

# Towards Freedom Of Artistic and Cultural Expression: Advancing Diversity In The Networked World

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## *Thinking About Arts And Culture In Freedom Of Expression*

Creativity is the primary human force that has driven change in and across diverse communities, cultures, and states. Particularly in the past three decades, forms of creativity have accelerated the global economy. The rise of the networked communications environment has unleashed creativity and innovation. At the same time the rise of the neoliberal economic order has concentrated culture industries and increased pressures on the public commons.

In the networked world, culture pours through national boundaries, diverts the desires of the body politic, and subdues the urgencies of the state. In the irrationally exuberant market for Chinese art, we see one mood of the time. Capital from around the world floods auctions for artists barely a generation removed from Maoist centralism. In a short period of time, artistic expression has skipped from artifact to "content" to pure speculative object—and, in the process, its value has soared. We have entered a period in which the market-dominant view of arts and culture and the market-dominant view of the networked world are converging.

The networked world enables more fluid and efficient distribution and exchange of artistic and cultural expression across borders and cultures. But their value—reduced to "content" to fill the new channels created by technology—has largely been left to the marketplace. Aesthetic production, Jameson reminds us, is now increasingly important to commodity production.<sup>1</sup> Markets, in this sense, treat arts and culture like "information", the basic unit of the networked world.

But markets do a poor job of representing the true value of artistic and cultural expression. Performance-based arts tend to be less valued than arts that can be mass-produced. Many cultural expressions have no transactive value at all, but are necessary to the functions of a community or people. Culture industries may value a certain amount of diversity of expression; the demand for new sensations

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<sup>1</sup> Fredric Jameson. *Postmodernism, Or The Cultural Logic of Late Capitalism*. Durham: Duke University Press, 1991. pp. 4-5.

never ceases. But in the marketplace, expressions that enhance social status via scarcity or facilitate the sale of other commodities accrue the most value. Arts and culture are thus reduced to expressions of a lifestyle economy.

Can global policy balance competing values? Many alarmed with the velocity and direction of change have returned to the right to freedom of expression articulated in Articles 19 & 27 of the Universal Declaration of Human Rights to guide new agendas to address growing inequities between peoples and nations. The important 1995 UNESCO report, *Our Creative Diversity*, affirmed culture's central role in national development, but also strongly warned against understanding development as serving only material improvement. "Culture's role is not exhausted as a servant of ends," Javier Perez de Cuellar wrote in the report, "...but is the social basis of the ends themselves

He continues, "Cultural freedom guarantees freedom as a whole. It protects not only the group but also the rights of every individual within it. Cultural freedom, by protecting alternative ways of living, encourages experimentation, diversity, imagination and creativity. Cultural freedom leaves us free to meet one of the most basic needs, the need to define our own needs. This need is now threatened by both global pressures and global neglect."<sup>2</sup> The cost to peoples and nations of a market-based view of culture may be the homogenization of cultures and the destruction of cultural diversity. Unchecked market power over artistic and cultural expression may undermine the right of self-determination and the basis of social coherence.

"Freedom of expression" is often described as a positive right to receive and disseminate information and ideas, as well as a negative right preventing curbs to their flows within society. But "freedom of expression" may also describe aspects of artistic and cultural expression that encompass their inspiration, production, dissemination, and reception. In recent discussions organized by the Ford Foundation and Global Partners, the imperative has been to expansively reaffirm and articulate an expansive notion of freedom of expression that includes foundational rights such as cultural rights, communication rights, human rights, and moral and legal rights.

Over the past two decades, consensus has emerged in international circles on the need to assert freedom of expression to protect cultural diversity. In the early 1990s, as transnational media consolidation and free-trade agreements began to tie together national markets into a new global system, many began to discuss the need to devise a counterbalancing system of agreements and instruments that would protect and promote cultural diversity at the local, regional, and national levels. In 2005, UNESCO passed the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

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<sup>2</sup> Javier Pérez de Cuéllar. *Our Creative Diversity: Report of the World Commission on Culture and Development*. Paris: UNESCO, 1995. Pp. 15.

The existence of cultural diversity is now widely recognized as crucial to the realization of human rights, minority rights, freedom, and peace. A rich and broad range of artistic and cultural expressions often signals the presence of unfettered creativity and healthy societies. Clearly, our current rethinking of freedom of expression can converge with this ongoing project of recentering cultural diversity.

If we understand artistic and cultural expression in the networked communications environment only as "content" for the global economy, we apprehend only a part of their true value and misapprehend how market pressures distort, marginalize or eliminate many kinds of expressions. While the networked world provides unprecedented opportunities for intercultural understanding and respect, it may also create more inequities and exacerbate tensions. I argue that our reconsideration of freedom of expression must include a commitment to the fostering, protection, and promotion of the diversity of artistic and cultural expression if we are to realize a brighter future.

### *Artistic and Cultural Expression In The Networked Environment*

By the late 90s, it became fashionable, even clichéd, to argue that "content is king". Technological change demanded a vast amount of artistic and cultural expression, and gave new power to what were formerly considered mere "niche markets". In popular music, formerly marginalized genres such as hip-hop and country were suddenly validated, and a wide range of new artists spread into the mainstream.<sup>3</sup> In the arts world, a new flattening of hierarchies and a do-it-yourself aesthetic seemed to proliferate. Visual artists, now given more tools to distribute their work, were more empowered than ever to critique the role of the curator as a career-making or -breaking "gatekeeper". At the same time, by affording broader access to artistic expressions than ever before, the networked environment also helped create bullish art markets and reinforced the role of the curator to fabricate new superstars.

Creativity is now seen as the engine of the new global city, the linchpin of 21<sup>st</sup> century urban economic development. A new body of literature argues that successful cities receive an "artistic dividend" and the multiplier effects of vital culture industries.<sup>4</sup> But many suggest the effects go much further. In

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<sup>3</sup> I describe how the information revolution in the form of Soundscan's data-tracking system transformed the business pop music in *Can't Stop Won't Stop*, pp. 415-7.

<sup>4</sup> Anne Markusen and David King. "The Artistic Dividend: The Arts' Hidden Contributions to Regional Development." University of Minnesota, Project on Regional and Industrial Economics, Humphrey Institute of Public Affairs. July 2003. Accessible at: [www.hhh.umn.edu/img/assets/6158/artistic\\_dividend\\_revisited.pdf](http://www.hhh.umn.edu/img/assets/6158/artistic_dividend_revisited.pdf)  
Elizabeth Currid. *The Warhol Economy: How Fashion, Art & Music Drive New York City*. Princeton: Princeton University Press, 2007.

documenting the rise of what he calls "the creative class" in America, Richard Florida correlated social tolerance with innovation and development. He found that metropolitan areas that allowed gay communities to flourish also tended to boast a strong presence of "creatives".<sup>5</sup> In other words, a city's cultural diversity spawned expressive diversity that, in turn, bred success in the new global economy. Florida's thesis is now accepted in many policy circles, although more research needs to be done on what specific types of policies are most effective, especially given uneven development around the world.<sup>6</sup> But the new literature suggests that policies that foster expression in the networked world hold promise for overturning unjust power structures, empowering marginalized individuals and communities, reinforcing values of tolerance and innovation, and advancing economic development.

Still, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions took care to note that "because they convey identities, values and meanings," arts and culture "must therefore not be treated as solely having commercial value." It stated explicitly "that while the processes of globalization, which have been facilitated by the rapid development of information and communication technologies, afford unprecedented conditions for enhanced interaction between cultures, they also represent a challenge for cultural diversity, namely in view of imbalances between rich and poor countries."<sup>7</sup>

First World media, culture, and entertainment industries reinforce such imbalances. Brazil's film industry, for instance, holds only a 13% market share in its own country.<sup>8</sup> Despite policies to protect and develop their indigenous film industries, countries such as France, South Korea, and Canada have often been

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<sup>5</sup> Richard Florida. *The Rise Of The Creative Class*. New York: Basic Books, 2004. Paperback Edition. P. xxviii.

<sup>6</sup> Aside from the earlier examples, another piece of such emerging research is Maribel Alvarez's study of the cultural ecology of Silicon Valley in the San Francisco Bay Area appropriately entitled *There's Nothing Informal About It* (Cultural Initiatives Silicon Valley, 2005). Available at: [http://www.ci-sv.org/pdf/MAlvarez\\_PA\\_study.pdf](http://www.ci-sv.org/pdf/MAlvarez_PA_study.pdf). It should also be noted that all the above research examples pertain to the U.S., a fault wholly of the author's recent engagement with the subject. Studies into diverse cities will certainly yield useful qualifications and suggest different directions that policies should take.

<sup>7</sup> Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005. Passed October 20, 2005 in Paris, France. Accessible at: [http://portal.unesco.org/en/ev.php-URL\\_ID=31038&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=31038&URL_DO=DO_TOPIC&URL_SECTION=201.html)

<sup>8</sup> Gilberto Gil. "Speech of Minister Gilberto Gil at the First Session of the Intergovernmental Committee of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions." Ottawa, Canada. December 11, 2007. Accessible at: <http://www.cultura.gov.br/site/?p=9145>  
Joost Smiers. *Arts Under Pressure: Promoting Cultural Diversity In the Age of Globalization*. London: Zed Books, 2003. p. 190-1, 206-7.

thwarted by Hollywood's size, which affords it economies of scale in production and lobbying powers to enforce dominance via international trade agreements.<sup>9</sup> Over the past two decades, major trade agreements, at the insistence of France and other nations, have included the so-called "cultural exemption", meant to treat artistic and cultural products differently from other trade goods.<sup>10</sup> However, the World Trade Organization has often ruled against protecting countries.<sup>11</sup> Taken together, international trade agreements and bodies favor the development of global cultural oligopolies or monopolies over the development of local, national, or regional diversity.

In this context, the networked communications environment is not neutral. Market imperatives overpower cultural imperatives. Take the example of Africa's recent experience with media giant Viacom. For years, many African musicians—particularly younger ones in emerging styles not recognized by the First World catchall category of "world music"—had to leave the continent to be discovered. Africa was largely without a music video network until the arrival of Viacom's MTV Base Africa. A youth-oriented music network that bridged the rich musical scenes across the continent was welcomed. Some even spoke of its potential for catalyzing a new form of Pan-Africanism. In practice, MTV Base Africa launched in 2005 in 50 African countries with only 30% African content. (Execs set merely 50% as their long-term goal.)

MTV Base Africa quickly became a staging ground for a number of companies selling consumer goods, especially, and not incidentally, cellular phone companies hoping to tap a large generation of unwired youths. In Nairobi, a British conglomerate swooped in to purchase the city's largest pop music station. Before long, politicized Kenyan hip-hop groups were displaced from the airwaves by the likes of 50 Cent, the American rapper whose name sells not just music, but movies, videogames, shoes, clothing, and Glaceau Vitamin Water.

The rise of MTV Base Africa undoubtedly creates the opportunity for more African music to be heard in the Global North. MTV Base UK now receives packaged shows from them. But the overall effect may be one of flattening diversity and difference. Groups like Kalamashaka, Kenya's Public Enemy, who have been displaced in favor of more consumerism-friendly acts from abroad

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<sup>9</sup> Garry Neil. "The Convention as a response to the cultural challenges of economic globalization." Article from UNESCO'S Convention on the Protection and Promotion of the Diversity of Cultural Expressions: Making it Work / edited by Nina Obuljen and Joost Smiers. - Zagreb : Institute for International Relations, 2006. - (Culturelink Joint Publication Series; no. 9), pp. 41-49. Available at: [http://www.culturelink.org/publics/joint/diversity01/Obuljen\\_Unesco\\_Diversity.pdf](http://www.culturelink.org/publics/joint/diversity01/Obuljen_Unesco_Diversity.pdf)

<sup>10</sup> Alison Beale, "Identifying A Policy Hierarchy: Communications Policy, Media Industries and Globalization", in *Global Culture: Media, Arts, Policy, and Globalization*. Ed. Diana Crane, Nobuko Kawashima, Ken'ichi Kawasaki. (New York: Routledge, 2002.) Pp. 78-85.

<sup>11</sup> Neil, *ibid*.

(and indeed, from home, as MTV Base Africa plays more African music) are no better off than they were before.

The growth of the global creative economy has required new regimes of power. Intellectual property—through copyrights or "author's rights"—is the regime by which media-culture-entertainment monopolies and oligopolies exert power over artists, culture producers, communities, and nations. While the networked environment has produced new distribution models—most notably in recent pay-what-you-like music downloads offered by artists like Radiohead and Saul Williams—the price of mass distribution for most pop musicians remains their copyright. Even publicly funded organizations, such as university publishers, routinely require an author to turn over their manuscript and copyright without compensation. Universities also compel scientists to give up rights to all patent claims in order to practice their research there. As such, intellectual property, a terrain where communication rights and cultural rights intersect, has become a primary battleground for freedom of expression activists, particularly those in the First World.

Intellectual property issues turn on fixed assumptions of individuality, originality, and ownership. In hip-hop and other African American popular musics, for instance, U.S. case law on sampling has privileged corporate copyrights over artists' creativity, in no small part due to racialized views of the artists. An alternative reading of the case law might recognize the emergence of American music—blues, jazz, country and bluegrass, rhythm and blues, rock and roll—from out of a flurry of intercultural, intergenerational, and interracial borrowings that Eric Lott has called "love and theft" (a term Bob Dylan—whose artistry he himself acknowledges includes the skill to borrow well—has lifted without ensuing litigation). We now confront the absurd scenario that artists like George Clinton and Public Enemy—mutual admirers who believe strongly in maintaining generational continuities within African American popular music—are unable to share samples because they have been blocked by the publishers and record companies who own the rights to their music.<sup>12</sup> In this instance, companies and courts are not just closing off paths of creativity, they are enclosing cultural legacy. What happens when a community's body of cultural expression is no longer accessible to them?

Stated simply, there is an important difference between the market value for an expression and the non-market values embodied in that expression. Market value is preserved for corporate extraction. Over the long run, a market-dominated networked communications environment has an incorporating, not an inclusive, and rationalizing arc. But what of, say, the cultural value of "passing on" between generations of African American musicians?

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<sup>12</sup> This was the substance of a panel discussion I was on with George Clinton and Public Enemy producer Hank Shocklee at the Future of Music Coalition Summit in 2005.

Artistic or cultural movements that resist the logic of the marketplace are increasingly difficult to place. Could hip-hop—a movement that developed for almost a decade out of the eye of culture industry capital—emerge these days? Might artists, like the aforementioned Public Enemy, who push aesthetic or ideological boundaries attain the same access to distribution that was possible when the culture industries were less developed? In the most negative reading, it appears that no less than our imagination is being privatized.

Some warn that disturbing new social fissures may be the result. Former U.S. National Endowment For The Arts head Bill Ivey and scholar Steven Tepper argue, "America is facing a growing cultural divide, a divide separating an expressive life that exudes promise and opportunity from one manifesting limited choice and constraint. It is not a gap marked by the common signposts—red versus blue states, conservatives versus liberals, secularists versus orthodox. And it is more embedded than the digital divide that separates citizens from technology. It is a divide based on how and where citizens get information and culture."<sup>13</sup>

The cultural elite has the access to the tools and fruits of creativity, while a new cultural underclass is locked away from the new economy and its cultural past, while being superserved by niche programming. The elite minority is offered a dizzying array of cultural choices that bring them into civic engagement, while the underclass majority become passive cultural and political consumers. While they speak of the U.S. specifically, Ivey and Tepper's warning may also force us to rethink the effects of cultural access gaps between nations or communities.

Paradoxically, the centrality of arts and culture in the new global economy forces us to reconsider their importance in freedom of expression. Focusing on the non-market value of arts and culture helps us think about how to foster, promote, and protect the diversity of cultures. How would a creative economy balanced towards protecting and promoting the diverse creativity of artists and communities instead of the marketplace values of global oligopolies and monopolies look?

### *The Non-Market Value Of Artistic and Cultural Expression*

Although artistic and cultural expression have sometimes been conceived of as projects for political or social change, often, even within those projects, they spill past categories bound by rationality. Indeed, when political movements are exhausted, blocked, or corrupted, social attention and energy may shift to cultural movements that forge new imaginations. The best expressions, of course, carry deep meaning. They may herald a renaissance of a people's traditions. They

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<sup>13</sup> Bill Ivey and Steven Tepper, "Cultural Renaissance or Cultural Divide?" *The Chronicle of Higher Education: The Chronicle Review*. May 19, 2006. 52:37. P. B6.

may give voice to previously inarticulate silences. They may cohere or fragment identity. They may encapsulate the fulfillment of human potential.

As Lewis Hyde reminds us in *The Gift* or The Adverts in "One Chord Wonders", artistic and cultural expression creates encounters that are more than mere transactions. Art and culture grow when shared. Hyde writes, "The gift that is not used will be lost, while the one that is passed along remains abundant."<sup>14</sup> By catalyzing reaction, enjoyment, or even disdain, creativity becomes the gift that keeps on giving. Artistic and cultural expression can always be said to be enacted within the space of the commons, autonomous from the logic of economics and politics. Expressions from even the most reclusive of artists become, in fact, acts of community-building. Jonathan Lethem calls these gifts "ghosts in the commercial machine".<sup>15</sup>

In 2003, Gilberto Gil, the legendary bard of *tropicalia* imprisoned 35 years before by the former authoritarian Brazilian regime for his music, was appointed that country's Minister of Culture. Upon accepting the appointment, he described poetically the primary charge of cultural policy: to locate "the area of experimentation towards new directions", forge "the opening of space for creativity and new popular languages", ensure "the availability of space for adventure and daring" and secure "the space of memory and invention."<sup>16</sup> Freedom of artistic and cultural expression means accounting for the expressions that don't travel well, don't sell much, don't play nice, don't obey rules, don't fit in, may not even want us, but that we all need, indeed, to reaffirm and advance the very idea of "we".

Indigenous perspectives perhaps most vex dominant conceptions of freedom of expression in the networked world. For instance, at the FOE Workshop in Indonesia, *kumu hula* Vicky Takamine Holt reframed the intellectual property discussion. In the instance of many Hawaiian chants, authorship is thought to be collective and expression converges with cultural knowledge and spiritual practice. To put it in Western terms, a *mele* (song or chant) is a performance, a database, and a prayer, all at the same time. How can an expanded notion of freedom of expression remove all barriers for the *mele* to do all of what it needs to do at once? Just as a *mele* can be considered a database of genealogies, histories, or natural resources, not all lyrics of a *mele* may yield all levels of interpretation. Meanings referring to sacred knowledges may be hidden in plain

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<sup>14</sup> Lewis Hyde, *The Gift: Creativity and the Artist in the Modern World: 25<sup>th</sup> Anniversary Edition*. New York: Vintage, 2007. P. 26.

<sup>15</sup> Jonathan Lethem, "The Ecstasy of Influence: A Plagiarism Mosaic", in *Sound Unbound*, ed. Paul Miller. Cambridge: MIT Press, 2008, forthcoming. P. 39.

<sup>16</sup> Gilberto Gil, "Discurso do ministro Gilberto Gil na solenidade de transmissão do cargo." Speech at Brasilia, January 2, 2003. Accessible at: <http://www.cultura.gov.br/site/?p=1165>

sight. But those knowledges are not meant for consumption or use by non-initiates. Does freedom of expression also include the freedom not to participate in the networked environment at all?

What about instances in which freedom of cultural expression requires restrictions on flows of information and knowledge? In northern Australia, the Warumungu people recently established a database of early 20<sup>th</sup> century photographs that uses digital rights management to regulate who can see what images. The Warumungu worked with a American designer to design the Mukurtu Wumpurrarni-kari Archive according to their customs and practices. Since Warumungu cultural practices restrict some from viewing the deceased or sacred objects, community members log into the database through a profile that includes information age, gender, and status, and based on their profile they are granted the appropriate level of access.<sup>17</sup> How do advocates of freedom of expression account for the reality that, especially in the case of some indigenous peoples, not all information wants to be free?<sup>18</sup>

India's effort to create the Traditional Knowledge Digital Library is an urgent intellectual project to catalog popular scientific knowledge—an inventory of seeds, plants, remedies, recipes, and more. The government then offers restricted access to this database as an aid to foreign governments deciding whether to grant patents on medicines.<sup>19</sup> The Library is intended to ward off

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<sup>17</sup> See "Aboriginal archive offers new DRM", BBC News website, January 29, 2008. Accessible at: <http://news.bbc.co.uk/2/hi/technology/7214240.stm>  
"Mukurtu Chatter." On The Long Road: Kimberly Christen's blog. Accessible at: <http://www.kimberlychristen.com/?p=271>

<sup>18</sup> When the story aired on BBC, some "free culture" advocates found the archive design objectionable. They missed the point; the archive functioned by and within the social framework of the community. One commentator remarked, "Unlike copyright-DRM systems, which fall back to the most restrictive state when exporting or communicating with "unsigned" devices (such as blocking all copying and [breaking](#) or lowering playback resolution on high-definition monitors), this one defaults to granting access. It's up to the *people* using the system to determine how new and unknown situations should be handled. Because the Mukurtu protocol-restrictions support community norms, rather than oppose them, the system can trust its users to take objects with them. If a member of the community chooses to show a picture to someone the machine would not have, his or her interpretation prevails — the machine doesn't presume to capture or trump the nuance of the social protocol. Social protocols can be reviewed or broken, and so the human choice to comply gives them strength as community ties." Post from Wendy's Blog, January 11, 2008. "Mukurtu Contextual Archive: Digital Restrictions Done Right". <http://wendy.seltzer.org/blog/archives/2008/01/11/mukurtu-contextual-archiving-digital-restrictions-done-right.html> Accessed February 5, 2008. In the words of the database designer, Dr. Kimberly Christen, "(M)any social systems exist that route knowledge differently and understand knowledge not as disembodied or out there for the taking but as part of a human and other relations--so knowledge doesn't exist apart from a set of relations." Post by Kimberly Christen on Icommons listserve. "Aboriginal archive's new DRM: Cultural Solution?" February 1, 2008. Accessed on February 5, 2008. Available at: <http://lists.ibiblio.org/pipermail/icommons/Week-of-Mon-20080128/001213.html>

<sup>19</sup> For more information, see: Sangeeta Udgaonkar, "The recording of traditional knowledge: Will

corporate bio-piracy and privatization of national assets. Questions should be raised about whether nationalization of cultural assets is simply another form of theft, especially from the point of view of indigenous communities. But the Traditional Knowledge Digital Library is also certainly a logical response to threats posed by global multinationals in the networked world.

Such uses of technology may vex some advocates of "free culture" who oppose any restrictions of knowledge as damaging. Yet they will likely proliferate as peoples and nations come into greater access to technology and decide to use them in ways they deem to be protective of their heritage and legacies. In the absence of policies and structures that allow indigenous peoples the right of self-determination, market and "free culture" pressures may combine to turn indigenous knowledges into the terrain upon which the goals of protection and promotion of cultural expression clash, to the detriment of larger social needs.

For if technologies like DRM and instruments like copyright are used in capitalist culture to protect monetary value, why shouldn't we expect that they might also be used to protect different, perhaps even opposing, cultural values in different cultures? This leads us back to the question of cultural diversity. This paper's main focus has been to unpack artistic and cultural expression. But moving forward, the questions may become: How do we define the freedom part of "freedom of expression"? Whose freedom is it and what is that freedom for? What freedoms do we protect, and what do we prevent?

### *Cultural Diversity As A Bulwark Against Inequity And Violence*

Soon Gilberto Gil will be stepping down from his post as Brazil's Minister of Culture, ending one of the most visionary tenures in cultural policy leadership the world has seen in recent memory. He has been among the most famous champions of ideas such as the Creative Commons license and the UNESCO convention on diversity (which he once memorably framed in terms of his country's richly polycultural pop musical heritage). His national policy initiatives have also been notable.

One of his programs illustrates the great potential in the networked world. Called Pontos de Cultura—"Culture Points" or "Culture Hotspots"—Gil's program made strategic grants of equipment, resources, organizers, and teachers to hundreds of hip-hop education programs in *favela* and ghetto schools across the country, engaging young people in music, video, and web production to tell their stories. Some documentaries made in these programs were accepted to air on national television networks. In rural and indigenous communities, Pontos de Cultura

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it prevent 'bio-piracy'?" *Current Science*. (VOL. 82, NO. 4) February 25, 2002, accessible at: <http://www.ias.ac.in/currensci/feb252002/413.pdf>

Also, <http://www.csir.res.in/> and <http://www.indiatogether.org/2007/jan/eco-tkdl.htm>

grants allowed tribal cultural practitioners to record their music onto audio and video.

"This burst of fresh air is unchaining new vital ideas, new innovative productions, generating a real empowerment process of an emerging creative society. This process is encouraging and inducing the formation of a network of new cultural multimedia producers in Brazil, a network which will soon be consolidated into a new generation of authors and artists," Gil has said. "We have discovered that is quite easy for our grassroots communities, those still living in a 19th century reality, to understand the paradigm of the 21st century, as they can easily deconstruct the excluding features of the 20th century culture while they pass through it."<sup>20</sup>

Vandana Shiva notes, "The word 'culture' in Sanskrit—*sanskriti*—means activities that hold a society and community together. Violence breaks societies up, it disintegrates instead of integrates. The practice of violence, therefore, cannot be referred to as 'culture'." She continues, "Living cultures are based on cultural diversity and recognize our universal and common humanity. Killing cultures are based on imperialistic universalism—a violent imposition of the cultural priorities of an imperial power."<sup>21</sup>

I take the primary end of this process of revisiting freedom of expression to be the growth and spread of living cultures. As such, I have tried to elaborate on some of the challenges and opportunities that the networked communications environment offers to artistic and cultural expression. Arts and culture, like information, will benefit from policies that regain the public commons and allow efficient flows through society. But policies ensuring and advancing freedom of expression must also account for the ways arts and culture are not like information.

Artistic and cultural expressions possess a crucial but distorting value in the new global economy. Trade agreements, international trade bodies, and media/culture/entertainment company consolidation, on balance, are limiting the diversity of expressions, skewing towards commodifiable forms that expand lifestyle economies. Therefore expressions with strong non-market values must also be protected and promoted, and the aim of cultural policy should be to counterbalance market pressures.

Artist rights—individually and collectively—must be reaffirmed against corporate rights. Access to the tools of creativity must be broadened in order to close new

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<sup>20</sup> Gilberto Gil, "Discurso do ministro da Cultura, Gilberto Gil, em seminário sobre experiências acerca do tema Cultura Digital". Speech in San Francisco, California, December 14, 2007. Accesible at: <http://www.cultura.gov.br/site/?p=9320>

<sup>21</sup> Vandana Shiva. *Earth Democracy*. Cambridge: South End Press, 2005. Pp. 109-110.

gaps between the cultural elite and the cultural underclass, and between rich nations and developing ones. Intellectual property activists should not only pursue remedies for individual creators but recognize how cultural legacies are also rapidly being enclosed. In particular, further study is needed to dissect how racism and racialization has impacted the shaping of intellectual property law in the Global North.

Those working in arts and culture produce imagination. Artists and cultural workers often work at the margins of society, or better yet, above it on the tightropes. Autonomy is a key value to maintain healthy artistic and cultural expression, not just freedom from state and private censorship, but also public pressures to conform. In this kind of environment, artists and cultural workers can then breathe life into ideas that help produce necessary social change, not merely reproduce restrictive and outdated structures.

Open circulation of ideas is central to society. The music of *tropicalia*, Gil's compatriot Caetano Veloso reminds us, was based on a foundation of bossa nova and Afro-Brazilian folk traditions, but nourished by rock, rhythm and blues, and jazz, even French pop and American vaudeville. Veloso's hero Ray Charles once famously disdained bossa nova, yet that did nothing to weaken Veloso's love for Charles' music. *Tropicalia*, Veloso says, was a reaction against First World musical hegemony that still adopted its fruits, an encounter that meant not to reproduce hierarchy but produce mutuality.<sup>22</sup> For that reason, a commitment to freedom and diversity of expression should also respect the right of peoples not to participate or share knowledge deemed sacred. Openness is not the end of freedom of expression. Cultural diversity, through which communities can move toward equality, is.

As Shiva writes, "Our diversity makes mutuality and a culture of give-and-take possible. Mutuality makes self-organization possible. Deeply autonomous and self-organized, yet deeply connected—with the earth, all species, and each other—humans are creating conditions for their future survival."<sup>23</sup> By promoting cultural diversity as its end, freedom of expression becomes the mode by which we attain mutuality, connection, and survival. Or, as Gil put it in his first hit, "Louvação", a 1965 song that seemed then to prophesy the tropicalia movement and now feels newly resonant:

*I'm praising the song that is sung  
To call to life the spring  
I praise those who sing or don't sing  
Because they don't know how or don't recall*

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<sup>22</sup> Caetano Veloso, *Tropical Truth: A Story of Music & Revolution In Brazil*. New York: Knopf, 2002. Translated by Isabel De Sena. P. 7, 40-1.

<sup>23</sup> Shiva, *ibid.* P. 117.

*But who will surely sing  
When the certain and precise day for all  
To sing finally does come our way<sup>24</sup>*

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<sup>24</sup> Translation from Charles Perrone. *Masters of Contemporary Brazilian Song*. Austin: University of Texas Press, 1989. P. 94-5

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