artists is therefore an invaluable tool that will help to guide our future actions on the matter.

Farida Shaheed
Former UN Special Rapporteur in the field of cultural rights

THE STATE OF ARTISTIC FREEDOM:

THE EMERGENCE OF A NEW GLOBAL CULTURE OF SILENCING OTHERS

In a world full of noise and information, many are silenced. Individuals and artists around the world find themselves voiceless, despite information and communication technology, and social media that allow people to express themselves and share their experiences and points of view.

Women in Iran are not allowed to perform solo singing, while women in Saudi Arabia are not allowed to sing in front of men. Thousands of artists from ethnic minorities are subjected to persecution and threats for singing and performing their arts in their own languages. Oromo artists in Ethiopia are prosecuted on terrorism charges. Rappers in Spain are sentenced under anti-terror legislation. Concertgoers in the UK faced a bombing, while others in Egypt were arrested and sentenced to two years in prison for waving a rainbow flag in support of LGBT artists. In Uzbekistan, 225 films were banned in one blacklist in 2017, while 130 books faced the same fate in Algeria.

On average, at least one artist was prosecuted per week in 2017. Together they were sentenced to over 188 years in prison this year alone. Forty-eight artists were serving terms in prison for exercising their rights and expressing their views and feelings. Thousands of artists and artworks were banned. Freedom of artistic expression and creativity is being attacked at every front in every region of the world. In this process, a new global culture is emerging, one where censorship, attacks, prosecutions and other practices of silencing views one disagrees with is becoming the norm, driven both by governments and supported by large groups of people in society. This report documents and examines 553 cases of violations of artistic freedom in 78 countries carried out in 2017. It exposes violators and assesses the patterns and contexts of these violations. This research identifies groups of artists and people who are vulnerable to violations, especially women, minorities and LGBT people. It asks why, with such a large scale of attacks and abuses of artists around the world, there is little accountability.

THE GLOBAL CULTURE OF SILENCING OTHERS

2017 was the year of a new rise of popular nationalist politics in the US and Eastern Europe, built on Brexit, the Trump election and nationalist rhetoric in Poland and Hungary in the previous year. Populist politics won elections through words of fear and hatred of foreigners. This vision of society without immigrants, refugees and "others" gave nationalist politicians the votes they needed at the cost of dividing society. The rhetoric of hate and attacking messages from populist-nationalist leaders over a period of time creates legitimacy in dismissing "others" who are different, resulting in wide intolerance. This has created an enabling environment for large-scale and systematic violations of freedom of artistic expression as we have witnessed in 2017.

This legitimising of the message of dismissing others' views in the West is well received by traditional repressive regimes in the global South and East who continue to clampdown on civil society, journalists and artists, through taking over or weakening independent institutions. These neo-nationalist movements in the West, alongside old repressive regimes working together within weak international accountability frameworks, provide a governance structure for the new world culture of silencing others. This culture can be described with at least five common characteristics:

Firstly, violation of artistic freedom is a worldwide phenomenon. Violations of artistic freedom have gone beyond the stereotype of artists getting themselves in trouble for criticising governments in mostly repressive regimes in a handful of poor and less developed countries. This report shows that 553 cases of violations took place in 78 countries, including Europe and North America. Violations of minority rights to artistic freedom are found to have been practiced almost equally (in number of violation incidents) in the Global North (48%) and

Global South (52%). Six of the top 10 censoring countries in 2017 are G20 member countries.

Secondly, the culture of silencing others is practiced by multiple actors. Violators are not only governments of repressive regimes. This research shows that they include governments from countries usually seen as open and democratic. Religious police and authorities actively restrict freedom of artistic expression in many countries. Non-state armed groups carried out attacks on civilians as they attempted to enjoy their cultural rights in the West and South. Many online and social media service companies violated artistic freedom by imposing arbitrary criteria for censoring art work on their platforms, failing to observe international human rights standards to which they are also obliged. NGOs contribute to the culture of silencing others by calling for the censoring of artistic expression with which they disagree. Finally, professional associations representing artists' interests in many countries are powerful agents determining who can and cannot function within the cultural industries. They too can contribute to the culture of silencing others by, for example, penalising artists whose work contradicts their definition of indecency.

Thirdly, a new global culture of silencing others took place on communications and digital platforms. While censoring books, songs, films, theatre and visual arts was widely practiced in 2017, violations of artistic freedom also took place on digital platforms. Many artists found that while their work was accessible to their audiences online, their commentary about their work or related issues through forums such as Twitter, Facebook, Instagram and others led them to be arrested and prosecuted. Internet censorship has become increasingly an effective tool to silence artists and people's expression of their views and creativity, while little progress has been made to bring accountability on governments' regulations on the use of internet and communication technologies.

Fourth, people play a more significant role in silencing others. This emerges in at least two forms. One is public support of populist-nationalist leaders in suppressing and silencing views considered non-

mainstream, non-traditional or non-nationalistic. This is particularly the case in the US and Eastern European countries where such support has fuelled nationalism. The other role is through direct calls and pressure upon government and private entities for censorship, sometime accompanied by violent acts. In 2017, several cases were documented where such pressure was placed on museums and festivals to cancel or remove artwork on the ground of indecency, or seen to have insulted minority and LGBT groups.

Fifth, there is little accountability and justice for violations of artistic freedom. Unlike other human rights guaranteed in international human rights laws, violators of artistic freedom and related cultural rights have largely enjoyed impunity. From years of monitoring and documenting violations of artistic freedom, very few cases, if any, were known to have been brought to justice. Killers of artists tend to walk free. The same applies to those who persecute, threaten, attack, abduct and kidnap artists, not to mention prosecution and imprisonment carried out by the state.

Key to the impunity enjoyed by those who violate artistic freedom is the silencing of others through legislation. Many laws have been created and used to censor, raid, detain, prosecute and imprison artists, despite their failure to comply with international human rights treaties.

WHO IS RESPONSIBLE FOR SILENCING OTHERS?

Overall, governments are the main violators of freedom of artistic freedom and creativity. In 2017 governments accounted for 63% of direct violations of artistic freedom and for failure to protect

the other 37% of violations from other actors including, armed violent groups, professional artist organisations, intergovernmental organisations and non-governmental organisation (NGOs), and private companies. This following section outlines key violators, patterns and tools used, and key cases of violations.

▶▶ GOVERNMENTS SILENCING OPPOSITIONAL VOICES

Most governments around the world acknowledge that checks and balances provided through oppositional parties within and outside parliaments are key to democratic principles and open society values. Yet, silencing oppositional voices was the most common cause of violations of artistic freedom in 2017.

The widespread practice of shutting off "oppositional" artists shows that governments understand the power of artistic freedom – how it can connect people emotionally and mobilise actions for social justice. The fear of the transformative effect of moving people to ask questions, re-interpret political and social realities, as well as hold public figures accountable have, over the years, driven some governments to shut off oppositional views emanating from artistic expressions.

In 2017, various methods were used by governments to shut off oppositional views. Countries such as Serbia and Uganda, for example, directly intimidated dissident artists by accusing them of offending the president. Other countries such as Russia and Equatorial Guinea used indirect intimidation, including employing tactics of allegedly trumped-up charges to clampdown on oppositional artistic expressions, while countries such as China and Ethiopia continued to enforce repressive laws to criminalise artistic expressions that challenge their authority.

More Food for Thought

- European Court of Human Rights - cultural rights :
https://www.echr.coe.int/Documents/Research_report_cultural_rights_ENG.pdf

- How free is free? Reflections on freedom of creative expression in Africa:
http://www.arterialnetwork.org/ckeditor_assets/attachments/332/howfreeisfree-
updated_final_31082016.pdf

- UNESCO - Convention on the Protection and promotion of the Diversity of Cultural Expressions:
http://unesdoc.unesco.org/images/0014/001429/142919e.pdf

- Report: Taking the offensive – defending artistic freedom of expression in the UK by Julia
Farrington: https://www.indexoncensorship.org/2013/05/conference-report-taking-offensive-
defending-artistic-freedom-expression-uk/

- Meeting ethical and reputational challenges guidance - What next? Arts Council UK:
https://www.artscouncil.org.uk/sites/default/files/download-
file/WhatNext_meeting_ethical_reputational_challenges.pdf

- UN http://www.un.org/en/universal-declaration-human-rights/

- More: musiciansforhumanrights, pen international, national coalition against censorship,
http://www.artistrights.info/how-to-use,
http://www.un.org/fr/rights/overview/themes/culture.shtml, Arts Rights Justice Europe

In French:
- Les droits culturels en débat(s) - Hommes et Libert´s N°179 - Sept 2017 - https://www.ldh-
france.org/wp-content/uploads/2018/02/HL179-Dossier-5.-Les-droits-culturels-en-d%C3%A9bats.pdf

- Declaration de Fribourg: https://www.fidh.org/IMG/pdf/fr-declaration.pdf

Links available on the Internet on 24 May 2018

THE FUTURE OF PERFORMING ARTS IN EUROPE. CULTURAL POLICY & FUNDING MECHANISMS OF THE EUROPEAN UNION

Introduction

There are different ways to promote and to support cultural activities around Europe and within the European Union Member States. They have thus always been quite reluctant to common cultural policies and the first apparition of culture in the European political discourse was in the Treaty of the European Union in 1992[14]. Programmes to finance culture activities in the European Union are therefore quite recent. It is not until 2007, when the European Commission released the European Agenda for Culture[15], that culture was really recognised as having a key role in the European Union project. The adoption of the Agenda by the EU Culture Council marked a step towards further cultural cooperation between the State Members. A Structured Dialogue - Voices of Culture[16] between the political field (EU Commission, Member States, EU Parliament) and the civil society was developed in order to encourage a more collaborative work between these two worlds. Additionally, EU cultural policy is implemented via funding programmes. The current framework "Creative Europe" was created for the 2014-2020 period and is divided in three main elements; the Culture Sub-programme (30% of funding), the MEDIA Sub-programme (55% of funding) and the Cross-sectoral Strand (15% of funding) amounting for 0,002% of the total EU budget for the period. Despite the overall aim for deeper cooperation between the different strands, one can only notice that the division between media and culture remains quite substantial. Our first selected article *The Place and Role of Culture in the EU Agenda. Policy Implications of the Culture Sub-programme of the Creative Europe Programme* from Jaka Primorac, Nina Obuljen Korzinek and Aelksandra Uzelac first briefly presents the history of EU culture programmes. This introduction enables the authors to stress the fact that the current "Creative Europe" programme was the result of a slow construction process. The economic focus of the programme and the central role of creative industries are emphasized and it questions whether this fits to the cultural sector needs. This economic focus of the European culture programme is also underlined in Philip Schlesinger's article presented in the conference reader *Some Reflections on "Creative Europe".* In this current context, with the release on 22 May 2018 of the new European Agenda for Culture from the European Commission which will model the next generation of culture programmes for Europe and a possible music strand, it is important for the music sector to be active in the process.

---

[14] See first article *The place and role of culture in the EU agenda. Policy implications of the Culture Sub-programme of the Creative Europe Programme*

[15] RESOLUTION OF THE COUNCIL of 16 November 2007 on a European Agenda for Culture (2007/C 287/01) - http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32007G1129%2801%29

[16] http://www.goethe.de/ins/be/prj/voc/enindex.htm

3.1 The Place and Role of Culture in the EU agenda. Policy Implications of the Culture Sub-programme of the Creative Europe Programme

3.2 Some reflections on "Creative Europe"- Philip Schlesinger, Centre for Cultural Policy Research/CREATe, University of Glasgow

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

The Place and Role of Culture in the EU Agenda. Policy Implications of the Culture Sub-programme of the Creative Europe Programme

Jaka Primorac[*]
Nina Obuljen Koržinek[**]
Aleksandra Uzelac[***]

SUMMARY

The article looks at the policy implications of the changing position of culture, analysing shifts in understanding the role and position of culture in the broader EU agenda. Following short analysis of the changing European Union's discourse pertaining to culture and media sectors, authors analyse wider policy context of the Culture Sub-programme of the Creative Europe Programme adopted in 2013. The analysis approaches the subject from two main angles; firstly, reviewing the policy architecture of the Programme and its feasibility; and secondly, focusing on the terms of the stakeholders' agreements. Authors investigate whether the instrument is well adjusted to the current situation and

_____

* Jaka Primorac, Research associate/Znanstvena suradnica, Department for Culture and Communication, Institute for Development and International Relations (IRMO), Zagreb, Croatia, Lj. F. Vukotinovića 2/II, 10000 Zagreb, Tel: 48 77460, Faks: 48 28 361, e-mail: jaka@irmo.hr
** Nina Obuljen Koržinek, Research associate/Znanstvena suradnica, Department for Culture and Communication, Institute for Development and International Relations (IRMO), Zagreb, Croatia, Lj. F. Vukotinovića 2/II, 10000 Zagreb, Tel: 48 77460, Faks: 48 28 361
*** Aleksandra Uzelac, Senior research associate/Viša znanstvena suradnica, Department for Culture and Communication, Institute for Development and International Relations (IRMO), Zagreb, Croatia, Lj. F. Vukotinovića 2/II, 10000 Zagreb, Tel: 48 77460, Faks: 48 28 361

5

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

how it responds to the needs of these sectors. By investigating the proposed and adopted instruments of the Programme, the authors show the trajectory of the 'competitiveness' discourse in the creation of the Programme and its' further strengthening in the most recent policies for the cultural sector.

Key words: cultural policy, public policy, European Union, cultural sector, Creative Europe Programme.

Introduction

During the last three decades, the orientation of the European Union (EU) towards cultural and media sectors has seen many changes in policy developments. In the early phases of the European integration process culture was only considered on a symbolic level as the addition of the element of identity and diversity to the emerging community (Niedobitek, 1997; Kaufmann and Raunig, 2002; Littoz-Monnet, 2007). With the principle of subsidiarity being a dominating concept, the Member States were not open to the idea of formal coordination of cultural policies (Niedobitek, 1997; Ellmeier and Rusky, 1998; Barnett, 2001; Romainville, 2015). In parallel with the adoption of the early resolutions and documents addressing different topics in the field of culture (Obuljen, 2006; Littoz-Monnet, 2007), the European Court started opening the first cases questioning different elements and provisions of national cultural policies that were considered not to be aligned with the provisions of European policies and regulations, in particular in the area of the free movement of people, goods and services, state aid or tax rules (Littoz-Monnet, 2007; Psychogiopoulou, 2008; Romainville, 2015). The Court decisions prompted "negative integration" processes as described by Psychogiopoulou (2008) which had profound impact on the dynamic of the development of the more explicit EU actions in the field of culture. What is today considered as the European policy towards culture has been developing gradually with influences and impetuses coming from many different players and stakeholders that have included initiatives, strategic documents, decisions and instruments with the explicit cultural aims promoted by e.g. the Parliament or the Commission, etc. One of the most important moments was the explicit inclusion of culture in the Treaty of the European Union in 1992. Equally important were the court cases and the developments and normative activities in other policy areas where the EU has either shared or exclusive competence (Littoz-Monnet, 2007; Psychogiopoulou, 2008; Donders, 2012; McMahon, 1995). Such instruments were not adopted with explicit cultural aim, but have, nevertheless, produced significant impact on cultural field whether positive or negative ones.

6

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

During the 1990ies the first instruments for the financing of culture at the EU level were adopted and the EU started using community programmes in order to promote cultural and media activities across and between its Member States; MEDIA programme for financing the audio-visual activities was established in 1991 and Kaléidoscope, Ariane and Raphaël programmes for financing of culture were established in 1996 and 1997. In the situation where the EU did not have articulated explicit or common cultural policy, these community programmes, which were later replaced by the Culture 2000 and Culture programme, followed the general directions of the EU strategic documents and contributed to the promotion of cultural cooperation across the EU. The situation with the MEDIA programme was different as the support for audio-visual sector was based on the provisions of the explicit media policy that had a legal basis in the adoption of the Directive on Television without Frontiers (TWFD) in 1989, which was replaced in 2008 with the new legal document - the Audiovisual Media Services Directive (AVMSD) (Donders, 2012; Littoz-Monnet, 2007).

After the adoption of the European Agenda for Culture in a Globalizing World (European Commission 2007), and the introduction of the Open Method of Coordination (OMC) for the field of culture, the EU made a significant step forward in creating circumstances for a better coordinated policy-making in the field of culture. In this context, the merger of the previously two separate Culture and MEDIA programmes and the development of the new Creative Europe Programme was presented as a possible step forward, not only in better management and coordination of the two previously separate programmes, but also as an important tool in fulfilling the Agenda's goals, including the goal on making 'culture a catalyst for creativity' in the framework of the Lisbon Strategy for Growth and Jobs. The expectation from the merger of the two programmes was that this would be accompanied by better coordinated initiatives and policies connecting cultural and media policies in the context of the broader EU policy agenda.

This article looks at the policy implications of the changing position of culture and analyses shifts in understanding the role and position of culture in the broader EU agenda. It provides a critical analysis of the Culture Sub-programme of the Creative Europe Programme that was adopted by the European Parliament and the Council in 2013 and investigates how it responded to the priorities and developments in the EU. The rationale of the research focus on the Culture Sub-programme lies in the fact that, unlike the MEDIA Sub-programme that has an explicit policy behind it, the background of the Culture Sub-programme lies in the implicit policies for the sector. By analysing the changing EU discourse pertaining to culture and media sectors, the article gives an outline of the wider policy context of the Programme, focusing in particular on the prevailing economistic discourse. By reviewing the adopted policy architecture of the Programme and its' feasibility and by looking into the terms of the stakeholder agreement, we investigate whether the Programme is

7

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

well adjusted to the current situation in the sector, taking into account the new (digital) ecology on the one part and the continuous economic crisis and austerity measures on the other. In this line we are particularly interested in an obvious policy paradox: on the one hand the merger of the previously separated Culture and Media programmes into the new Creative Europe Programme promised better intertwining of the two and the introduction of the new 'more integrative' policy instruments; while on the other, only one year later after its' implementation, these two sectors were still more apart by being split between different Directorates General as organized within the new European Commission. Presently, the two sectors are separated in such a way that culture in its narrow sense has remained under the competence of the DG Education and Culture while media and audio-visual became part of the newly created DG Connect responsible for digital economy and society. This opens up the question whether the Creative Europe Programme offers innovative and/or creative approach to these sectors. Does it adequately respond to the expectations set by key stakeholders and does it indeed contribute to the more strategic policy approach in the fields of culture and media? The article critically assesses the implications of the current state of the Programme where the key goals of 'the integrated Creative Europe' might be lost to the prevailing economic instrumentalism at the conceptual level and confusing division of competences at the operational level that also contribute to the further instrumentalization of culture (Gray, 2007).

The article builds upon data gathered for previously published research that was undertaken by the authors of this article and the late Colin Mercer for the European Parliament in the summer of 2012 and that was published as the *Detailed Briefing Note on Culture Strand of the Creative Europe Programme* (Mercer et al., 2012). In this paper we are complementing this data with the additional desk research analysis on the available data and policy briefings on the Creative Europe Programme two years after the beginning of its' implementation in 2015 and early 2016. The research used policy analysis approach on the available commentaries on the Programme from both official sources and a wide range of stakeholders, including published results of consultation and follow up discussions with key actors in the field.

EU policies and support for cultural activities:
From the pluralist discourse to the cultural
and creative industries discourse

To be able to describe the context in which the Creative Europe Programme was conceived and adopted, it is important to understand the development of the EU involvement in the fields of culture and media in the past four decades. From the 'pluralist decade' that dominated the eighties and beginning of the nineties, the policy discourse moved towards the 'convergence decade' during the nineties and up

8

until the 2000, and furthermore towards the current state of affairs where the discourse on the cultural and creative industries predominates (Bustamente, 2012; Schlesinger, 2015, 2016). This is evident not only in the dealings of the European Commission (EC), but also in the work of the European Parliament (EP) and the Council, as well as through the rulings and decisions of the European Court of Justice (ECJ). This journey from the somewhat, as Bustamente (2012) notes, 'naive' days of the pluralism debate has moved towards the discourse that puts the economic side of culture to its primary focus. What contributed to this was the practice of both ECJ and EC since the seventies and up until now that questioned the alignment of cultural policies with economic goals of the EU (Littoz-Monnet, 2007; Psychogiopoulou, 2008; Romainville, 2015). To quote Sarikakis (2005: 169): '..."culture" is addressed mostly as an object of commercial value or as an antiquated site for visitors, but rarely as the realm where social relations are formed and maintained. The attempts to deal with the cultural dimensions of the EU still remain clumsy and blurred at the bottom list of the priorities list of the polity'. Notwithstanding the fact that cultural field has encountered many changes in the past decades and that there has been a growth of the cultural and creative industries in the EU, such change in the discursive orientation illustrates an important shift in defining policy priorities (Schlesinger, 2015). With the introduction of the Creative Europe Programme, the tensions that arise between cultural and economic objectives of cultural and media policies are furthermore highlighted (Erickson and Dewey, 2011). These tensions put into question the further elaboration of possible instruments on how to bring about the sustainable cultural development in Europe. Due to the subsidiarity principle, the EU Member States are the key stakeholders of this process. However, many Member States have limited budgets available and, in the times of crisis, when they are deciding on the budget cuts, in many cases the funding for culture happens to be the first in line. In the context of the continuous economic crisis and the fragile position that the cultural sector has in many Member States, this brings about the question whether there is a need for a more explicit EU cultural policy at this particular moment and whether it could contribute to the development of the cultural sector across Europe. The debates on the position and elaboration of the EU cultural policy are continuously present and the framework of such policy has been visible not only through the normative work of the European Parliament and the European Commission or the involvement of the ECJ, but also through a number of community programmes such as Culture and MEDIA that were elaborated further on in the Creative Europe Programme. In addition to these explicitly elaborated programmes, an existing implicit EU cultural policy is also visible through 'provisions from various common policies that have an impact on culture, including both policies that refer specifically to culture and those that have a more direct impact on culture' (Obuljen, 2006: 11).

9

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

Policy developments in the EU:
towards the Creative Europe Programme

'Creative Europe' is the European Commission's framework programme adopted in 2013 that joined the policy purview as well as resources of two previously separated programmes for 'culture' and 'media'. The focus of the culture strand is on 'capacity building' and 'transnational circulation' where the main grant instruments apply to the cooperation projects, European networks, European platforms and literary translations, while the MEDIA strand focuses on an increase in resources for distribution, support for Europe-based international co-production funds, audience-building and market development measures (European Commission, 2011c: 8). The merger of the two distinct strands into the Creative Europe Programme envisaged also the creation of the Cross-sectoral Strand that should consist of two elements: the Financial Guarantee Facility and the part dedicated to transnational policy cooperation. The idea behind the Financial Guarantee Facility was to create an instrument that would contribute to improving the access to finance for cultural and creative SMEs and organisations by ensuring credit risk protection to financial intermediaries. This would be done through building portfolios of loans and by supporting the capacity and expertise building for correctly analysing the relevant risk for investment in cultural and creative SMEs and organisations. The second part of the proposed Cross-sectoral Strand included selected measures for the support of transnational policy cooperation via exchanges of experience between policy-makers and operators; new approaches to audience-building and business models; cultural and media literacy and data collection including membership to the European Audiovisual Observatory (Mercer et al., 2012: 16-17).

The Creative Europe Programme is directly linked with the implementation of the conclusions and recommendations of important European policy documents, in particular the 'European Agenda on Culture in the Globalising World' (European Commission, 2007) as well as with international documents and instruments which include the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (UNESCO, 2005) which became part of the *acquis communautaire*. The Creative Europe Programme was elaborated in the context of the Europe 2020 strategy where, it should be stressed, culture is rather marginalized as the Strategy uses the word 'cultural' just once and the word 'creative' not at all (European Commission, 2010a). The foundations of the Programme lie in the adopted proposal of the Multi-Annual Financial Framework for the period 2014-2020 and also on the financial budget that is aimed at delivering the Europe 2020 strategy.

The wider policy context for the establishment of the Creative Europe Programme can also be linked to the developments of the EU-wide and global 'creative econo-

10

my' debate. Before the introduction of the Creative Europe Programme, the impact of the 'creative economy' on the global level was measured by UNDP/UNCTAD in the first two global *Creative Economy* reports (UNDP/UNCTAD, 2008, 2010). On the European level the overall indicators were provided by the European Commission in its' 2006 commissioned study *The Economy of Culture in Europe* executed by KEA (2006), but also by a considerable number of the cultural and creative sector mapping projects at national, regional and local levels initiated by the Member States since 1997. These developments led to the creation and adoption of the 2010 Green Paper 'Unlocking the Potential of Cultural and Creative Industries' (European Commission, 2010b). A number of different policy elements bring significant implications for situating the Creative Europe Programme within the wider policy architecture of the Europe 2020 strategy and its budgetary backing. This includes, most notably, the digital agenda, the single market agenda, the cohesion and social inclusion agenda and the regional agenda. This indicates that the current and the future EU orientation will be primarily oriented towards economic priorities and competitiveness approach while it is not clear to which extent the cultural specificity and cultural aspects would be taken into account. As Erickson and Dewey's analysis of MEDIA 2007 programme shows: 'Using the MEDIA 2007 policymaking process as an example, we have demonstrated the tensions that arise when cultural and economic objectives seem to have gained a toehold in a thus-fat irreconcilable debate' (Erickson and Dewey, 2011: 505). This shows that the tensions resulted from the mainstreaming of culture across the field of EU policy-making are still present (Psyhologiopoulou, 2008).

These trends have to be taken into account when examining the Creative Europe Programme which was announced at the time of its adoption as 'a simple, easily recognisable and accessible gateway for European cultural and creative professionals, regardless of their artistic discipline', with the aim to 'offer scope for international activities within and outside of the EU' (European Commission, 2011c: 2). The new single framework programme replaced the former three programmes – Culture, MEDIA and MEDIA Mundus. In response to the needs identified through independent research and public consultations that were held at the EU level and in some Member States a new Facility to improve access to finance for small and medium enterprises (SMEs), for microenterprises as well as for a number of not-for-profit organisations in the cultural and creative sector was introduced as a part of the Programme. The European Commission's argumentation for the single programme emphasised its orientation towards enabling 'synergies and cross-fertilisation across the different cultural and creative sectors' (European Commission, 2011c: 2). Although the Commission recognised that there were significant differences between the goals, priorities and management of the three previous programmes, it proposed the merger as a response to its most important argument: that these sectors, how-

11

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

ever different operationally, were facing very similar challenges as stressed in the Point (9) of the Proposal for the Regulation (European Commission, 2011a). These challenges include fragmented market, the need to adapt to the impact of the digital shift, lack of comparable data to assess technical impact and to design appropriate and responsive policies in the context of chronic difficulties in access to finance for the cultural and creative sectors (Mercer et al., 2012: 20).

The policy architecture of the Programme

The architecture of the Creative Europe Programme is organised through its' three constitutive elements – the Culture Sub-programme, the Media Sub-programme and the Cross-sectoral Strand. Therefore, in the new framework architecture the Culture and MEDIA Sub-programmes remain separate, while the third inter-sectoral strand is the only element that illustrates the proposed orientation towards more inclusive treatment of the cultural and creative sectors. The Cross-sectoral Strand, which was supposed to be the key innovation of the Programme consists of two parts: a Guarantee Financial Facility and the instruments for transnational policy cooperation. The total budget of the Creative Europe Programme (2014-2020) was designated to €1.46 billion. When the budget was presented in 2012, it represented a 37 % increase on the overall spending levels through the previous two programmes and this increase was warmly welcomed by the cultural sector in Europe. However, in the final version of the proposal the budget was cut down by 15 % indicating the lack of the vision among EU policy-makers for sustainable development of cultural and creative sectors. Even with the increase of the funding, the initially proposed Creative Europe Programme budget took up just 0.002 % of the proposed total EU budget as noted in the House of Lords-European Union Committee (2012). The distribution between the three strands shows that the Culture Sub-programme receives 30 % of funding, while the MEDIA Sub-programme and the Cross-sectoral Strand receive 55 % and 15 % respectively. Even the economistic argumentation that was used in order to provide the bigger budget for cultural and creative sectors under the Creative Europe Programme was still not recognized on the EU level as an adequate argumentation for the 'investment' in this sector. Here we refer to the much cited data from a study done in the pre-recession period on how the 'CCS account for 4.5 % of the Union's GDP and employ some 3.8 % of its workforce' (European Commission 2011a, 9).

The need to balance economic and cultural objectives of laws and policies, as well as the multidimensionality of culture and cultural policies in the context of the EU policies and European law (Romainville, 2015: 31), represent the context for the assessment of the policy architecture of the Creative Europe Programme. At the

12

time of the adoption of the Creative Europe Programme, the key issues that concerned the cultural sector in regards to the merger of the culture and media strands were that not only it brings stronger conceptual shift towards 'cultural and creative industries', but also that it would mainly be oriented towards an 'economic output'. This was attributed to the conceptual framework that was primarily driven by the results of the analysis of the media sector, which shifts the balance more towards economic rather than cultural objectives. Although the attempt of the Commission to reproduce some positive features and practices from the MEDIA Programme to the Creative Europe Programme can be useful for some stakeholders in the cultural sector that are oriented towards market, such orientation of the Programme is not adequate for a number of non-profit oriented operators that were traditionally financed by the Culture Programme. Furthermore, in the light of the severe budget cuts across Europe, it has to be taken into account that only a smaller number of operators have the capacity to apply for longer-term projects as it was very difficult to commit to ensure co-financing for a longer period (i.e. 5 years). Moreover, the discourse and criteria of the Creative Europe Programme takes only marginally into account the 'experimental' nature of a number of cultural projects, which led a number of cultural organizations to advocate for a special support scheme for 'kick-off' and 'laboratorium' projects on a pan-European level that would contribute more to the sustainable development of the cultural and creative sectors. This was only later reflected in the proposal for the Cross-sectoral Strand (European Commission, 2011a) that has very limited space for a larger impact, but there has not been the reflection of this in the instruments later announced as stated on the website of the Cross-sectoral Strand. Such orientation indicates the lack of understanding of the ecology of the cultural and creative sectors and of their interconnections with other sectors (Sacco, 2011).

A number of these issues have already been addressed during the adoption process of the Programme, and especially during the Danish presidency when the Council of Ministers introduced the new Article 5a which highlighted the recognition of the combined intrinsic and economic value of culture. As stated 'Programme shall support actions and activities presenting a potential European added value in the field of culture and the cultural and creative sectors' (Council of the European Union, 2012). The changes in the wording of the Article opened a possibility for the Commission to recognize the specificities of the cultural sector and address its' interest and needs when developing the Programme Guide for the then elaborated 'Culture Strand'. This reflected concerns voiced by the cultural sector that there has been too much focus on the 'competitiveness' as stated in the second general objective, while the diversity issues have been rather neglected as stated in the Article 4 (Council of the European Union, 2012: 3). In this line, it should be mentioned that there has also been a significant semantic shift in many documents, as the Commission uses the

13

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

term 'consumers' in preference to 'audiences' that became more accustomed term in the field of culture and audiovisual. However, the shift towards discourse on 'audiences' was a previous indication of the earlier described shift towards economic arguments and objectives in the field of culture (Bruell, 2013: 48) where citizens became neglected, and the consequent discursive shift towards 'consumers' shows the further orientation in this direction.

Thus, through the analysis of the documents and instruments elaborated in this article, one can notice the continuing orientation towards the competitiveness discourse that contributes to the somewhat contradictory goals of the Programme. Such a discourse has previously been addressed in a number of books and studies analysing European policies towards culture: the obvious prevalence of economic arguments in particular is evident in the context of the decisions and rulings of the European Court and national competition authorities (Sarikakis, 2007; Psychologiopoulou, 2008; Romainville, 2015). Sarikakis (2005: 167-168) expresses critique of such an approach rather explicitly: 'Culture and media in European policy occupy the two ends of an ostensibly defiant relationship between motives: for the European Parliament, they become the watchdog of integration, for others and in particular the technocratic DGs of the Commission, an economic asset (Delgado-Moreira, 2000; Sarikakis, 2004).' This is also in line with observations made by Breznik (2004: 50) in her analysis of the European audiovisual industries where she notes the existing delineation between the policies of the European Commission and the policies of the European Parliament. On the one hand selected EU public policies highlight the importance of strengthening large companies of European audiovisual industries in order that they become more influential not only on the European level, but what is more important - on the global level (i.e. the competitiveness discourse). On the other hand, the other set of EU public policies advocate the protection of small-scale creative industries in order to resist global audiovisual industries (i.e. protectionist discourse). However, what is not elaborated is the fact that a large part of these global audiovisual industries are European. According to data of the European Audiovisual Observatory (EAO) as presented in Dragomir and Emrich (2015), the twelve major audiovisual companies on the continent accumulate up to 62 % of the European market's income. These companies show up in the 2014 ranking of the top 50 biggest world audiovisual groups, with one of them (British telecommunications company Sky) entering among the top ten of the largest audiovisual groups in the world. Putting focus on the protection from the 'external' threats creates such rhetoric that is oriented towards the development of policy that is 'based on largely ignoring internal processes of media and cultural domination, which indicates that the ideas and pragmatics driving the advocating work of the institution do not pose an irreversible threat to the interests of 'domestic' capital' (Sarikakis, 2005: 169), which represents the major 'blind spot' in the work of the European Parliament.

14

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

Innovative elements of the Programme?

The introduction of the Cross-sectoral Strand with its two instruments: a Financial Guarantee Facility - the new financial instrument, and the actions towards the transnational policy cooperation represented the most significant innovation in comparison to the previous programmes. When looking at the Commission's proposal for the establishment of the Creative Europe Programme, the framework of the functioning of the Facility was rather vague. In the regulation of the programme (European Parliament and the Council 2013), some of these problems were resolved, but the operational and technical issues are still presented together with the rather uncertain estimations of their future implications for all the stakeholders of the sector. The new Financial Guarantee Facility (launched in 2016 but still not in full function) was introduced following a concern expressed by many operators from cultural and creative sectors in their ability to access finance that is still present (European Union, 2016). This has been a common challenge for both microenterprises and SMEs in general, but the situation is significantly more difficult for small cultural and creative companies (European Commission 2011b, 19-20). This has been shown by the data of the Impact Assessment for the CCS financial instrument that estimated a funding gap for these SMEs of some €2.8 to 4.8 billion (European Commission, 2011b: 129).The obstacle for these operators is the perception that the cultural and creative sector is a high-risk sector that is not interesting for investment. However, the Impact Assessment data showed that the cultural and creative sector shows high levels of productivity and profitability: 'As a general rule, a profit margin of 5 % up to 10 % is considered as an indication of a healthy level of profitability for service industries similar to those included in the CCS. The average European level of 9 % is therefore a sign of highly satisfactory profitability existing in the cultural and creative sector across Europe' (European Commission, 2011b: 128). This problem is more present in some Member States than in others as there is an uneven development in relevant expertise and sensitivity of financial institutions, with good practices to be found only in a very limited number of countries. As stated '[...] one of the weaknesses of the national schemes with regards to access to financing is, with the exception of France, Germany, Spain and maybe the UK, the lack of institutions specialised in the cultural and creative sectors' (European Commission, 2011b: 136). This concern has been further expressed by the cultural and creative sectors on the European level and has been also elaborated in the OMC working groups work (European Union, 2016).

Although the necessity of the better access to finance for the cultural and creative sectors is indisputable, this instrument raised a number of issues for the actors of cultural and creative sectors. In one of the first draft versions of the Programme, one could decipher structural inequalities according to the type of organization that

15

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

would be able to successfully apply to the Facility. Although in principle all the companies and organisations that respond to the EU definition of SMEs are eligible to apply to the Facility, it can be presupposed that the market-oriented SMEs (and hereby it is primarily meant the commercial creative industries that include the audio-visual sector) will more likely fulfil the goals and persuade banks of their capacity to return the loan. The conceptualisation of the Guarantee Financial Facility does not seem to take into account the whole 'ecology' of the cultural and creative sectors considering the necessity for all the stakeholders to be involved in order that the sectors could be developed in an adequate manner.

On current settings, this Facility would be more attuned towards bigger players in the cultural and creative sectors, while the microenterprises that in reality represent the majority of the operators (KEA, 2006: 99) may not receive the equal treatment and attention. This is especially important in its implications for the Culture Sub-programme where various types of stakeholders in culture are involved, including the ones who are operating in 'not-for-profit' and/or 'non-profit' mode. Furthermore, the issue of geographical balance also comes into focus as some of the strongest players in cultural and creative sectors tend to come from the larger countries of Europe – e.g. UK, Germany, France, Italy and Spain that 'account for almost three quarters of the economy of the cultural and creative sector in Europe' (KEA, 2006: 66). Nevertheless, the size of a country cannot be taken as a normative basis for this as there are some smaller countries in the EU and EEA with positive results in the cultural and creative sector SMEs–e.g. Estonia, Latvia, Lithuania and Austria. Therefore, the proposed financial instrument model puts stress on the 'competitiveness' while the issue of 'diversity' and of transnational cooperation is rather neglected, thus again demonstrating the dominance of the competitiveness discourse.

In addition, 'the selection criteria and control mechanisms in the Facility have not been elaborated for the longer term period, thus making the level of EU involvement not entirely transparent and its implications for the EU budget unclear' (Mercer et al., 2012: 26). It was also evident that the nature and terms of the involvement of the European Investment Fund (part of the European Investment Bank Group) were not sufficiently explained and that the Facility rested partly on drawing the attention of national and regional stakeholders to the potential of new forms of private investment in the cultural sector (*ibid,* 27). Concerns expressed prior to the adoption of the Creative Europe Programme and the establishment of the Facility (Mercer et al., 2012) have been confirmed, as the Financial Facility although launched in 2016 has still not started operating fully.

The move to create a strand that has a cross-sectoral remit and a transversal orientation is important as it offers possibilities of a joined up approach to the cultural and creative sectors and it offers possible synergies with other EU frameworks and programmes. However, as the Cross-sectoral Strand is supposed to cover a number of

16

tasks within an already set large financial remit for the Financial Facility, one should consider the feasibility of the tasks set out for the transnational policy cooperation as the part of the Strand. The allocated financial input for all the goals that are set out in the regulation seems rather limited, taking into account the scope of the work to be done[1]. The question remains why this instrument was not given more of a financial remit when it is explicitly highlighted as an important policy measure for the sector as a whole. It is difficult to comprehend why the most innovative element of the Programme, and the only truly transversal one, covering both sectors of culture and media, was not prepared in such a way that the beginning of its implementation could start in parallel with the beginning of the implementation of the other two strands (Culture and MEDIA Sub-programmes).

Conclusion. Policy paradox or policy *cul de sac*?

The Creative Europe Programme is based on multi-level dialogue and partnership and was inspired by a number of proposals received during public consultations and hearings that included both the non-governmental organisations (European networks, cultural institutions, professional organisations, foundations, etc.) and Member States through the Open Method of Coordination (OMC) process (Mercer et al., 2012). However, regardless of this inclusive methodology and a long process of negotiation, a significant number of representatives of cultural and creative sectors expressed concerns that the Commission did not take some of their important points into account while creating the final Creative Europe Programme proposal.

One of the key reasons for the merger of the previously two separate programmes and the establishment of the Creative Europe Programme was the need to take into account both cultural and economic aspects of cultural and creative sectors. The creation of the Programme responded also to the need to recognize the increasingly important role that the cultural and creative industries are playing on the global level. The aim was also to promote the access of the cultural and creative sectors to other funding schemes of the Union, in particular Structural Funds (with special emphasis on the European Social Fund) and Competitiveness and Innovation Programmes, coupled with the newly introduced Financial Facility (Mercer et al., 2012: 41). The merger of the two previously separate programmes and the introduction of the Cross-sectoral Strand, and in particular the Financial Guarantee Facility, has also been recognized as important and relevant from the point of view of policy coordination and the expected synergies resulting from the Programme. However, with the Programme running for over two years now, it can be noticed that not only is the Financial Guarantee Facility still non-functional, but there is a lack of then announced synergy of joining two strands in one programme; what is more, they are even more apart than before.

17

3.1 The place and role of culture in the EU agenda.
Policy implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research : Croatian journal for journalism and the media,
Vol.23 No.1 July 2017 (pages 5-23)

In this context, other interacting factors that are more of a policy nature also have to be taken into account: the re-definition of cultural and media policies at the European level, the fact that culture and media policies have been placed under the same Directorate General until 2005 when the DG Information Society has been expanded to include media policy. In 2012 the DG for Information Society and Media was replaced by the new DG Connect which since 2014 has placed its' focus primarily on the new Digital Single Market strategy focusing on economic aspects and benefits of the strategy. In parallel with these developments, at the level of the implementation of the EU programmes, in 2006 the Commission established the Education, Audiovisual and Culture Executive Agency (EACEA), which remains responsible for the merged Creative Europe Programme.

While this might seem as a technical or administrative question, it is in fact linked with the shift that was supposed to happen with the introduction of the Creative Europe Programme and the promotion of integrated approach towards all parts of culture and creative sectors. As it has been described in this article, many studies, strategies and policy papers that were also used as a basis for the elaboration and adoption of the Creative Europe Programme promoted the idea of better coordination of culture and media policies and initiatives in the context of the development and support for the creative economy with the need to take equally into account the cultural and economic aspects of the sector. In the meantime both cultural and media sectors are losing their visibility within the portfolios of their new DGs.

As this article focused primarily on the analysis of the Culture Sub-Programme of the Creative Europe Programme, it is valid to reflect on the current remit of the DG Education and Culture in the context of the declaratory shift towards more inclusive approach to the culture and creative sectors such as it has been proclaimed by the Creative Europe Programme. In reality, the definition of the explicit European intervention in the field of culture still remains within the scope of intervention of the DG Education and Culture. Given the fact that media policies remain under the competence of the DG Connect, the DG Education and Culture remains responsible for those areas of culture belonging to the traditional, rather narrow understanding of the sector such as it has been defined in the Article 167 of the Treaty and confirmed with the definition used in the Agenda on Culture in Globalizing World. While in majority of Member States culture and media sectors are managed by the same ministry, at the EU level, regardless of the creation of the Creative Europe Programme, there seems to be no intention to ensure coherence in policy-making by putting both sectors under the same Directorate General. In the context of the earlier discussions about the cultural and economic aspects of culture and media sectors, the policy approach seems to look primarily at the economic aspects when dealing with media policies and cultural aspects in the case of the narrow cultural sector that remains under the competence of the DG Education and Culture.

18

3.1 The place and role of culture in the EU agenda.
Policy Implications of the Culture Sub-programme of the Creative Europe Programme
First published in Media Research: Croatian journal for journalism and the media,
Vol. 23 No.1 July 2017 (pages 5-23)

Although it is still too early to see whether all of the aims of the Programme will be achieved, and here we primarily address the issue of the Financial Guarantee Facility and the transversal issues that are still to be addressed, what is evident is that the merger showed to be another occasion to push furthermore the competitiveness discourse in the cultural sector. The merger of two strands that was supposed to bring more synergies to the sector has not delivered fully its' promises: the announced innovative elements of the Programme such as the Financial Guarantee Facility have not yet been fully operational, while the present separation of the strands (augmented by the separation of the DGs) also contributes to the de-synergizing and widening the gap between cultural and media sectors. It is still to be seen whether the 'creativity' in the Creative Europe Programme will come about during the year of the implementation of the Financial Guarantee Facility, but for the time being it mirrors overall atmosphere of the Europe 2020 Strategy that uses the word 'cultural' just once and the word 'creative' not at all.

NOTES

[1]   If we take the data from the proposal (European Commission, 2011a) it amounts that there is approx. €59 million left for the transnational policy cooperation part of the Cross-sectoral Strand. If we take into account that there will be fixed costs for the contribution fee for the Union membership of the European Audiovisual Observatory and fixed costs for co-financing of Creative Europe Desks, this means that there is very limited funding left for achieving the very goals set under Article 8 of the Proposal for Regulation (Mercer et al., 2012: 28).

Some reflections on "Creative Europe"

Philip Schlesinger, Centre for Cultural Policy Research/CREATe, University of Glasgow

Introduction

This paper considers how creative economy policy navigates tensions between culture and economy. I have bracketed conceptual and theoretical issues concerning definitions of culture and economy, as well as wider debate about the cultural economy and how this relates to questions of identity and memory, not least because much of this territory is addressed by other CulturalBase Discussion Papers. This version has been abridged from a much longer paper. Its focus is on the EU's approach to culture. The EU's cultural competence has always been complementary to the national management, protection and promotion of culture and identity by Member States. The lodestar statement is embodied in Article 151 of the Treaty of Amsterdam 1997:

The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore. (Article 151 EC 1997)

'Unity in diversity' is routinely invoked as a key point of reference in discussions of cultural policy. A multi-level polity, the EU is a site of political compromise, and in the field of culture the subsidiary interests of the Member States limit the actions that can be pursued, as well as their scope.

For some, the slogan 'unity in diversity' 'reflects a kind of "postmodern communitarianism" designed to overcome the pitfalls of previously essentialist and Eurofederalist concepts of Europe' (Shore 2006: 21) with cultural competence seen as 'the political arm of nation-building at the European level' (Shore 2006: 19). But it is economic instrumentalism rather than identity-building that presently prevails. The pursuit of the single market – to achieve integration and harmonization across national territories – has always been in tension with the need to recognise and respect the actually existing cultural diversity of the Union (Barnett 2001).

'Creative Europe' is the framework constructed for the field of cultural policy from 2014-2020, a pragmatic label for two streams of activity kept quite distinct until 2014 – cultural programmes and audiovisual programmes. Of these, audiovisual trade is a key EU cultural policy arena (Doyle 2014; Schlesinger 1996). In the digital age, established policy frameworks are being reframed so 'what was formerly known as the audiovisual sector is now understood to be part of the global creative and digital industry' (Crusafon 2015: 96).

European policy discourse is dominated by a predominantly instrumental approach towards the economic and social benefits of culture, during the past decade wrapped in the EU variant of the fashionable language of the 'creative economy'. This overshadows an alternative framework that invokes culture for building communities within the Union that might lead to a common European identity (but certainly not one modelled on that of the nation state).

I shall first outline the range of cultural activity undertaken by the EU. Second, I shall discuss key aspects of audiovisual policy and its present implications in the context of international trade. Third, I consider how the EU developed 'cultural and creative industries' (CCIs) policy, incorporating an expressly economistic and market-oriented conception of culture.

72

Creative Europe – the brand

After it adopted the Europe2020 Strategy, and endorsed the European Agenda for Culture, the European Commission set up Creative Europe as the successor to two previously separate activity streams – the Culture Programme (2007-2013) and the MEDIA Programme (1990-2013). Under the Creative Europe brand, the EU now has a Culture sub-programme and a MEDIA sub-programme.

While 'culture' is not defined in EC law, it can be and has been used in various ways, notably as a constraint on Community action and also as a basis for market intervention, as well as action under Article 151. The broad scope of the last, Craufurd Smith (2004c: 294) observed, 'offers considerable scope for culture to be used instrumentally for political purposes'. Cultural policy is a 'contested area', in which Community intervention has occurred despite the 'strictly defined principle of subsidiarity' (Littoz-Monnet 2007: 2-3).

Culture 2000 was the first attempt to bring some coherence to a scattering of 'actions' pursued since 1992, extending the Commission's focus from high culture to popular culture. The Programme ran until 2006 'with a budget of €236.4 million dedicated to promoting a common cultural area, characterised by its cultural diversity and shared cultural heritage.' It covered the performing arts, plastic/visual arts, literature, heritage and cultural history. Its successor, the Culture Programme 'ran from 2007-2013 … with a budget of €400 million to support projects and activities designed to protect and promote cultural diversity and heritage' (European Commission 2015a). Under Creative Europe, the sub-programme is overwhelmingly rationalized in economic terms.

The challenge is … to *promote and strengthen the contribution of the culture sector* to the benefit of the European economy. (European Commission 2015a; original emphasis)

Expenditure on Creative Europe does not match the ambition. Its total budget is €1.46bn, of which over €900m has been allocated for MEDIA and nearly €500m for Culture (Crusafon 2015: 97). Weighed against the EU's total budget of €145bn (2015 prices) spending 1% on culture is small beer indeed.

The EU organizes a bevy of events, prizes and competitions, intended to raise awareness of European achievements across borders and to engender a sense of belonging to a common cultural space. These include the EU Architecture Prize, European Heritage Days, the EU Prix MEDIA, the EU Literature Prize, European Border Breakers Awards for popular music and the European Heritage Prize. These schemes have not captured major constituencies.

Best known is the now 30-year-old European Capitals of Culture (ECOC) initiative, designed to '[h]ighlight the richness and diversity of cultures in Europe; celebrate the cultural features Europeans share; increase European citizens' sense of belonging to a common cultural area; foster the contribution of culture to the development of cities' (European Commission 2015b). This is '[arguably] … the EU's most direct attempt, both practical and symbolic, to substantiate a "European cultural space"', but not in the sense of building a common cultural identity (Sassatelli 2015: 32). Rather it is intended to produce a certain buy-in to the EU as 'a European field filled with networks and more or less permanent exchanges, where "unity in diversity" is played out' (Sassatelli 2015: 36). Key questions arise about the resilience of such initiatives. How long does the after-glow of 'Europeanness' really last? How wide and deep are the networks that emerge from such moments?

The MEDIA programmes

73

Creative Europe's second sub-programme succeeded the MEDIA programmes set up in 1990, the last of which had a budget of €790m (Crusafon 2015: 97). The principal 'activities, projects, and initiatives in the European audiovisual industry' supported by MEDIA were 'training professionals; developing production projects; distributing films and audiovisual programmes; promoting films and audiovisual programmes; supporting film festivals; and promoting the use of new technologies' (European Commission 2015c). This was to counter the EU's endemic weakness relative to the US.

Some 68% of European cinema admissions are to screenings of US movies and only 25% of admissions are accounted for by European films (Crusafon 2015: 81), whereas the 'non-national European share of films (the share of all European films outside their own national territory) was only 8%' (Bjondeberg and Redvall 2015: 6). US dominance of the box office has been a longstanding object of European policy concern. Europe's marketplace remains fragmented linguistically and culturally, and the EU 'has an annual trade deficit in audiovisual services with the United States of between €6 billion and €7 billion and television content accounts for around half of this' (Doyle 2014: 311). Measures devised in response to the *défi américain* have the dual goal of developing the audiovisual single market and underpinning the circulation of European content. These programmes – with modest budgets – have been supplements to national systems of support.

Creative Europe seeks 'to strengthen the audiovisual sector, increase the circulation of European audiovisual works in and outside the EU, and to strengthen international competitiveness by targeted financial support and encouraging the use of digital technologies' (European Commission 2015c). The EU and Council of Europe's efforts have had a minor impact in developing a European single audiovisual market by stimulating new production and enhancing cross-national collaboration. Bondebjerg and Redvall (2015: 14) note that 'we are much more national and American in our cinema and television lives than we are European.' The MEDIA programmes were legatees of an attempt to devise a cultural and information space, a common identity-building message through film and television (Polo 2014: 96-97). But the importance of the economy was always firmly inscribed in the cultural project.

Borderless television

The Television without Frontiers (TWF) Directive (Polo 2014: 106) came into effect in 1991. Now known as the Audiovisual Media Services Directive (AVMS) its purpose is to ensure 'the transition from national markets to a common programme production and distribution market, and to guarantee conditions of fair competition' (OEJ 2010: 1, par. 2). Audiovisual works are regarded 'as much cultural services as they are economic services' (OEJ 2010: 1, par. 5).

The AVMS is principally focused on market liberalization and has been updated 'to reflect developments in an increasingly technologically convergent media environment' (Michalis 2010: 43). There is a 'quota' that requires broadcasters to transmit a preponderance of European content 'where practicable' for both cultural and economic purposes. Enforcement has been weak, with the quota 'a symbolic rather than substantive provision' (Doyle 2014: 214). It is not legally binding and involves no sanctions, and has not improved the EU's competitive position *vis à vis* the US (Michalis 2010). The EU's regulatory intervention in defence of screening European works by Member States' broadcasters and on-line providers is even less subject to regulation in the non-linear environment (Bustamante 2015; Regourd 2004), which may well portend future problems in the pursuit of cultural goals.

Audiovisual trade

Audiovisual policy came to the fore in 1992 during the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade (GATT). The formulation of the '*exception culturelle*' was key to the European position taken.

This centred on preventing cultural goods and services from being treated as like any other tradable commodity. France (and the EC) sought to support their film and TV sectors, and the non-material intellectual property rights embodied in the content of specific works, against the free market principles strongly espoused by the US (Regourd 2004:70; Schlesinger 1997).

For the US, audiovisual content was simply part of the entertainment industry. In France, and the European Community more generally, audiovisual production was regulated and financed in the national interest. In the Uruguay Round, the US sought to extend free trade principles to services and intellectual property rights. In the succeeding General Agreement on Trade and Services (GATS) and the World Trade Organisation (WTO) agreement in 1994, audiovisual trade was excluded from the provisions. This position has never been accepted by the US (Barri 2014; Regourd 2004).

Since June 2013, the same issues have been on the table of the Transatlantic Trade and Investment Partnership (TTIP), which involves bilateral and secret negotiations between the EU and the US in (Moody 2015a, 2015b). The liberalizing implications of TTIP have aroused strong interest group and civil society reactions across a wide range of fields. An eventual agreement would cover 40% of global GDP, encompassing all Creative Europe's sectors.

The EU's negotiating stance has reaffirmed the importance of cultural diversity and of the cultural and creative industries (CCIs) as 'one of the continent's most dynamic sectors, employing some five million people that contributes around 2.6% of the EU's GDP' (European Commission 2014: 1). The CCIs officially include: performing arts, visual arts, cultural heritage, film, television & radio, music, book publishing, press, video games, new media, architecture, advertising, graphic & fashion design.

Following the UNESCO General Conference's adoption in October 2005 of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 'cultural diversity' has taken centre stage for the EU and has dislodged the cultural exception. The EU is obliged to take 'cultural aspects' into account by the Treaty on the Functioning of the European Union, Article 167 (TFEU 2012). The UNESCO (2005) Convention has therefore been invoked in TTIP negotiations on trade v culture as legally binding the EU 'to promote cultural diversity' (European Commission 2014: 2-3).

But the Convention does not override the treaty obligations of states, so how it can be used to affect negotiations over cultural markets will depend not on the acuity of negotiators but more crucially on the balance of forces. Pressures inside the EU from various economic interests since the TTIP negotiations began in 2013 have been unrelenting, and confidence in the EU negotiators seems low. The public domain is characterized by doubts and suspicions of the EU's negotiating stance, with considerable scepticism also in the European Parliament.

Relatedly, in a report by Mario Monti in 2010, far-reaching recommendations were made 'for creating a seamless regulatory space for electronic communications', to 'end the fragmentation of EU consumer legislation' and 'for an EU copyright law, including an EU framework for copyright clearance and management' as well as 'a legal framework for EU-wide online broadcasting' (Monti 2010: 46). Changes proposed for the regulation of communications infrastructure would be preconditions for the circulation of cultural content; and moreover, changes in copyright have far-reaching implications for returns to creators and how markets are structured. Presently, it remains to be seen how moves to develop the Single Digital Market will play into international cultural trade.

75

At the start of his mandate, in July 2014, President Juncker made the DSM his second priority. The creative economy is deeply intertwined with the envisaged future of the digital economy, and seen as a major force for change (European Commission 2015d). In relation to Creative Europe, the incoming Juncker Commission decided to move MEDIA funding from DG Education and Culture to DG Communications Networks, Content and Technology, linking it to plans for the Digital Economy and Society. Creative Europe's Culture sub-programme, however, remained under the aegis of DG Education and Culture. This might well undermine the fragile coherence of the overall cultural policy.

The 'creative economy' and the EU

Creative Europe's tagline is 'Supporting Europe's cultural and creative sectors' (CCS), but it is 'creativity' that looms largest in the title. Key moves in the reshaping of EU policy thinking warrant attention. The position taken by the UK's Department for Culture, Media and Sport (DCMS) became a recurrent focus of creative industries thinking, with influence both in Europe and globally. Aside from proposing individual creativity, skill and talent, wealth and job creation, and intellectual property as the linchpins of its approach, the DCMS designated 13 sectors as 'creative industries'. The strategy of aggregation of sectors created a policy object, an approach followed elsewhere, even if the precise descriptions used have varied from place to place (Department for Culture, Media and Sport 1998: 3).

The creative industries turn displaced and relegated the prior idea of the 'cultural industries', understood as 'primarily involved in the mass production, circulation and consumption of symbolic texts' (Oakley and O'Connor 2015: 10; cf. Hesmondhalgh 2007). The dominant view of the creative economy emphasizes the economization of culture, and its interconnection with the information society or digital economy (Garnham 2005), stressing the tradability, exploitation, and commodification of culture.

The successor idea to the creative industries is the 'creative economy'. This idea also lays emphasis on intellectual property and its key role in 'the global battle for comparative advantage' (Howkins 2001: 79). The prime case for taking creativity seriously is its economic dimension and that it should be regarded as 'a substantial component of human capital' (Howkins 2001: 211). A substantial academic literature now addresses the creative economy. Most is either advocacy or the application of increasingly orthodox ideas. But a growing critical response is now available in several languages.

Not all EU Member States have taken up the creative economy cause with equal enthusiasm. But the European Commission has been won over to its usefulness. The creative and cultural industries (CCIs) are at the heart of the European Agenda for Culture, part of the framework of the EU's Lisbon strategy for jobs and growth set out in March 2000. In May 2007, the European Council endorsed the role that the CCIs might play in supporting the Lisbon Strategy and in April 2008, the European Parliament welcomed the Council and Commission's recognition of the importance of culture and creativity for the European project.

The Economy of Culture in Europe, a report commissioned by the Commission in 2006, was a scene-setter for the EU's 'creative turn' (KEA European Affairs 2006). Another major contemporary reference point has been the UNCTAD (2008) *Creative Economy* report, and its successor versions in 2010 and 2013, which set the frame for much subsequent global debate.

By 2009, the issue was how to marry creativity with innovation policy and to '[b]rand Europe as the place to create' (KEA European Affairs 2009: 9), along with establishing new programmes, institutions and regulatory frameworks to support 'creative and cultural collaboration' (2009: 9). 2010 saw publication of a Green Paper (European Commission 2010) that was an *omnium gatherum* of what CCIs

76

might do for economic development. The Green Paper pointed forward to the subsequent strategic concern with the 'digital economy' (European Commission 2010: 8).

The creative policy turn has not produced uniformity of thinking inside the EU, but it has impacted on how culture is thought about in policy-making circles. National differences, though, persist about what to include and exclude in the creative economy. The categorization of creative industries is linked to measurement, of growing importance for the global governance of the creative economy. By 2012, the question of how to measure the CCIs was firmly on the EU agenda. Innovation policy was also adjusted to include 'smart specialization strategies' sensitive to the creative economy, with work under way on 'a set of indicators, to measure policies focusing on local economic development through CCIs' (KEA 2012: 3). The European Parliament (European Parliament 2012: 9) considers culture as not merely 'a sector but a resource' that might enhance EU social and economic development (European Parliament 2012: 10, 15).

Concluding remarks

Cultural policy has been harnessed to economic purposes but also to variously building identity, citizenship and community. Creative economy thinking has given current EU strategy an emphatic economic orientation, in line with enhancing the Union's competitive position in international trade. This has required a shift from supporting a cultural exception to embracing the cultural diversity of expressions. Making an appeal to cultural defence – on one ground or another – for what is also, an economic (and social) strategy is unavoidable. However, the EU's formal framework, Creative Europe, disposes of modest means to achieve the cultural ends sought because the EU is boxed in by the requirements of subsidiarity in this field and significant policy differences between Member States.

The twenty-year-old discourse on 'creativity' is now increasingly interconnected to the present fixation on the digital economy. Looking ahead, how the Digital Single Market policy is pursued, as well as the outcomes of the TTIP negotiations – in respect of intellectual property and the digital distribution of cultural content – will be of major significance for the EU's future as a cultural actor.

77

More Food for Thought

- EDUCULT (2015): Access to Culture - Policy Analysis. Final Report. URL: http://educult.at/wp-content/uploads/2013/04/Final_Report_Print.pdf

- Differing diversities - transversal study on the theme of cultural policy and cultural diversity by Tony Bennett: http://www.culturenet.cz/res/data/004/000541.pdf

- More: www.culturalbase.eu

In French : Guy SAEZ, Jean-Pierre SAEZ, dirs, *Les nouveaux enjeux des politiques culturelles. Dynamiques européennes,* Paris, Éd. La Découverte, coll. Recherches/Territoires du politique, 2012, 398 pages, Monique Jucquois-Delpierre: http://questionsdecommunication.revues.org/9395

Links available on the Internet on 24 May 2018

ORAL TRANSMISSION AS INTANGIBLE CULTURAL HERITAGE

Introduction

Cultural heritage is in a sense a relatively new concept related to the construction of nations and the development of a national identity. The preservation of this heritage is therefore essential to ground a common history and a sense of belonging[17]. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), cultural heritage[18] can be classified in three main categories: tangible cultural heritage (monuments, sites, manuscripts, paintings, sculptures…); intangible cultural heritage (oral traditions, performing arts, rituals…) and natural heritage (cultural landscapes, physical, biological or geological formations). The protection of the world's tangible cultural heritage has been at the heart of UNESCO's activities since 1954[19] with its first convention on the *Protection of Cultural Heritage in the Event of Armed Conflict*[20] in the reaction to the Second World War global massive destruction. Three essential conventions have followed[21] always emphasising the tangible aspect of cultural heritage, a feature which can also be observed in the European Union actions (European Heritage Label[22], Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State[23]). On the other hand, preserving intangible cultural heritage has been through a slower process due to its form, which is often not fixed (experience, practice, crafts…) and can also be transformed by its transmission from a generation to another[24]. Traditional music and oral transmission are considered to be part of our intangible cultural heritage. According to UNESCO, there should be regulations to preserve them as unlike modern music (written, recorded music), they have not been fixed on a material medium. Ronald J. Inawat in the chapter on *Music as Cultural Heritage: Analysis of the Means of Preventing the Exploitation of Intangible Cultural Heritage* presents how the approach of UNESCO has evolved in the means of protecting music as intangible heritage. Whereas Dr. Martina Mai Li in her Master thesis *Traditional Music as "Intangible Cultural Heritage" in the Postmodern World* explores different (here aesthetic and political) aspects justifying or not the preservation of such a practice.

---

[17] *Le patrimoine culturel, instrument de la stratégie de légitimation de l'Union européenne.*
[18] http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/unesco-database-of-national-cultural-heritage-laws/frequently-asked-questions/definition-of-the-cultural-heritage/
[19] The Interdependency of the tangible and intangible cultural
[20] http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/convention-and-protocols/1954-hague-convention/
[21] The *Convention on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property* (1970), the *Convention on the Protection of the World Cultural and Natural Heritage* (1972), and the *Convention on the Protection of the Underwater Cultural Heritage* (2001)
[22] https://ec.europa.eu/programmes/creative-europe/actions/heritage-label_en
[23] Chapter 7.1 of *Mapping of Cultural Heritage actions in European Union policies, programmes and activities* http://kultur.creative-europe-desk.de/fileadmin/2_Publikationen/2014-heritage-mapping_en.pdf
[24] See definition of the 2003 UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage*

4.1 The John Marshall Review of Intellectual Property, Music as Cultural Heritage: Analysis of the Means of Preventing the Exploitation of Intangible Cultural Heritage – Ronald J. Inawat

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff. Report Presented to the Faculty of the Graduate School of The University of Texas at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music The University of Texas at Austin May 2013

4.1

[14:228 2015]   Music as Cultural Heritage: Analysis of the Means of   229
Preventing the Exploitation of Intangible Cultural Heritage

MUSIC AS CULTURAL HERITAGE: ANALYSIS OF THE MEANS OF PREVENTING
THE EXPLOITATION OF INTANGIBLE CULTURAL HERITAGE

RONALD J. INAWAT*

I. INTRODUCTION

Music is deeply rooted in any culture. As an example, take a look at significant moments in today's culture in America. Can you imagine a graduation ceremony without the background music of "Pomp and Circumstance?" And what would a wedding be without the bride walking down to Wagner's "Bridal March?" Everyday use of music goes beyond the classical realm. What 7th inning stretch would be complete without a pipe organ version of "Take Me Out to the Ballgame?" And Queen's "We are the Champions" seems to always be on hand whenever a team wins any major championship. Music can even surround a time of year or describe a decade of questionable fashion: Christmas time with "Jingle Bells," the 70's with Bee Gee's "Stayin' Alive," and for some of us, senior year of high school with Green Day's "Good Riddance (Time of Your Life)." Just these few examples illustrate several facets of our modern day American culture. In fact, one could look to any aspect of life and probably attach a song or tune to that experience.

Music, although not a "physical" item, has as much importance to describing a culture as its physical counterparts, such as paintings, sculptures, and funerary objects, not only in modern times, but in the past as well. Music acts almost in a way opposite to language. As language creates a barrier to one understanding a culture, music is about opening up and welcoming people.[1] Traditional music of cultural groups welcomes complete strangers into their cultures and ways of life. Take, for example, the Kotas, a group indigenous to the Nilgiris mountain range in India. The Kotas have a religious ritual called *Devr*, a 12-day celebration of winter's first crescent moon.[2] On the first day a ceremony known as *omayn* begins the festivities with a style of entrance music: unison blasts from the *kob* (a native bass instrument) accompanied with flutes and drums playing the same tone, exemplifying *omayn* meaning - "sounding as one."[3] The intent of the music is an invitation to the gods, welcoming them to enter the

[1] ELENA MANNES, THE POWER OF MUSIC 112 (Walker & Company, 2011).

[2] Daniel J. Levitin, *The World in Six Songs: How the Musical Brain Created Human Nature*, 206 (Dutton Adult 2008).

[3] *Id.*

village.[4] Following the opening ceremony, the next 12 days revolve around the use of music in their everyday activities, ranging from baths to food gathering.[5] The music played in these instances may not have much meaning when played out of context, but in the context of the celebration, give important insights of a culture paying respects to a higher power.

In addition to music's use in traditional ceremonies, music at its original core was used to convey information and share emotion. Cultures often use music to describe a moment or feeling that cannot be explained with mere words. The *Ami* people, Taiwan's largest surviving indigenous tribe[6] transcribe much of their culture's history through chant and oral traditions because their language cannot be transcribed in written form. One chant that has become part of recent legal history was an Ami traditional song that describes the emotion of Joy, appropriately titled "Song of Joy."[7] In some African cultures, a chant alters depending on the time and place that it is sung.[8]

These are just a few of the examples of how music is engrained in the lives and cultures of a group of people. To exploit this type of music would not simply be the theft of musical notations and sounds, but it would be the misuse of a cultural artifact. Such an artifact should be given just as much, if not more, protection as a tangible artifact. Yet historically, musical heritage is not given as much protection as its physical counterparts (paintings, sculptures, funerary objects, act.), both internationally and domestically.

This article addresses the unsettled issues of whether and how intangible cultural heritage such as traditional and folklore music should be protected by law. It delves into the failed attempts by both international and domestic law at protecting intangible cultural heritage, the role of acknowledging and recognizing a culture's contribution through documentation and inventory in preserving that culture, and ways to preserve such intangible cultural heritage through U.S. Copyright law.

II. ANTI-EXPLOITATION HISTORY OF INTANGIBLE CULTURAL HERITAGE

There are many policies, international and domestic, that seek to prevent the exploitation of various types of intangible cultural heritage, mainly traditional music and folklore. There are two main goals behind laws preventing exploitation of intangible cultural heritage: to "preserve" the cultural heritage, traditions, and integrity of a culture; or to "protect" the owner's ability to use and benefit from the created work. Each purpose is completely viable, but as will be shown, each attempt at preventing exploitation has its flaws or loopholes.

---

[4] *Id.*

[5] *Id.*

[6] Angela R. Riley, *Recovering Collectivity: Group Rights to Intellectual Property in Indigenous Communities*, 18 Cardozo Arts & Ent. L.J.175, 175 (2000).

[7] *Id.* at 176.

[8] MANNES, s*upra* note 1, at 116–118.

4.1

[14:228 2015]   Music as Cultural Heritage: Analysis of the Means of   231
               Preventing the Exploitation of Intangible Cultural Heritage

A. Preserving the Culture

On one side of the issue is preservation. As defined by Webster's dictionary, preservation refers to the ability "to keep alive or in existence."[9] The following laws focus on ensuring that the culture itself continues to live on.

1. UNESCO

The policies regarding intangible cultural heritage set forth by the United Nations Educational, Scientific and Cultural Organization (UNESCO) focus heavily on cultural preservation, noting that "cultural heritage is of great importance for all peoples of the world." Under UNESCO, "preservation" refers to "the safeguarding of and respect for cultural property" during times of peace.[10] This "preservation" is accomplished in various ways, ranging from simple acknowledgment[11] to funding[12] to granting in-person assistance.[13]

The application of UNESCO's provisions on preservation is best exemplified by the International Committee of the Blue Shield (ICBS). Founded in 1996, the ICBS was formed by a group of international heritage organizations in response to UNESCO's Convention for the Protection for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention, more commonly known as the 1954 Hague Convention. The ICBS works to give world cultural heritage "protection from attack in the event of armed conflict."[14] Examples of the work they have done range from implementing programs to assist military personnel in the training and dissemination of cultural property, as done with U.S. military in 2008,[15] to issuing statements to governments urging for the preservation and safety of cultural property, as done in Libya in early 2011.[16]

---

[9] "Preservation" *Merriam Webster's Collegiate Dictionary* 922 (10th ed. 1994).

[10] Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention, ch. 1 art. 2. May 14, 1954, http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html (last visited May 14, 2012) (hereinafter "Hague Convention").

[11] *Id.* at art.4–6 (recognizing its existence to bearing distinctive emblems to facilitate recognition).

[12] Convention for the Safeguarding of the Intangible Cultural Heritage, ch. 6 Oct. 18, 2003, http://portal.unesco.org/en/ev.php-URL_ID=17716&URL_DO=DO_TOPIC&URL_SECTION=201.html (last visited April 15, 2012) (hereinafter "2003 Convention"). Chapter 6 focuses on the establishment and distribution of the Intangible Cultural Heritage Fund.

[13] *Hague Convention*, *supra* note 10, at ch. 2.

[14] BLUE SHIELD INTERNATIONAL, http://www.ancbs.org/cms/en/about-us (last visited May 17, 2012). The Blue Shield's website states that "The Blue Shield is the cultural equivalent of the Red Cross. It is the protective emblem specified in the 1954 Hague Convention (Convention for the Protection of Cultural Property in the Event of Armed Conflict) for marking cultural sites to give them protection from attack in the event of armed conflict. The Blue Shield network consists of organizations dealing with museums, archives, audiovisual supports, libraries, as well as monuments and sites."

[15] Dick Jackson, *Cultural Property Protection in Stability Operations*, 2008 Army Law. 47 (2008).

[16] Zoë Howe, *Can the 1954 Hague Convention Apply to Non-State Actors?: A Study of Iraq and Libya*, 47 Tex Int'l L.J. 403, 424 (2012).

Unfortunately, the ICBS is limited by the definitions listed in the 1954 Hague Convention, which focuses protection on mainly tangible objects: moveable or immovable property of great importance to cultural heritage, buildings whose purpose is to preserve or exhibit movable cultural property, and centers containing large amounts of cultural property.[17] In fact, UNESCO did not officially recognize the idea of intangible cultural heritage, also known as "folklore," until the 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore (hereinafter "the 1989 Recommendation").[18] In the 1989 Recommendation, UNESCO set forth the parameters of what needs to be preserved, defining "folklore" as "the totality of tradition-based creations of a cultural community expressed by a group or individuals and recognized as reflecting the expectations of a community in so far as they reflect its cultural and social identity."[19] In addition, UNESCO gave recommendations on how to preserve such folklore: design inventory systems of intangible cultural heritage, introduce formal and out-of-school curricula to emphasize respect for folklore, and promote scientific research relevant to folklore preservation.[20] After the 1989 Recommendation, UNESCO did not create specific programs regarding intangible cultural heritage for another three years, with the "Intangible Cultural Heritage" programme in 1992 and the "Living Human Treasures" project in 1993.[21]

UNESCO's desire for world recognition of artists and creators of this type of heritage seemed to be more recommendation rather than practice at the time; more care and media coverage was—and arguably is—given to tangible artifacts.[22] In 2003, much was said about the looting of Iraq's tangible cultural heritage, such as the artifacts taken from the Iraq National Museum, the rich National Library, and the Modern Art Museum.[23] But, little to no effort was made to prevent the destruction of intangible artifacts such as the sound recordings of ceremonial music recorded from the Centre for Traditional Music of Baghdad.[24] Given UNESCO's definition of protection (the safeguarding of and respect for cultural property);[25] one would believe that equal care should be given to all forms of cultural heritage. In practice, though, this could not be further from the truth. Inquiries for developing inventories and recovering the loss, through either looting or destruction, of 850 or more tapes of documented field surveys of oral music were left unanswered by UNESCO's Deputy Director of Culture, all while priority was given to recovering and discussing the tangible artifacts lost from the museums and libraries in Baghdad.[26]

---

[17] *Hague Convention*, *supra* note 10, at art. 1.

[18] Noriko Aikawa, *An Historical Overview of the Preparation of the UNESCO International Convention for the Safeguarding of the Intangible Cultural Heritage,* 56 MUSEUM INT'L 137, 138 (2004).

[19] The General Conference of the United Nations Educational, Scientific and Cultural Organization, Paris, France, Nov. 15, 1989 *Recommendation on the Safeguarding of Traditional Culture and Folklore* 238, 239 (Hereinafter "1989 Recommendation").

[20] *Id.* at 240–41

[21] Aikawa, *supra* note 18, at 139.

[22] Aikawa, *supra* note 18, at 140.

[23] Scheherazade Hassan, *Non-Assistance to Endangered Treasures On the Center for Traditional Music in Baghdad*, 24 JOURNAL OF ETHNOMUSICOLOGY 189, 189-90 (2011).

[24] *Id.*

[25] *Hague* Convention, *supra* note 10.

[26] Hassan, *supra* note 23, at 201–02.

4.1

[14:228 2015]   Music as Cultural Heritage: Analysis of the Means of   233
                  Preventing the Exploitation of Intangible Cultural Heritage

UNESCO has since made moves to help with the preservation of intangible cultural heritage. In 2003 in Paris, France, UNESCO adopted the Convention for the Safeguarding of the Intangible Cultural Heritage (hereinafter the "2003 Convention"). The 2003 Convention specifically defined the term "intangible cultural heritage" as "the practices, representations, expressions, knowledge, skills—as well as instruments, objects, artifacts and cultural spaces associated therewith—that communities, groups, and in some cases, individuals recognize as part of their cultural heritage."[27] Additionally, UNESCO further cited specific examples of intangible cultural heritage: oral traditions and expressions, performing arts, rituals, traditional knowledge, and traditional craftsmanship.[28] As well as establishing what needs to be protected, the 2003 Convention converted the suggestions on preservation noted in the 1989 Recommendation into requirements; it established an intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage,[29] required scientific studies for safeguarding intangible cultural heritage,[30] established the intangible cultural heritage fund to assist in all future programmes,[31] required reasonable endeavors in education and raising awareness of intangible cultural heritage,[32] and established the need of international cooperation for these provisions to reach the goal of cultural preservation.[33] Most importantly, the 2003 Convention emphasized the need for documentation in the preservation of intangible cultural heritage, requiring the establishment or updating of intangible cultural heritage inventories[34] and publishing a representatives list as well as areas in where urgent safeguarding of intangible cultural heritage is needed.[35]

Unfortunately, strong suggestion and application are two separate things. The application of UNESCO's suggestions is attainable, but has its share of difficulties. The establishment or updating of such inventories is a long and arduous process.[36] Additionally, there could be prejudices in creating such lists, ranging from the views of the political party in power at the time to the issues that are more newsworthy.[37] And lastly, based on certain cultural beliefs, there may be cultural communities that do not wish for their information and rituals be publicized.[38] Difficulties such as these have made the establishment of such inventories difficult to create and maintain.

---

[27] 2003 Convention, *supra* note 12, art. 1.

[28] 2003 Convention, *supra* note 12, art. 2.

[29] 2003 Convention, *supra* note 12, ch. 5.

[30] 2003 Convention, *supra* note 12, art. 13(c).

[31] 2003 Convention, *supra* note 12, arts. 25–28.

[32] 2003 Convention, *supra* note 12, art. 14.

[33] 2003 Convention, *supra* note 12, arts. 19–24.

[34] 2003 Convention, *supra* note 12, art. 12.

[35] 2003 Convention, *supra* note 12, arts. 16-17.

[36] Erin K. Slattery, Lead Article, *Preserving the United States' Intangible Cultural Heritage: An Evaluation of the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage as a Means to Overcome the Problems Posed by Intellectual Property Law*, 16 DEPAUL-LCA J. ART & ENT. L. & POL'Y 201, 245 (2006).

[37] *Id.* at 246–47.

[38] *Id.* at 248–49.

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

Chapter 3:   Traditional Music as Intangible Cultural Heritage

Just as TCEs are preceded by the term "folklore," the concept of "traditional music" is preceded by the term "folk music and dance." Traditional music, without a widely accepted definition, encompasses a broad range of music that was developed independently of music industries. Simply put, traditional music is for the most part what modern music is not, especially in terms of the processes of its production, practice, and distribution. The particularities of traditional music are worth discussing apart from other forms of ICH. Traditional music, as a cultural practice, is a cultural element in a traditional way of living based on pre-modern economy and social relations. Its source of survival, namely, the pre-modern cultural, social and economic context, has been rapidly disappearing since the advent of industrialization. The vulnerability of traditional music is caused by changes in both financial and social conditions. Whereas the breakdown of the traditional patronage system substantially affects the livelihood of the court and elite musicians, the replacement of rural social relations with the urban way of living turned rural farmers into migrant workers, disrupting the social context in which folk music is performed. Further, in contrast to most other forms of cultural heritage, traditional music is a *social* practice that features performing events shared among the performers and the audience at the same point in time and space. With recent continuous technological innovation, musical sounds have been separated from its social setting and instead turned into cultural goods. This damages the performative nature of traditional music as a social event. At the same time, the dominance of recording industries in shaping the music listening experience in daily lives, diminishes the attendance at live music concerts and social events. The commercial use of traditional music sounds in creating new cultural products also disguises the fact that traditional music in its original nature is disappearing. In addition, no consensus has yet been achieved in

22

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

terms of the necessity of maintaining and safeguarding traditional music. Although the existing literature and the practice of UNESCO's intangible cultural heritage program, as discussed above, suggest multiple factors that have been used to justify the preservation of traditional music in contemporary life, none of these has proven to be universally applicable. One justification for safeguarding traditional music pertains to its aesthetic value, especially in the case of traditional court music. Major proponents for this justification include scholars of music aesthetics and the masters of traditional music. A second justification emphasizes the identity, or the sense of a unique national or ethnic self that is embodied in traditional music. This identity is important because it can be used to claim the "lost identities" resulting from the hegemony of popular music as standardized cultural products. This conceptualization is embraced by a broad range of nation states and individuals–especially those in the "non-Western" world–who attempt to claim a shared, but distant and romanticized, past that was twisted by colonial history. Needless to say, while such identity provides an imagined sense of belonging that compensates a somewhat melancholic sense of loss among the "older" generation in the presence of the rapid changes in life accelerated by constant technological innovation, it also provides a platform for production and consumption of the commercialized, romanticized, and "exoticized" cultural goods as manifested in cultural tourism and world music recording industries. Therefore, the political nature of this identity-based justification, together with its commercial appropriation, is quite often contested by scholars and musicians who emphasize the aesthetic values of the traditional music in question. A third justification for safeguarding traditional music is grounded upon the ideal of cultural diversity, which intends to seek cultural peace through intercultural dialogue. These are the major concerns of UNESCO, demonstrated in its 2003 and 2005 Conventions (the former on safeguarding intangible cultural heritage, and the latter on promoting cultural diversity). UNESCO's

23

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

conceptualization of cultural diversity, regardless of its good intention, is nevertheless open to unexpected interpretations. On the one hand, its definition of cultural diversity,[17] though specified, does not preclude a Montesquieuan imagination of the "divided unity" (Leonard 2005, 81-82) achieved through essentialized national and local representations.[18] Such an imagination tends to set clear-cut boundaries between the essentialized cultural identities embodied in a particular cultural expression, and therefore, serves as the basis for cultural conflicts. On the other hand, cultural diversity is often interpreted to be the cultural counterpart of biodiversity (UNESCO 2001).[19] This view perceives culture and nature as two similar realms built upon the same mechanism. It has served as the major rationale for the cultural and natural conservation projects since the 1970s, which have usually been led by environmentalists and indigenous activists (Perlman 2011, 119-121). There is even a strand of thought that legitimizes the necessity of preserving traditional music by conceiving of it as the building blocks for "new music" through digital sampling and synthesizing.

To what extent can the various justifications listed above be employed in order to maintain the livelihood of traditional music? How do these justifications relate to each other? It seems that each justification embodies a different perspective informed by a unique value. How can the conflicts between these values be mediated? Is there a universal justification that can possibly pull together all the stakeholders? To better articulate the conflicts in value among the different groups interested in traditional music in contemporary society, I frame various contemporary uses of traditional music into the following four dimensions.

24

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

AESTHETIC DIMENSION: TRADITIONAL MUSIC AND MUSICIANSHIP

The aesthetic value of traditional music as a fine art has been the focus of scholarly attention, especially among musicologists and ethnomusicologists. This focus closely relates to the established supremacy of high arts, which features refined musicianship exemplified in Western classical music. Demonstrated by the institutionalization of music studies in Europe and North America, the supremacy of high arts was widely accepted in postcolonial countries during the process of modernization. Revolving around the musical genius of an individual, musicianship is defined by technical and aesthetic aspects such as composing techniques, performing techniques, the mastery of the human voice or a particular instrument, and the expressive quality of a musical work or a musical performance. Many non-Western musical arts draw Occidental attention because of their aesthetic qualities. UNESCO's *Proclamations of Masterpieces of the Oral and Intangible Heritage of Humanity* (2001, 2003, 2005) are examples of validating non-Western traditional music from the aesthetic perspective, driven by the ideology of cultural egalitarianism. According to UNESCO, the aesthetic achievements of the proclaimed masterpieces, as well as the identities they embody, carry equal importance to those of Western high arts. The tradition bearers, in this case the "masters of traditions," therefore, become symbols of national identities, a glory based on musical talents. The emphasis on individual genius and musical aesthetics common in Western music history scholarship was applied to the evaluation of the applications for the masterpieces. In that sense, traditional music, as the masterpieces of intangible heritage, runs the risk of being reduced to individual artistic achievement, which is considered to be the embodiment of the essence of a particular identity. Since the aesthetic validation of traditional music mainly concerns the aesthetic aspects and the individuality of the musicians, it unintentionally leaves out the extra-musical aspects of traditional music. Therefore, the aesthetic justification for

25

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

safeguarding traditional music is only shared among high art connoisseurs, and hence does not have universal relevance. In relation to the previously examined literature, the focus on the aesthetic dimension of traditional music accords with the "Authorized Heritage Discourse (AHD)" as discussed by Smith and Akagawa (2009).

It follows that the conceptualization of cultural diversity in the case of traditional music, if using the aesthetic perspective, would be marked by diversity in musical instruments and aesthetics. Likewise, the transmission of traditional music, from the aesthetic perspective, would be concerned primarily with the traditional instruments and the transmission of performance techniques passed down from the master musicians. This rationale is illustrated by the earlier trajectory of scholarship in ethnomusicology, which focused on musical analysis and the personal engagement of the ethnomusicologist with the aesthetics of non-Western traditional music. Without immediate links to the social and economic context of the non-Western societies, the aesthetic focus emphasizes musical exchange between individuals, usually individual musicians, and therefore, appears to be blind to the relationship between traditional music and the political agenda of the people in the non-Western world. Nevertheless, the aesthetic appreciation of non-Western traditional music generates both scholarly attention and market demand for traditional music concerts within the circle of music connoisseurs. In that sense, the aesthetic validation of traditional music in contemporary society does contribute to the aesthetic sustainability of traditional music.

POLITICAL DIMENSION: TRADITIONAL MUSIC AND IDENTITY–BETWEEN THE PAST AND THE PRESENT

By political dimension, I mean a space where traditional music is used to empower or disempower an individual or group for political purposes based on various ideologies. In this space, traditional music is often invoked to symbolize an imagined past to serve

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

current political needs. In contrast to other forms of intangible cultural heritage, traditional music as an icon of the past does not take a fixed form due to its performative nature. The fluidity of traditional music, together with its straightforward communicative and expressive nature, allows it to be used as an effective prompt for sonic imaginations that go beyond the music itself. Based on lived experience, these sonic imaginations vary from individual to individual, from time to time, and from place to place. Oriented by a particular political agenda, the traditional music in question can take multiple meanings at the same time. Simultaneously expressive, provocative, emotional, and political, traditional music carries the unique potential to generate a sense of solidarity because it sonically reconciles the different life experiences that the listeners have through the musical elements that collectively signify a particular shared meaning among the listeners. This process is realized through the association between musical sounds and meanings. For those who are familiar with a particular musical sound, a collective identity can be generated; vice versa, for those who identify themselves with a particular group of people, they can claim the identity by imitating the music that the group of people collectively play. It is by playing the game of musical association that individuals and groups align with each other to achieve a shared political goal. That is why folk songs that describe the peacefulness of pre-war lives were often used during the time of war to generate solidarity by affirming the shared memory of the past. In other situations, traditional music serves as a bridge to the past from the present and generates a sense of continuity by being musically connected to a perceived cultural root. A case in point is music nationalism, which uses traditional music to claim nationhood, the essentialized national identity. Identity as such is determined by one's national origin and is, in most cases, a racialized one.

The notion of nationhood not only serves as a vehicle for national mobilization to fulfill national agendas, but also constitutes the fundamental element of an "international

27

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

grid" based on the politics of representation. In connection with nation building in the global economy, traditional music becomes a key element for cultural imaging of nation states on the international stage. Ironically, the internal heterogeneity of each nation state does not allow a universal embodiment of nationhood. Nationhood, as the carrier of an essentialized, hence imagined, national identity, does not take a fixed shape. Instead, as the outcome of political negotiations among the regional and local groups based on changing power relations, nationhood is a constantly contested space. Similarly, traditional music, which is quite often used to define a national music, has been continuously appropriated and adapted for political reasons to reflect the power negotiations both within and between nation states. The birth of the official "Chinese traditional music" during Mao's China is a typical example of the latter. Combining traditional Chinese instruments with Western musical aesthetics, especially the aesthetics of musical composition and instrumentation, the Chinese nationhood is translated into musical modernity.

In addition to music nationalism, traditional music is also widely used by immigrants and diasporic communities, in combination with the music of the host location, to claim a hybrid identity. The cultural displacement caused by immigration and migration situates the immigrants and diasporic communities in a status of liminality. Whereas their native living experience equips them with a different perspective to gaze at and participate in the daily life in the host location, they cannot interact with local communities on a shared cultural basis. Straddling an unconnected past and an inserted present, they need hybridized cultural expressions to articulate their unique identities in order to contest the hegemony of the local culture. In addition, as minorities the immigrants and diasporic communities have to actively seek support from those with similar cultural backgrounds to mobilize resources for self-empowerment. In that sense, the practice of traditional music can consolidate the shared identity among various immigrant groups and diasporic

28

4.2 Traditional Music as "Intangible Cultural Heritage" In the Postmodern World by Mai Li, B.Eco.; M.P.Aff.
Report Presented to the Faculty of the Graduate School of The University of Texas
at Austin in Partial Fulfillment of the Requirements for the Degree of Master of Music
The University of Texas at Austin May 2013

communities by affirming and reinforcing a shared past. However, immigrants and diasporic communities are scattered and are usually composed of people from various regions in their homeland. As a result, the traditional music practiced and shared among immigrants and diasporic communities has to be adjusted to accommodate the regional differences that exist within the communities. Peter Manuel, in his article on the construction of Indo-Caribbean "local classical music," demonstrates how a new diasporic tradition, *tan-singing*, is consciously and creatively constructed by the diasporic communities through synthesizing folk and classical elements as well as pan-regional and vernacular elements that were previously distinct from each other. As such, this new diasporic tradition forms a coherent and fluid intermediate genre that breaks from the previous classification. Manuel suggests that such idiosyncratic synthesization and re-articulation of the previously discrete elements reflects "the fluid relations" between the "traditionally classified in terms of 'Great' and 'Little Traditions' and the richness of cultural practices which straddle them and problematize their conceptualization as dichotomous entities" (Manuel 2000, 98).

The examples above suggest how the identity embodied in traditional music can be generated and reinforced via symbolic politics. In the case of music nationalism, it is the ideology of nationhood that consolidates a nation's power in undertaking national initiatives. In terms of immigrants and diasporic communities, the shared ideology, rather than being imposed by the national governments, is grounded upon the shared social status of minorities in the host country. Their common disadvantage pushes immigrants and diasporic communities to actively crystalize their shared minority identity through practicing a synthesized version of traditional music. As a cultural expression, the synthesized traditional music provides a space for the minority communities to articulate their distinctive identity. As a resource for social mobilization, the synthesized traditional

29

music becomes a source of political empowerment. In fact, identity formation is a form of interest alignment based on a political project. Therefore, it has a fluid nature. Whenever the political project is completed, the basis of the formed identity dissolves, as does the music used to symbolize the identity. The conception of fluidity in traditional music is confirmed by the literature examined earlier regarding the fluidity of intangible cultural heritage, which is conceptualized as "means for asserting power and retaining its place" (Abungu 2012, 56) as "a performative act and the tools…in the process of authentication or validation" (Cummins 2012, 31) and as "a space of constant negotiation between the past and the present" based on the "politics of erasure and transformation" (Alivizatou 2012b, 15).

Since identity is strategically formed as a response to emerging political needs, the essentialized identity based on self-determination runs the risk of promoting separatism and generating cultural conflicts and violence. Therefore, essentialized understanding of identity should be avoided. In terms of cultural diversity, it seems that the identity politics as reflected by the two musical examples above generated a variety of new forms of musical expressions. In that sense, the political use of traditional music *does* contribute to the maintenance of cultural diversity as defined by UNESCO.

More Food for Thought

- Report on Culture Heritage in China:
https://www.researchgate.net/publication/286125125_Report_The_Rise_and_Implementation_of_Intangible_Cultural_Heritage_Protection_for_Music_in_China

- Text of the Convention for the Safeguarding of the Intangible Cultural Heritage UNESCO:
https://ich.unesco.org/en/convention#art2

- Publication on Cultural Heritage, which will be published around Summer 2019 by the publication Transposition - musique et sciences sociales: https://journals.openedition.org/transposition/
- Intangible Cultural Heritage: The Living Culture of Peoples - Federico Lenzerini:
https://academic.oup.com/ejil/article/22/1/101/436591
- The interdependency of the tangible and intangible cultural heritage - keynote address par Mounir Bouchenaki, ICOMOS General Assembly:
https://pdfs.semanticscholar.org/baa9/83afa9412875f7732ac1652d4834b5ea854a.pdf
- Special Eurobarometer 466 - Survey requested by the European Commission, Directorate-General for Education, Youth, Sport and Culture and co-ordinated by the Directorate-General for Communication:
http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/ResultDoc/download/DocumentKy/80882

- http://www.mecd.gob.es/planes-nacionales/gl/dam/jcr:73de51a5-978f-47c4-a67a-42b20e09fe41/08-inmaterial-eng.pdf

- UNESCO http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/unesco-database-of-national-cultural-heritage-laws/frequently-asked-questions/definition-of-the-cultural-heritage/

More: International Council of Organizations of Folklore Festivals and Folk Arts - CIOFF

Links available on the Internet on 24 May 2018

THE FUTURE OF RECENT MUSICAL REPERTOIRE

Introduction

There exists in Europe a large musical heritage of the 20th and 21st centuries, including milestone works that have had a powerful impact on several generations of musicians and audiences. However, while concert halls around the globe have always included the most important classical European composers in their programming, nowadays little importance is given to works from the last 70 years.

True, the past few decades have seen an increase in the quantity and vitality of structures dedicated to musical creation, as well as in the number of musical artists and ensembles specialising in contemporary classical music. Nonetheless, the situation of contemporary music remains extremely fragile. While there is some space for commissions in what has become, regrettably, a highly specialised sector, these works rarely find their way into the regular programmes of big festivals and concert halls.

In the contrast to this, other artistic disciplines such as dance and theatre, have understood the importance of providing a contemporary perspective in their productions. Only in music is the contemporary scene so under-represented. It is no exaggeration to say, therefore, that without a proactive response to the situation, European musical heritage of the 20th and 21st centuries might quite simply disappear.

"Contemporary music, the comedian Mark Steel once said, 'Often sounds like a child's toy chest coming down the stairs.'

OK, Steel was quoting a listener (in the Huddersfield episode of his Radio 4 show Mark Steel's in Town) to get a laugh. But while we may not always appreciate the noise they are making at any given time, perhaps we can agree that both children and toys are often pretty good fun, and maybe even have something to say. What would happen if that was the premise of the music itself?" [25]

In the extract of his book "Music After the Fall: Modern Composition and Culture Since 1989", reprinted hereafter with the kind permission of the author and his editor, Tim Rutherford-Johnson argues that the concept of contemporary Western music needs a "reboot" to understand the music of our present day. In his article in The Guardian Alex Ross asks *"Why do we hate modern classical music?"*

Maybe our children can show us a new way of enjoying it?

---

[25] Tim Rutherford-Johnson in CD-Booklet "Chest of Toy" published by Coviello Classics, http://www.covielloclassics.de/

5.1 Extract from the book Music After the Fall: Modern Composition and Culture Since 1989 by Tim Rutherford-Johnson, Published February 1st 2017 by University of California Press with kind support of Coviello

5.2 Extract from article published on The Guardian: Why do we hate modern classical music? By Alex Ross on Sunday 28 November 2010

UNITY

Histories of contemporary Western art music usually begin in 1945. Its story has been told enough times, with expeditious changes of emphasis along the way, to be familiar: at the end of the Second World War, Europe, the home of post-Enlightenment Western culture, was devastated and in desperate need of reconstruction.[1] America had finally achieved the financial dominance that had been expected of it since the 1920s, thus initiating its dominance over the second half of the century. The postwar settlements with Soviet Russia had set the stage for the Cold War. New technologies and sciences, many of which had been developed in wartime, such as tape recording and information theory, were finding wide peacetime application, and the postwar industrial boom—as well as the increasing importance of cultural soft power as a weapon in the Cold War—began to fuel a rise in the public's consumption of the arts.

This story helps us understand how and why the musical innovations of the postwar decades, from *musique concrète* to minimalism, came about. However, by the end of the century this narrative begins to unravel, not least because of the rapidly changing scope of what "art music" could be. These histories struggle to accommodate the diversity of musical activity at the end of the twentieth century and the beginning of the twenty-first. Worse still, they cannot set the music of that period within the same contextual depth as, say, the serial music composed in the early 1950s (a product of wartime technologies, postwar rebuilding efforts, and the desires of a young generation to start again) or the early minimalist music of the mid-1960s (a product of jazz and non-Western influences, counterculture, and influences from the visual arts).

5.1 Music After the Fall: Modern Composition and Culture Since 1989
by Tim Rutherford-Johnson,
Published February 1st 2017 by University of California Press

6 1989 AND AFTER

The first contention of this book, then, is that to understand the music of our present day and recent years, we need to reboot that story, to begin from a new date. Many of the precepts on which the post-1945 narrative is based were no longer applicable by the start of the twenty-first century: Europe had rebuilt itself and emerged as the European Union, becoming one of the world's largest economies; the fall of the Berlin Wall and the subsequent collapse of the Soviet Union had brought an end to the Cold War; and even the United States' claim to global dominance had begun to be threatened after China's opening to the global trading market at the end of the 1970s, the terrorist attacks of 9/11 and the wars in Afghanistan and Iraq that followed, and the global financial crisis of 2008. By the end of the century the social democratic consensus that had steered the West through postwar reconstruction had been replaced by market-led neoliberalism. Finally, the birth of the Internet and World Wide Web in the early 1990s, as well as the widespread popularization of digital technologies, transformed the production and consumption of culture in every sphere.

Admittedly, slicing history up like this is a somewhat arbitrary exercise. Any date, once it has been chosen, starts to look important simply from receiving special attention: enough events happen in any given year to make all years look significant. The wider the international focus, the more arbitrary a choice becomes. Most events have only a local significance; very few are truly global in importance. Even then, how can we claim that they are significant across all spheres of human activity? Nevertheless, lines are still useful, no matter how fuzzy, shallow, and semipermeable. They are useful in a teaching sense, in that they help frame, structure, and limit the period of study. From the point of view of relating history to today, divisions also enable us to present a sense of before and after, and therefore a sense of *now,* and how it is different from *then.*

There are several dates where a division could be made. The year 2000 is numerically neat, although relatively undistinguished in terms of global events. The year 2001, particularly after September 11, is a more obvious choice, and it seems likely that historians, in the near future at least, will often date the true beginning of the twenty-first century to the terrorist attacks on New York and Washington. Both dates, however, are too recent to leave room for historical depth or an exploration of patterns of continuity and change. They also arguably leave too much of a gap between the petering out of the post-1945 narrative and the beginning of the narrative that encompasses today.

Looking further back, 1968 presents itself as a strong candidate, and indeed several recent studies have taken this year of revolutions and protest as a starting or focal point.[2] The late 1970s were possibly even more significant for music, including as they did not only the rise and fall of punk, the pinnacle of disco, and the birth of hip-hop but also the premieres of Philip Glass's *Music in Twelve Parts,* Steve Reich's *Music for Eighteen Musicians,* and Gérard Grisey's *Partiels;* the start

5.1 Music After the Fall: Modern Composition and Culture Since 1989
by Tim Rutherford-Johnson,
Published February 1st 2017 by University of California Press

1989 AND AFTER   7

of Karlheinz Stockhausen's work on *LICHT*; and the founding of IRCAM in Paris. As has been argued elsewhere, the events of 1979—the year of the Islamic Revolution in Iran, the election of Margaret Thatcher as prime minister in Great Britain, the beginning of market reforms in China, and the Soviet Union's invasion of Afghanistan—had a major effect on the realities of the twenty-first century.[3] The events of 1968 can be read as a hangover from the war years, the reaction of the first postwar generation to the legacy of their parents' generation, but a decade later there was the sense of a clear distance from the midcentury, of events that were projecting into the future rather responding to the past.

A music history that began with either of these dates would certainly shine a light on aspects of late twentieth-century music that are often overlooked, such as the role of ensembles like L'Itinéraire in Paris and Stockhausen's ensemble in Cologne and important collectives like Feedback in Germany, ONCE in the United States, and the New Music Studio in Budapest, Hungary. However, despite the appeal and strong credentials of these dates, they are both trumped by a third, which signaled global changes of significance not seen since 1945, and which is the point where this book begins its survey.

Clearly, 1989 was a momentous year. Not only because of the fall of the Berlin Wall on November 9 and the events across Central and Eastern Europe and Russia that followed but also because of the pro-democracy protests in Tiananmen Square in China and the state-sponsored massacre that ensued and the beginning of a process that would see an end to apartheid in South Africa. The subsequent rapid ascent of a neoliberal political and economic orthodoxy across much of the globe in the 1990s was not a direct consequence of the fall of the wall; many of neoliberalism's structures had been in place for a decade or more. Lots of the geopolitical changes across Europe that came after were neither anticipated nor expected—the protesters in East Berlin were calling for more open borders, not for the end of the GDR. The descent of Russia into asset-stripping oligarchy could not have been predicted in 1989 (although it may have been feared), and neither could the extent to which China would embrace the markets of the West. Nevertheless, 1989 was the tipping point for the forces that shaped much of the economics, politics, and, one might say, psychology of our modern world.

The late 1980s and early 1990s also saw other important developments. The World Wide Web was first proposed by British computer scientist Tim Berners-Lee in March 1989 in the paper "Information Management: A Proposal"[4] and officially launched in 1991. Although initially the preserve of science institutions, the Web rapidly grew in significance and reach, and within a decade it had around half a billion users. At the same time as Berners-Lee was considering his proposal for a web of interlinked hypertext documents, Mark Weiser coined the term "ubiquitous computing" to describe what he believed would be the immediate future for computers; that is, that they would become highly networked devices that would

be "so imbedded, so fitting, so natural"[5]—and so common—that we would hardly think of them as computers at all but simply as part of the environment. With the creation of the Internet and the development of wireless, mobile technologies, that prediction has pretty much proved true.

Taken together, the Internet and the rise of neoliberal global politics enabled a new phase of cultural and economic globalization. This in turn became the driver for many of the more significant events around the world in the years to come, from 9/11 to the 2008 credit crunch. Music, like any art form, is not immune to events around it, and although one cannot precisely key developments in culture to changes in the wider world, the past twenty-five years seem interestingly different enough to what has gone before to deserve examination.

5.2 Extract from the article published on The Guardian: Why do we hate modern classical music?
By Alex Ross on Sunday 28 November 2010

"The core problem is, I suspect, neither physiological nor sociological. Rather, modern composers have fallen victim to a long-smouldering indifference that is intimately linked to classical music's idolatrous relationship with the past. Even before 1900, people were attending concerts in the expectation that they would be massaged by the lovely sounds of bygone days. ("New works do not succeed in Leipzig," a critic said of the premiere of Brahms's First Piano Concerto in 1859.)

The music profession became focused on the manic polishing of a display of masterpieces. […]"

Read more of the article here: https://www.theguardian.com/music/2010/nov/28/alex-ross-modern-classical-music

More Food for Thought

- More : IRCAM

In French:
- Musique contemporaine : un défi pour le cerveau 2 © Cerveau&Psycho - N° 14 Comportement - PSYCHOLOGIE - Philippe LALITTE et Emmanuel BIGAND : http://leadserv.u-bourgogne.fr/files/publications/000729-cerveau-et-psycho.pdf

Links available on the Internet on 24 May 2018