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AI, cultural rights and the right to development

Draft study by the Expert Mechanism on the Right to Development

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I. Objectives

1. The present study is prepared pursuant to the mandate of the Expert Mechanism on the Right to Development (EMRTD), established by the Human Rights Council to provide thematic expertise on the implementation and realization of the right to development, as set out in the Declaration on the Right to Development (General Assembly resolution 41/128).

2. The study examines the implications of artificial intelligence (hereafter "AI") systems for the enjoyment of cultural rights under article 15 of the International Covenant on Economic, Social and Cultural Rights, and their relationship with the right to development.

3. The study assesses the impact of AI systems on participation in cultural life, access to and enjoyment of the benefits of scientific progress and its applications, and the protection of the moral and material interests of authors.

4. It further analyses the effects of AI on cultural diversity, cultural production and equitable participation in development processes.

5. Particular attention is given to Indigenous Peoples, minorities, small-scale cultural producers and artists, and developing countries, including in relation to data practices and the concentration of technological and market power.

6. The study also considers the role of private actors, including transnational corporations, in shaping access to data, digital infrastructures and AI systems, and the implications thereof for cultural participation and benefit-sharing.

7. The analysis focuses on four areas: (a) creative industries and cultural labour; (b) Indigenous Peoples and traditional knowledge systems; (c) philosophical and epistemic dimensions of AI; and (d) regulatory approaches at the domestic, regional and international levels.

8. The study is guided by the principles of participation, equity and accountability.

II. Methodology

9. The study adopts a human rights-based and interdisciplinary approach.

10. It draws on relevant international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development.

11. The study is further informed by authoritative interpretations of the Committee on Economic, Social and Cultural Rights, in particular General Comments No. 21 (2009) and No. 25 (2020).

12. It also takes into account relevant soft law instruments and international standards relating to the governance and ethics of AI.

13. The analysis is informed by academic literature and by regulatory and policy developments at the national, regional and international levels.

14. The study incorporates inputs from a range of stakeholders, including the 84 contributions received in response to the questionnaire circulated for this study. The EMRTD expresses its gratitude for these contributions.

15. The study is structured as follows: Part I sets out the normative foundations; Part II addresses philosophical and epistemic dimensions; Part III addresses implications for creative industries and cultural labour markets; Part IV considers Indigenous Peoples and traditional knowledge systems; Part V analyses regulatory approaches; and Part VI presents conclusions and recommendations.

III. Normative Foundations: The Right to Development and Cultural Rights in the Age of Artificial Intelligence

A. The Right to Development as a Human-Centred Framework

16. The right to development is indivisible and interdependent with all other human rights. It encompasses both individual and collective dimensions and requires equitable participation in decision-making processes affecting development trajectories.

17. Article 2(3) of the Declaration on the Right to Development affirms that States have the duty to formulate appropriate national development policies aimed at the constant improvement of the well-being of the entire population and all individuals[1]. In the context of AI, this duty requires ensuring that technological innovation does not exacerbate inequality, cultural homogenization, or digital dependency.

18. The collective dimension of the right to development is particularly salient in relation to cultural rights. Peoples, including Indigenous Peoples and minorities, have the right to self-determination, as recognized in common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Cultural self-determination includes the ability to preserve, develop and transmit cultural heritage, languages, and knowledge systems[2].

19. AI technologies increasingly influence development priorities, labour markets, creative economies and knowledge production systems. Without adequate safeguards, AI-driven economic concentration risks undermining the participatory and equitable dimensions of the right to development[3].

B. Cultural Rights and Scientific Progress

20. Article 15(1)(b) of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to enjoy the benefits of scientific progress and its applications. This right implies both access to technological benefits and protection against harmful consequences of scientific advancement[4].

21. The Committee on Economic, Social and Cultural Rights has clarified that scientific progress must be directed towards the realisation of human rights and grounded in principles of non-discrimination, participation and accountability[5]. Applied to AI, this must entail ensuring transparency, clarity, and human oversight in the design and deployment of such systems.

22. Article 15(1)(a) recognises the right to take part in cultural life. Cultural participation encompasses access to cultural goods, opportunities for creative expression, and the preservation of cultural identity. AI-driven content curation systems, generative models and platform algorithms can shape cultural visibility and influence whose cultures, and which groups are amplified or marginalised.

23. The right to benefit from the protection of the moral and material interests arising from one's creative works, as recognised in article 15(1)(c), is directly engaged in debates relating to the use of copyrighted material to train generative AI models. The large-scale ingestion of artistic, literary and audiovisual works without meaningful consent or

1 Declaration on the Right to Development, 1986 art. 2(3).

2 International Covenant on Civil and Political Rights,1966 art. 1; International Covenant on Economic, Social and Cultural Rights, 1966 art. 1; United Nations Declaration on the Rights of Indigenous Peoples, 2007 arts. 3, 11–13.

3 See for example UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), paras. 15, 27;

4 ICESCR, art. 15 (1) (b). See also Article 27 of the Universal Declaration of Human Rights 1948.

5 Committee on Economic, Social and Cultural Rights, General Comment No.25 (2020) paras 9-22.

remuneration raises complex questions of intellectual property, labour rights and distributive justice[6].

C. AI and the Challenge of Equitable Development

24. AI is increasingly positioned as essential to economic modernisation and global leadership, an approach reflected in most national AI strategies[7].

25. However, the global AI ecosystem is characterized by asymmetries in data resources, computational infrastructure and capital investment[8]. A small number of corporations and States exercise disproportionate influence over foundational models and digital platforms[9]. Such concentration undermines international cooperation to eliminate obstacles to development.

26. Developing countries risk becoming providers of raw data while remaining dependent on proprietary technologies controlled elsewhere[10]. This pattern may replicate historical forms of extractivism, this time in digital form, with cultural data and linguistic resources serving as inputs for AI systems without equitable benefit-sharing.

27. A right-to-development approach to AI governance therefore requires technology transfer, capacity-building and participatory governance at both domestic and international levels.

D. Obligations of States and Responsibilities of Private Actors

28. In accordance with international human rights law, States bear the primary obligation to respect, protect and fulfil cultural rights and the right to development. In the context of AI, it follows that the 'obligation to respect' requires that States refrain from deploying AI systems in ways that directly interfere with cultural participation, artistic freedom, linguistic diversity or community control over cultural heritage.

29. The 'obligation to protect' requires States to regulate private actors whose activities may adversely affect cultural rights. Given the central role of transnational technology corporations in developing and deploying AI systems, this duty entails establishing clear regulatory frameworks governing data collection, algorithmic design, intellectual property, competition and labour standards. States must exercise due diligence to prevent, investigate, punish and redress abuses arising from corporate activities, including those with extraterritorial impacts[11].

30. The 'obligation to fulfil' requires proactive measures to facilitate equitable access to AI technologies and to support cultural ecosystems[12]. This may include investing in public digital infrastructure, supporting open and community-based AI initiatives, funding

6 International Covenant on Economic, Social and Cultural Rights, art. 15(1)(c); UN Committee on Economic, Social and Cultural Rights, *General Comment No. 17 (2005)on the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production*, UN Doc E/C.12/GC/17 (12 January 2006);

7 OECD, *How Governments Are Driving AI Adoption for Economic Growth* (OECD.AI 2025) https://oecd.ai/en/wonk/how-governments-are-driving-ai-adoption-for-economic-growth

8 Matthew Nyaaba et al, 'Generative AI and Digital Neocolonialism in Global Education' accessed on 6 April 2026 https://www.jdet.net/download/generative-ai-and-digital-neocolonialism-in-global-education-towards-an-equitable-framework-17862.pdf, Journal of Digital Educational Technology 2026, 6(1), ep2608

9 *UNESCO, Report of the Independent Expert Group on Artificial Intelligence and Culture (2025)*

10 UNCTAD, Digital Economy Report 2021, See also :*Digital Colonialism and the Role of Local Intermediaries: Examining Big Tech's Impact on Data Sovereignty and Human Rights in Africa* (2025) *Business and Human Rights Journal* https://www.cambridge.org/core/journals/business-and-human-rights-journal/article/digital-colonialism-and-the-role-of-local-intermediaries-examining-big-techs-impact-on-data-sovereignty-and-human-rights-in-africa/635F708D2C0E9D5832593A7366BCC6C9 accessed 17 March 2026.

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12 UNESCO, *Report of the Independent Expert Group on Artificial Intelligence and Culture* (2025)

cultural institutions, and promoting multilingual AI systems that reflect linguistic diversity[13].

31. The responsibility of business enterprises to respect human rights, as reflected in the United Nations Guiding Principles on Business and Human Rights[14], applies to AI developers, platform operators and data brokers. Corporate human rights due diligence should encompass algorithmic impact assessments[15], assessments of cultural impacts, including effects on creative labour markets, minority languages and traditional knowledge systems.

32. The transnational nature of AI value chains raises complex questions concerning jurisdiction, accountability and access to remedy[16]. These challenges underscore the need for strengthened international cooperation, including harmonized standards, mutual legal assistance and inclusive global governance mechanisms.

E. International Normative Developments on AI Governance

33. Recent years have witnessed a rapid proliferation of international and regional normative initiatives addressing AI governance. At the global level, the UNESCO *Recommendation on the Ethics of Artificial Intelligence* (2021) constitutes the first comprehensive standard-setting instrument in this field. It articulates principles of human dignity, human rights, cultural diversity, environmental sustainability, and international solidarity, and expressly affirms that AI systems should respect and promote cultural diversity, safeguard cultural heritage, and support linguistic pluralism[17].

34. At the regional level, two instruments merit particular attention. The European Union Artificial Intelligence Act adopts a risk-based, internal market-oriented approach, introducing obligations relating to transparency, accountability, human oversight, and fundamental rights protection. It constitutes the first comprehensive binding legislative framework on artificial intelligence within a regional legal order. The Council of Europe *Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law* (2024) represents the first binding international treaty in this domain, requiring States Parties to ensure that AI systems are consistent with human rights, democratic values, and the rule of law across their lifecycle[18]. While the EU instrument primarily governs marketing and use of AI systems, the Framework Convention adopts a broader public law orientation grounded in States' international human rights obligations. Both instruments have implications for cultural rights, insofar as they shape the design,

13 UNESCO, *Global Roadmap for Multilingualism in the Digital Era*: Advancing the Role of Language Technologies (2025)

14 United Nations Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc A/HRC/17/31 (21 March 2011) principles 11–14, 17; Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises A/HRC/59/53 on "Artificial intelligence procurement and deployment: ensuring alignment with the Guiding Principles on Business and Human Rights" (2025).

15 Schertel, L. &Stray, J (2024) AI as a Public Good: Ensuring Democratic Control of AI in the Information Space. In the Forum on Information &Democracy, February.

16 Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises A/HRC/59/53 on "Artificial intelligence procurement and deployment: ensuring alignment with the Guiding Principles on Business and Human Rights" (2025). See also Diane Desierto "Human Rights in the Era of Automation and Artificial Intelligence**"**
https://www.ejiltalk.org/human-rights-in-the-era-of-automation-and-artificial-intelligence/

17 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), particularly paras 10, 26, 40

18 Council of Europe Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law, preamble; arts 4–7; Council of Europe, Explanatory Report to the same convention (2024).

deployment, and accessibility of AI systems that mediate cultural expression and participation[19].

35. These developments reflect an emerging consensus that AI governance must be grounded in international human rights law. However, significant normative gaps persist, particularly with respect to equitable benefit-sharing, cross-border data governance, and the protection of collective and community-based cultural rights. Recent scholarship highlights structural imbalances in global AI development and calls for more inclusive and redistributive governance frameworks[20].

36. From a right-to-development perspective, technological governance cannot be confined to risk mitigation alone. Development entails equitable access to and participation in the benefits of technological progress. In the context of AI, this means addressing structural inequalities in access to computational resources, data, infrastructure, and markets[21]. Without such measures, AI risks reinforcing existing global asymmetries and entrenching disparities between technologically advanced States and those with more limited capacities.

F. Cultural Diversity and Digital Concentration

37. The growing concentration of digital platforms and advanced AI capabilities in a limited number of corporate actors has significant implications for cultural diversity. Dominant platforms increasingly mediate access to cultural content through algorithmic curation and recommendation systems, which shape patterns of visibility and consumption. These systems may systematically favour dominant languages, genres, and commercially viable cultural narratives, while marginalising minority cultures, less widely spoken languages, and locally rooted forms of expression[22].

38. The principle of cultural diversity, as enshrined in the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), affirms the sovereign right and responsibility of States to adopt measures aimed at protecting and promoting diverse cultural expressions[23]. In the digital environment, this obligation extends beyond traditional cultural policy to encompass the governance of digital intermediaries, including addressing algorithmic bias, enhancing the visibility and discoverability of local and minority content[24], and ensuring that digital ecosystems remain conducive to cultural pluralism[25].

39. Market concentration in the digital economy also reshapes power relations within cultural and creative industries. Large platforms exercise significant control over distribution channels, data, and monetisation infrastructures, often resulting in asymmetrical bargaining relationships with creators. Independent artists and small-scale producers are often dependent on platform-based ecosystems that determine visibility and revenue streams, thereby constraining their capacity to participate on equitable terms. From

19 EU AI Act (2024/1689**)** ; Council of Europe, *Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law* (2024).

20 Huw Roberts, Emmie Hine, Mariarosaria Taddeo and Luciano Floridi, 'Global AI Governance: Barriers and Pathways Forward', *International Affairs*, Vol. 100, No. 3 (May 2024), pp. 1275–1286. https://doi.org/10.1093/ia/iiae073, accessed on 8 April 2026

21 *Declaration on the Right to Development*, Res. 41/128 (1986), arts. 1(1), 2(3), 4(1). UNCTAD, Digital Economy Report 2021

22 See UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

23 UNESCO, *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005), arts 1-2

24 Jonathan Paquette, 'Algorithmic Biases and the Discoverability of Digital Cultural Content' (2025) 11(2) *Journal of Cultural Management and Cultural Policy, vol 11, issue 2* https://journals.sagepub.com/doi/10.1177/27018466251366274 accessed on 5 April 2026

25 UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

the perspective of the right to development, such structural imbalances risk undermining fair access to the benefits of cultural production and participation in cultural life[26].

40. Addressing these challenges requires a multidimensional regulatory response aimed at preserving pluralism in the AI-mediated cultural sphere. This may include the application of competition law to address excessive concentration, the introduction of interoperability and data access requirements, and the development of public-interest-oriented data governance frameworks. Support for decentralised, open, or community-based digital infrastructures may contribute to a more diverse and inclusive cultural ecosystem, aligned with human rights principles[27].

G. Data Governance and Cultural Sovereignty

41. AI systems rely on the large-scale aggregation and processing of data, including cultural, linguistic, and artistic materials. Data governance frameworks, therefore, play a decisive role in determining whether AI-driven development is consistent with international human rights standards, particularly in relation to cultural rights, participation, and non-discrimination. The conditions under which data are collected, accessed, and utilised directly shape whose knowledge is represented, how cultural expressions are reproduced, and who benefits from their use[28].

42. For many Indigenous Peoples and marginalised communities, cultural data cannot be reduced to mere economic assets. Such data often embody collective identity, traditional knowledge, and spiritual significance. The unauthorised digitisation, scraping, or commercial exploitation of these materials, particularly in the training of AI systems, has increasingly been characterised as a form of cultural appropriation or "digital extractivism", whereby value is derived from population knowledge without consent or compensation[29].

43. A human rights-based approach to AI governance therefore requires the recognition and operationalisation of principles such as free, prior and informed consent (FPIC), community-based data governance, and equitable benefit-sharing. These principles are reflected in international standards concerning in particular Indigenous Peoples' rights and collective self-determination, including the United Nations Declaration on the Rights of Indigenous Peoples, and are increasingly invoked in emerging frameworks on data sovereignty and Indigenous data governance[30]. The specific application of FPIC in the AI context is examined further in Part IV below.

44. The transnational nature of data flows raises complex questions concerning regulatory sovereignty and development policy space. The global concentration of data infrastructure and AI capabilities risks enabling forms of asymmetrical extraction, in which culturally significant data originating in developing countries are processed and monetised elsewhere. From a right-to-development perspective, this underscores the need for policy instruments capable of ensuring that domestic cultural and data resources contribute to local innovation ecosystems, capacity-building, and equitable economic participation, rather than exclusively enriching foreign technology actors[31].

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26 *Declaration on the Right to Development*, Res. 41/128 (1986), arts. 1(1), 2(3), 4(1); UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

27 See UNCTAD, Digital Economy Report 2021

28 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), paras. 10, 23, 26; UNCTAD, Digital Economy Report 2021

29 See, e.g., Abeba Birhane, "Algorithmic Colonization of Africa" (2020) 17 *Scripted* 389 https://script-ed.org/article/algorithmic-colonization-of-africa/ accessed on 5 April 2026; Stephanie Russo Carroll and others "The CARE Principles for Indigenous Data Governance' (2020 19 Data Science Journal 43,

30 *United Nations Declaration on the Rights of Indigenous Peoples* (2007), arts. 11, 19, 31. See also the Global Indigenous Data Alliance, *CARE Principles for Indigenous Data Governance* https://datascience.codata.org/articles/dsj-2020-043, accessed on 6 April 2026.

31 *Declaration on the Right to Development*, (1986), arts. 1(1), 2(3), 4(1); UNCTAD, *Digital Economy Report* (2021)

H. Concluding Observations on Normative Foundations

45. The normative framework governing AI is evolving rapidly. Existing international human rights law already provides a robust foundation for evaluating AI systems through the lens of dignity, equality, participation and justice.

46. The right to development offers a robust, human-centred framework that integrates economic, social, cultural and political dimensions. When applied to AI governance and cultural rights, it demands not only the prevention of harm but also the proactive shaping of technological trajectories to advance inclusive, culturally diverse and sustainable development.

IV. Philosophical and Epistemic Dimensions: Human Creativity, Meaning and Agency in the Age of Artificial Intelligence

A. Artificial Intelligence and the Concept of Creativity

47. The emergence of generative AI systems capable of producing text, music, visual art and audiovisual compositions has intensified longstanding debates concerning the nature of creativity. Creativity has traditionally been understood as an expression of human intentionality, imagination[32] and situated experience. AI-generated outputs challenge these assumptions by decoupling the appearance of creative expression from human consciousness and agency, thereby raising fundamental questions regarding authorship and the locus of human originality[33].

48. While AI systems can generate outputs that appear novel, their operation remains dependent on human-produced data, design architectures and training objectives. From a human rights perspective, it is therefore necessary to distinguish between computational processes of pattern generation and the socially embedded, meaning-making dimensions of human creativity[34].

49. Cultural rights protect not only the economic interests of creators but also the intrinsic value of creative activity as a constitutive element of human dignity, identity and self-realization. The right to take part in cultural life encompasses the freedom to create, to experiment and to contribute to shared symbolic and expressive practices[35].

50. A right-to-development approach requires that technological innovation enhance, rather than displace, meaningful human participation in cultural production. AI systems should thus be understood as tools whose legitimacy depends on their capacity to support human flourishing, expand creative capabilities and sustain cultural diversity.

B. Authorship, Responsibility and Moral Agency

51. The proliferation of AI-generated content raises complex questions concerning authorship, responsibility and legal attribution. Where outputs are produced through

32 See for example, Jennifer Gosetti-Ferencei, Imagination: A very short Introduction, OUP, 2023

33 Anja Neubauer, Martin Wynn and Robin Bown, ‘AI, Authorship, Copyright, and Human Originality’ (2026) *Encyclopaedia* 6(1) 9 https://www.mdpi.com/2673-8392/6/1/9, accessed on 5 April 2026).

34 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021);Luciano Floridi et al., “AI4People—An Ethical Framework for a Good AI Society” (2018) https://link.springer.com/article/10.1007/s11023-018-9482-5, accessed on 5 April 2026

35 Human Rights Council, ‘The right to freedom of artistic expression and creativity’, Report of the Special Rapporteur in the field of cultural rights (13 March 2013) UN Doc A/HRC/23/34 paras 3-5 .

layered interactions between users, developers and algorithmic systems, conventional frameworks for assigning authorship and liability are not sufficient[36].

52. The protection of moral and material interests under article 15(1)(c) of the International Covenant on Economic, Social and Cultural Rights includes, inter alia, the rights of attribution and integrity. Where AI systems generate content that closely resembles identifiable creators' styles or bodies of work, the boundary between inspiration, influence and misappropriation may become blurred, potentially undermining these protections[37].

53. AI-generated cultural content may also reproduce or amplify misinformation, harmful stereotypes or culturally insensitive representations. The attribution of responsibility for such outputs requires careful consideration of the roles of system design, training data selection and platform governance, rather than attributing agency solely to end users.[38]

54. States' obligations to protect cultural rights include establishing clear and foreseeable legal frameworks concerning transparency, attribution and liability. Developers and deployers of AI systems should exercise human rights due diligence, including the identification and mitigation of risks to cultural communities and individual creators.

C. Epistemic Authority and Knowledge Production

55. AI systems increasingly mediate access to information, interpret cultural materials and generate explanatory narratives. As these systems become embedded in education, research and public discourse, they may shape perceptions of truth, authority and epistemic (i.e. relating to knowledge and its production) legitimacy[39].

56. Where AI systems are trained predominantly on data reflecting dominant epistemologies, they risk reproducing and amplifying such asymmetries, thereby marginalizing alternative knowledge systems and cultural perspectives[40]. The use of chatbots and synthetic media in communication may alter cultural norms of interaction, empathy and authority[41] influencing how communities sustain traditions and values across generations.

57. The right to development, grounded in principles of equality and participation, requires vigilance against the concentration of epistemic authority in opaque algorithmic systems controlled by a limited number of actors. Democratic oversight, transparency and

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36 Anja Neubauer, Martin Wynn and Robin Bown, 'AI, Authorship, Copyright, and Human Originality' (2026) *Encyclopedia* 6(1) 9 https://www.mdpi.com/2673-8392/6/1/9, accessed on 5 April 2026

37 Committee on Economic Social and Cultural Rights, General Comment N0 17 (2015) Anja Neubauer, Martin Wynn and Robin Bown, 'AI, Authorship, Copyright, and Human Originality' (2026) *Encyclopaedia* 6(1) 9 https://www.mdpi.com/2673-8392/6/1/9, accessed on 5 April 2026

38 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (Paris, 2021).

39 Bender, E et al., *On the Dangers of Stochastic Parrots*: Can Language Models be too Big? ACM Conference on Fairness, Accountability and Transparency (ACM 2021) https://dl.acm.org/doi/epdf/10.1145/3442188.3445922 (accessed on 6 April 2026) and Bender et al "Unsafe AI for Education: A conversation on Stochastic Parrots and Other Learning Metaphors, Journal of Interactive Media in Education, 2025 https://jime.open.ac.uk/articles/10.5334/jime.1079

40 Bender, E et al., *On the Dangers of Stochastic Parrots*: Can Language Models be too Big? ACM Conference on Fairness, Accountability and Transparency (ACM 2021) https://dl.acm.org/doi/epdf/10.1145/3442188.3445922 (accessed on 6 April 2026) and Bender et al "Unsafe AI for Education: A conversation on Stochastic Parrots and Other Learning Metaphors, Journal of Interactive Media in Education, 2025 https://jime.open.ac.uk/articles/10.5334/jime.1079

41 Krugel, S.Ostermeir, A., &Uhl, M (2023) Algorithms as partners in crime: A lesson in ethics by design. Computers in Human Behaviour, 138, 107483. Krugel, S. Ostermaier, Al., &Uhl, M. (2023). ChatGPT's inconsistent moral advice influences users' judgment. Scientific Reports, 13(1), 4569, Srinivasan, R. &Gonzales, B.S.M (2022). The Role of empathy for AI accountability. Journal OF Responsible Technology, 9, 100021.

pluralistic participation are essential to ensure that AI-mediated knowledge production remains inclusive and accountable[42].

58. Promoting epistemic diversity entails deliberate measures, including inclusive and context-sensitive dataset curation, the development of multilingual and culturally adaptive models, and participatory governance processes involving scholars, cultural practitioners and affected communities[43].

D. Cultural Meaning, Authenticity and Simulation

59. Generative AI systems are capable of simulating artistic styles, historical voices and culturally specific forms of expression. While such simulations may serve educational, interpretive or creative purposes, they also raise complex questions concerning authenticity, cultural integrity and appropriation[44].

60. Cultural expressions are often embedded in specific social contexts, communal relationships and historical experiences. When detached from these contexts, algorithmically generated imitations risk trivializing, decontextualizing or commodifying cultural heritage, particularly where such heritage holds spiritual or communal significance[45].

61. The right to take part in cultural life encompasses respect for the integrity, context and meaning of cultural expressions. The use of AI to simulate culturally significant content should therefore be guided by sensitivity to community perspectives, including, where appropriate, consultation with and consent from affected communities[46].

62. Transparency regarding the artificial origin of content is essential to preserving trust and enabling informed cultural participation[47].

E. Human Agency and Technological Mediation

63. As AI tools become increasingly embedded in creative processes, the relationship between human agency and technological mediation is being reconfigured. For some creators, AI functions as a collaborative instrument that expands expressive possibilities; for others, it introduces structural pressures to conform to algorithmically optimized aesthetics and production norms[48].

64. Commercial pressures on AI-assisted creativity may push creators toward content tailored to predictive engagement metrics, potentially favouring standardisation over experimentation and limiting space for critical, dissenting or counter-hegemonic forms of expression[49].

65. The right to development emphasizes the active, free and meaningful participation of individuals and peoples in shaping development processes. Applied to AI-mediated creativity, this principle underscores the importance of preserving human autonomy in decisions concerning the adoption, design and use of technological tools[50].

66. Educational and cultural policies should promote critical digital literacy, enabling both creators and audiences to understand the capabilities, limitations and societal

42 Declaration on the Right to Development 1986, articles 1(1), 2(3) UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (Paris, 2021).

43 Luciano Floridi et al., "AI4People—An Ethical Framework for a Good AI Society" (2018) https://link.springer.com/article/10.1007/s11023-018-9482-5, accessed on 5 April 2026

44 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (Paris, 2021).

45 UNESCO, *Reshaping Policies for Creativity*: Addressing Culture as a Global Public Good (2022).

46 Committee on Economic, Social and Cultural Rights, General Comment No.21 (2009), paras 11-16, 36-37, see also UNDRIP 2007 arts 11, 18, 31.

47 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

48 UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

49 UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

50 OECD, *AI in Society* (Paris, 2019).

implications of AI systems. Such capacities are essential to ensuring that technological mediation enhances, rather than diminishes, human agency[51].

F. Concluding Reflections on Philosophical and Epistemic Dimensions

67. AI is not merely a set of technical tools; it is a transformative socio-technical phenomenon reshaping conceptions of creativity, knowledge and agency. Its integration into cultural life therefore requires ongoing evaluation against human rights standards, asking not only what AI can do, but what it should do and for whom[52].

68. The right to development provides a holistic framework through which to assess these transformations. It requires that the design, deployment and governance of artificial intelligence be oriented towards human dignity, cultural diversity and equitable participation, ensuring that technological progress contributes to shared and inclusive human flourishing.

69. Part III examines how these philosophical dimensions manifest in concrete economic and labour market impacts within creative industries.

V. Implications for Creative Industries and Cultural Labour Markets

A. Structural Transformation of Creative Production

70. AI systems, particularly generative models capable of producing text, images, music and audiovisual content, are transforming the conditions of cultural production[53]. These technologies can lower barriers to entry, enable new forms of experimentation and expand access to creative tools[54]. At the same time, they disrupt established professional roles, value chains and remuneration models within creative industries.[55]

71. Generative AI systems trained on vast bodies of artistic and literary works can replicate stylistic features, generate derivative content and automate tasks previously performed by human creators. While such systems may augment human creativity, they may also reconfigure or displace elements of cultural labour, particularly in sectors characterized by precarious employment and freelance arrangements[56].

72. The right to development requires that technological transformation be accompanied by measures ensuring equitable participation and fair distribution of the benefits of such participation. In the context of creative industries, this entails safeguarding decent work, fair remuneration and social protection for artists and cultural workers affected by automation.

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51 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021). UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

52 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021)

53 UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

54 UNESCO, *Reshaping Policies for Creativity: Addressing Culture as a Global Public Good* (Paris, 2022); UNESCO, Re-shaping Policies for Creativity 2026 (Chapter 3)

55 World Economic Forum, The Future of Jobs Report (2023); European Parliament, Artificial Intelligence and Intellectual Property in the Creative Industries (2024)

56 European Parliament, Research for CULT Committee-*The Use of Artificial Intelligence in the Cultural and Creative Sectors* (Brussels, 2020); Gmyrek and others, *Generative AI and Jobs: A Global Analysis of Potential Effects on Job Quantity and Quality, ILO Working Paper 96* (2023); European Parliament, *Artificial Intelligence and Intellectual Property in the Creative Industries*(2024)

B. Authors' Rights, Training Data and Generative AI

73. The large-scale ingestion of copyrighted works for the training of generative AI models has given rise to significant legal and ethical controversy. Developers frequently rely on datasets compiled through automated web scraping of books, music, visual art and audiovisual content, often without authorisation or meaningful consent from rights holders. The lack of transparency surrounding the composition of such datasets further complicates accountability and enforcement[57].

74. These practices raise complex and unsettled questions regarding the scope of permissible exceptions and limitations under copyright law, including text and data mining (i.e. The automated extraction of information form digital content) regimes, as well as the distinction between genuinely transformative uses and uses that may function as market substitutes. They also call into question the compatibility of large-scale data extraction with the obligation to respect and protect authors' moral and material interests[58].

75. From a cultural rights perspective, article 15 (1) (c) of the International Covenant on Economic, Social and Cultural Rights protects the moral and material interests resulting from any scientific, literary or artistic production. The Committee on Economic, Social and Cultural Rights has clarified that this protection is not synonymous with classical intellectual property regimes, but constitutes a distinct human rights framework grounded in human dignity, social justice and the need to balance private and public interests[59].

76. The unauthorised or non-remunerated use of creative works for AI training may interfere with authors' ability to exercise control over attribution and integrity, and to derive equitable economic benefit from their work. The capacity of generative models to produce outputs closely imitating distinctive styles or recognisable creative signatures may give rise to reputational harm, market displacement and the erosion of professional opportunities[60].

77. A right-to-development framework does not preclude technological innovation; rather, it requires that such innovation be governed in a manner that ensures equitable participation in, and distribution of, its benefits. Policy responses may include collective licensing mechanisms; remuneration or compensation schemes financed by AI developers; enhanced transparency obligations concerning training data; and the establishment of effective opt-out or opt-in regimes for creators[61].

78. Given the transnational nature of digital markets and AI development, international cooperation may be necessary to prevent regulatory arbitrage ("forum shopping"), whereby actors exploit divergences between national legal frameworks. Creators in jurisdictions with weaker regulatory protections or enforcement capacities may face disproportionate exposure to uncompensated use and diminished bargaining power[62].

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57 Buick, 'Copyright and AI Training Data—Transparency to the Rescue?' (2025) 20 *Journal of Intellectual Property Law & Practice* 182 https://academic.oup.com/jiplp/article/20/3/182/7922541 , accessed on 6 April 2026

58 European Commission, *Directive (EU) 2019/790 on Copyright and related rights in the Digital Single Market* (Brussels, 2019), arts 3-4. UK Intellectual Property Office, *Text and Data Mining Consultation Response* (2022). Pamela Samuelson, "Implications of AI for Copyright Law", Communications of the ACM (2023).

59 United Nations, *International Covenant on Economic, Social and Cultural Rights* (1966), article 15 (1) (c) Committee on Economic, Social and Cultural Rights, General Comment No. 17 (2005) (E/C.12/GC/17). Committee on Economic, Social and Cultural Rights, General Comment No. 25 (2020) (E/C.12/GC/25).

60 World Intellectual Property Organization, *Copyright and Digital Content: AI and Creativity* (2022)., Senftleben, M. and others, "Training AI Systems on Copyright-Protected Works; Towards Sufficient Transparency of Training Data (2023). Journal of Intellectual Property, IT and E-Commercial Law.

61 European Parliament, *Intellectual Property Rights and Artificial Intelligence* (2021). World Intellectual Property Organization, *AI and IP Policy Options* (2023).

62 United Nations Conference on Trade and Development, *Digital Economy Report* (2021). European Commission, *Impact Assessment Accompanying the Proposal for on AI Regulation* (2021).

C. Algorithmic Visibility and Cultural Participation

79. Beyond production, AI systems play an increasingly central role in the distribution, ranking, and curation of cultural content. Recommendation and personalization algorithms deployed by streaming services, social media platforms, and digital marketplaces shape how cultural works are encountered, determining their visibility, circulation, and potential for monetization[63].

80. Algorithmic curation exerts a structuring influence on patterns of cultural consumption and, by extension, on artistic livelihoods. Content that aligns with platform-optimized metrics, such as engagement, retention, or advertising compatibility, may be systematically amplified, while niche, experimental, independent, or minority-language works risk reduced visibility. Research has documented measurable disparities in algorithmic promotion of minority-language music on major streaming platforms, illustrating these dynamics in practice[64]. These patterns can reinforce existing inequalities and create feedback loops that privilege already dominant forms of cultural expression[65].

81. The right to take part in cultural life encompasses both access to a diversity of cultural expressions and the meaningful opportunity for individuals and communities to contribute to cultural discourse. Where algorithmic systems systematically favour dominant languages, aesthetic norms, or commercially profitable genres, they may constrain cultural pluralism and limit meaningful participation, particularly for marginalized groups[66].

82. Transparency, accountability, and due process in algorithmic decision-making are therefore integral to States' obligations to respect, protect, and fulfil cultural rights. The Committee on Economic, Social and Cultural Rights has emphasized that access to information and participation in cultural life require enabling conditions that extend to digital environments. Regulatory responses may include requirements for meaningful explanation of content moderation and recommendation criteria, independent audits of algorithmic systems to detect bias and discriminatory effects, and accessible mechanisms enabling creators to challenge unjustified demotion, de-prioritization, or removal of content[67].

83. Ensuring cultural pluralism in digitally mediated environments may also require proactive and corrective policy measures. These can include support for public-interest and non-commercial digital platforms, discoverability obligations for local and diverse cultural content, and targeted funding schemes designed to counterbalance the concentration of visibility and revenue within dominant platform ecosystems[68].

D. Labour Rights and Social Protection

84. Automation enabled by AI may affect a wide range of cultural occupations, including translators, illustrators, voice actors, composers, journalists, and technical production staff. While new roles may emerge, such as AI trainers, prompt engineers, and

63 UNESCO, *Reshaping Policies for Creativity: Addressing Culture as a global public good (* 2022). Gillespie, T., *The Relevance of Algorithms,* accessed on 18 March 2026 at https://culturedigitally.org/wp-content/uploads/2012/08/Gillespie-Relevance_of_Algorithms.pdf

64 See, Gillespie, T., The Relevance of Algorithms, accessed on 18 March 2026 at https://culturedigitally.org/wp-content/uploads/2012/08/Gillespie-Relevance_of_Algorithms.pdf

65 OECD, *Artificial Intelligence in Society* (Paris, 2019). Jonathan Paquette, 'Algorithmic Biases and the Discoverability of Digital Cultural Content' (2025) 11(2) *Journal of Cultural Management and Cultural Policy, vol 11, issue 2*

66 Jonathan Paquette, 'Algorithmic Biases and the Discoverability of Digital Cultural Content' (2025) 11(2) *Journal of Cultural Management and Cultural Policy, vol 11, issue 2*, UNESCO Reshaping Policies for Creativity (2026).

67 CESCR General Comment No.25 (2020), EU Digital Services Act (Reg /2022/2065), Council of Europe Framework Convention on AI (2024)

68 UNESCO, *Reshaping Policies for Creativity Addressing Culture as a global public good* (Paris, 2022). UNESCO Reshaping Policies for Creativity (2026).

data curators, transitional disruptions could disproportionately impact vulnerable workers[69].

85. The right to development requires that structural economic change be accompanied by robust social protection, reskilling programs, and inclusive policy design. Cultural workers should be meaningfully consulted and involved in decisions regarding the adoption and deployment of AI tools within their sectors[70].

86. Collective bargaining frameworks may need to evolve to address AI-related challenges, including the use of performers' likenesses, voice replication technologies, and automated script or content generation. Agreements between professional associations and producers can establish safeguards concerning consent, remuneration, and data usage[71].

87. Social protection systems must also account for the growing casualisation and platformisation of cultural work. AI-driven market dynamics may exacerbate income volatility, limit access to benefits, and increase reliance on opaque remuneration algorithms[72], underscoring the need for targeted regulatory and policy interventions.

E. Gender, Inequality and Intersectional Impacts

88. AI systems may reproduce or amplify existing inequalities within creative industries. Women, minorities, and persons with disabilities can be underrepresented in high-visibility cultural sectors and technology development roles, which would limit their influence over both content and technological design[73].

89. Training datasets that reflect historical biases may produce stereotypical, exclusionary, or otherwise discriminatory representations in AI-generated outputs. Such patterns risk perpetuating unequal narratives and restricting equal participation in cultural life[74].

90. States' obligations under international human rights law include ensuring non-discrimination and substantive equality. AI governance frameworks should therefore incorporate intersectional impact assessments, disaggregated data analysis, inclusive design processes, and mechanisms for meaningful stakeholder participation[75].

91. A right-to-development approach further requires that marginalised communities not only be protected from harm but also be empowered to shape AI innovation in ways that reflect their cultural priorities, values, and creative agency.

F. Rights-Compatible AI Applications in Creative Sectors

92. While the preceding sections have focused on risks, AI technologies also offer opportunities consistent with cultural rights when appropriately governed. Examples

69 International Labour Organization, *Work for a Brighter Future: Report of Global Commission on the Future of Work* (ILO, 2019). UNESCO, *Reshaping Policies for Creativity: Addressing Culture as a Global Public Good* (2022); OECD, *Employment Outlook 2023: Artificial Intelligence and the Labour Market* (2023); and World Economic Forum, *The Future of Jobs Report 2023* (2023),

70 International Labour Organization, *Work for a Brighter Future: Report of Global Commission on the Future of Work* (ILO, 2019).

71 "Regulating Platform Work in the Digital Age" OECD Policy Note (2020), *Economic and Labour Relations Review* (2020) International Federation of Actors, *Principles on AI and Performance Rights* (Policy brief, 2023)

72 UNESCO, *1980 Recommendation concerning the Status of the Artist* (2023). International Labour Organization (ILO), "Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World" (2018)

73 *UN Women, Artificial Intelligence and Gender Equality (2024) New UNESCO Report on Artificial Intelligence and Gender Equality*, UNESCO, *Reshaping Policies for Creativity: Addressing culture as a global public good* (2022)

74 *UN Women, Artificial Intelligence and Gender Equality (2024)*

75 UNESCO, Recommendation on the ethics of Artificial Intelligence (2021) UNESCO, *Reshaping Policies for Creativity: Addressing culture as a a global public good* (2022)

include: open-source tools enabling independent artists to access production capabilities previously limited to well-resourced studios; AI-assisted restoration and digitisation of deteriorating cultural heritage materials; and community-controlled language technologies supporting the documentation and revitalization of endangered languages. Such applications demonstrate that AI can serve cultural rights objectives when developed with community participation, transparency and equitable benefit sharing.[76]

G. Concluding Observations on Creative Industries

93. AI presents both opportunities and risks for creative industries and cultural labour markets. It can democratise access to tools, foster cross-cultural exchange and stimulate new forms of artistic expression. Yet without appropriate safeguards, it may undermine authors' rights, exacerbate precarity and concentrate economic power.

94. The right to development provides a normative framework for navigating these tensions. It calls for participatory governance, equitable benefit-sharing, and robust protection of moral and material interests.

95. Part IV examines how these dynamics affect Indigenous Peoples and traditional knowledge systems, where collective rights and cultural self-determination assume particular importance.

VI. Indigenous Peoples and Traditional Knowledge Systems

A. Collective Rights and Cultural Self-Determination

96. The implications of AI for Indigenous Peoples must be assessed through the framework of collective rights, including the rights to self-determination and development. For Indigenous Peoples, cultural heritage, traditional knowledge, languages, and spiritual practices are integral to collective identity, territorial integrity, and cosmological worldviews[77].

97. The collective dimension of cultural rights affirms Indigenous communities' authority to preserve, control, protect, and develop their cultural heritage and knowledge systems, encompassing both tangible and intangible expressions, oral traditions, ecological knowledge, genetic resources, and sacred cultural materials[78].

98. AI systems trained on digitized cultural materials, such as Indigenous languages, artistic expressions, medicinal knowledge, or ecological data, may be deployed in commercial or research contexts without prior consultation or consent. Such practices risk compromising cultural self-determination and may constitute a contemporary form of cultural appropriation[79].

99. The right to development obliges States and other actors to ensure that Indigenous Peoples participate actively, freely, and meaningfully in decisions regarding technological applications affecting their lands and their knowledge. Development must be guided by Indigenous priorities, values, and aspirations, and cannot be externally imposed[80].

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76 See, e.g., First Languages Australia, Ngapartji Ngapartji: Keeping Indigenous Languages Strong (2023); Te Hiku Media, "Papa Reo: A Māori Language Initiative" tehiku.nz (accessed 8 April 2026), documenting community-controlled speech recognition and language preservation projects developed with Indigenous data sovereignty principles.

77 UNDRIP Articles 3: 11, 13, 14.

78 UNDRIP Articles 11, 12 and 31(1)

79 UNDRIP Articles 18, 19 and 31(2) and Expert Mechanism on the right to Indigenous people UN Doc A/HRC/EMPRIP/2025/2 and https://indico.un.org/event/1022637/attachments/24935/71084/Concept_note

80 UNDRIP Articles19, 23 and 32 (1)

B. Data Sovereignty and Digital Extractivism

100. The principle of data sovereignty has emerged as a matter of urgent concern for Indigenous Peoples in the digital era. Cultural, linguistic, and knowledge-based data are not neutral commodities; they are embedded within collective histories, responsibilities, and relational frameworks that define community knowledge systems[81].

101. Large-scale data extraction for (AI) training risks reproducing extractive patterns historically associated with natural resource exploitation. Indigenous cultural expressions, oral histories, and community-generated data may be appropriated as raw inputs for commercial AI systems, often without recognition, attribution, or equitable benefit-sharing[82].

102. As noted in Part I, A human rights-based approach to data requires the rigorous application of the principle of free, prior, and informed consent (FPIC) before collecting, digitizing, or using Indigenous cultural data. Consent processes must be culturally grounded, aligned with community governance structures, and extend beyond individual authorization to respect collective decision-making[83]. In practice, this requires that AI developers and researchers engage with Indigenous governance institutions, provide comprehensive information in accessible formats, allow adequate time for deliberation according to community protocols, and respect the right to withhold or withdraw consent.

103. Community-driven data governance mechanisms, including Indigenous data trusts and stewardship models, provide concrete pathways for exercising control over data flows. Such frameworks can define conditions for access, attribution, reciprocity, and benefit-sharing, particularly in the context of AI development and deployment[84].

104. States have a duty to protect Indigenous Peoples from corporate practices that threaten cultural integrity. This obligation encompasses the regulation of data brokers, research institutions, and technology companies operating domestically, as well as addressing cross-border and extraterritorial impacts through international cooperation[85].

C. Language Technologies and Linguistic Revitalisation

105. AI-enabled language technologies, including machine translation, speech recognition, and generative text systems, present both opportunities and risks for Indigenous languages. When developed in partnership with communities, such tools can support language revitalisation, educational initiatives, and the intergenerational

81 Carroll, S.R. et al. (2020) "The CARE Principles for Indigenous Data Governance," *Data Science Journal*, 19 Data Science Journal 43,. https://datascience.codata.org/articles/dsj-2020-043 accessed on 18 March 2026

82 Mohamed, S., Png, M.-T. & Isaac, W. (2020) "Decolonial AI: Decolonial Theory as Sociotechnical Foresight in Artificial Intelligence," *Philosophy & Technology*, 33. https://link.springer.com/article/10.1007/s13347-020-00405-8 accessed on 18 March 2026. EMRIP (2025) *Right of Indigenous Peoples to data*, A/HRC/EMRIP/2025/2

83 *UNDRIP*, arts. 10, 19, 32, EMRIP (2025) *Right of Indigenous Peoples to data*, A/HRC/EMRIP/2025/2

84 Rainie, S.C. et al. (2019) "Data as a Strategic Resource: Self-determination, Governance, and the Data Challenge for Indigenous Nations in the United States," The *International Indigenous Policy Journal*, (2017) 10(2), https://ojs.lib.uwo.ca/index.php/iipj/article/view/7511/6155, accessed on 18 March 2026 Carroll, S.R. et al. (2020) "The CARE Principles for Indigenous Data Governance," *Data Science Journal*, 19 Data Science Journal 43,. https://datascience.codata.org/articles/dsj-2020-043 accessed on 18 March 2026

85 EMRIP (2025) *Right of Indigenous Peoples to data*, A/HRC/EMRIP/2025/2, Committee on Economic, Social and Cultural Rights, General Comment No 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, UN doc E/C/12/GC/24

transmission of linguistic heritage. Successful examples include community-led speech recognition projects and Indigenous-controlled language documentation initiatives[86]

106. Many Indigenous languages remain severely underrepresented in digital collections of texts. AI systems trained primarily on dominant languages risk marginalizing minority linguistic expressions and misrepresenting culturally specific meanings[87].

107. The right to participate in cultural life encompasses the right to use, maintain, and develop one's language. States should invest in inclusive, community-developed language datasets that reflect Indigenous norms, values, and knowledge systems, ensuring that AI tools serve cultural revitalization rather than undermine it[88].

108. Capacity-building initiatives that empower Indigenous technologists, linguists, and cultural practitioners to participate in AI development are essential. Without such participation, technological tools may lead to the commercial exploitation of Indigenous knowledge[89].

D. Traditional Knowledge, Biodiversity, and AI Applications

109. Traditional ecological knowledge has attracted growing interest in domains such as climate modelling, sustainable agriculture, and pharmaceutical research. AI applications in biodiversity mapping, environmental monitoring, and genetic analysis increasingly draw upon community-held knowledge[90].

110. Collaborative research may generate mutual benefits. Nevertheless, the commercialisation of AI-driven innovations derived from traditional knowledge raises critical questions regarding intellectual property, equitable remuneration, and the protection of cultural integrity[91].

111. The right to development entails fair and equitable benefit-sharing arising from the use of traditional knowledge and associated resources. Legal and policy frameworks must ensure that AI innovations drawing upon such knowledge respect community governance, safeguarding both economic returns and cultural rights.

112. Additional safeguards are necessary to prevent the unauthorized disclosure of sacred, sensitive, or otherwise restricted knowledge.

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86 UNESCO (2019) Global Action Plan the International Decade of Indigenous Languages and follow-up International Decade of Indigenous Languages (IDIL 2022-2032) (2022); UNESCO *AI and the Futures of Learning* (updated in 2024). United Nations (2007) *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), arts. 13–14. Expert Mechanism on the Rights of Indigenous Peoples (2025) *Right of Indigenous Peoples to data*, A/HRC/EMRIP/2025/2

87 Bender, E et al., *On the Dangers of Stochastic Parrots*: Can Language Models be too Big? ACM Conference on Fairness, Accountability and Transparency (ACM 2021) https://dl.acm.org/doi/epdf/10.1145/3442188.3445922 (accessed on 6 April 2026) ; Expert Mechanism on the Rights of Indigenous Peoples (2025) A/HRC/EMRIP/2025/2

88 UNESCO (2022) *Global Action Plan of the International Decade of Indigenous Languages*(IDIL 2022-2032) (2022)

89 UNESCO (2021) *Recommendation on the Ethics of Artificial Intelligence*. Expert Mechanism on the Rights of Indigenous Peoples (2025) A/HRC/EMRIP/2025/2.World Intellectual Property Organization (WIPO) Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions (WIPO Publication No.933, 2020)

90 IPBES *Global Assessment Report on Biodiversity and Ecosystem Services* (2019); Expert Mechanism on the Rights of Indigenous Peoples (2025) *Right of Indigenous Peoples to data*, A/HRC/EMRIP/2025/2

91 Convention on Biological Diversity (1992) and Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity (2010) World Intellectual Property Organization (WIPO) Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions (WIPO Publication No.933, 2020)

E. Epistemic Diversity and Algorithmic Representation

113. AI systems are built upon data architectures, classification schemes, and epistemological assumptions, which determine how they interpret, organise, and generate knowledge. When dominant knowledge patterns are weaved into algorithms, alternative or less represented views may be marginalised, made invisible, or misrepresented[92].

114. Indigenous epistemologies often emphasise relationality, stewardship, and holistic understandings of the interactions between people and the environment. These perspectives may be incompatible with extractive models commonly employed in AI development[93].

115. A right-to-development framework anchored in cultural diversity requires respect for epistemic pluralism. AI governance should therefore promote inclusive design processes, ensuring that diverse knowledge traditions are recognised and that homogenising standards are not imposed[94].

116. Mechanisms to achieve these objectives may include participatory technology assessments, community-led impact evaluations, and enabling Indigenous Peoples to shape ethical guidelines for AI applications affecting their cultures, lands, and knowledge systems[95].

F. Remedies, Redress, and International Cooperation

117. Where AI systems infringe collective cultural rights, through unauthorized data use, misrepresentation, or economic exclusion, effective remedies must be available. Both judicial and non-judicial grievance mechanisms should be accessible, culturally appropriate, and responsive to collective claims[96]. A significant challenge concerns standing existing legal frameworks often fail to recognise communities, linguistic groups or cultural collectives as rights-holders capable of bringing claims. States should consider developing procedural mechanisms that enable collective standing for cultural harms.[97]

118. Given the transnational character of AI development, international cooperation is indispensable. States should collaborate to establish binding and non-binding standards on data governance, intellectual property, and benefit-sharing that uphold the rights of Indigenous Peoples[98].

119. Development cooperation programmes should support the creation of digital infrastructure, education initiatives, and community-driven innovation, ensuring that AI technologies can be harnessed in ways consistent with Indigenous values, priorities, and self-determined development strategies[99].

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92 *Expert Mechanism on the Rights of Indigenous Peoples* "Right of Indigenous People to Data" A/HRC/EMRIP/2025/2

93 *Expert Mechanism on the Rights of Indigenous Peoples* "Right of Indigenous People to Data" A/HRC/EMRIP/2025/2; UNESCO (2021) *Recommendation on the Ethics of Artificial Intelligence*

94 United Nations (1986) *Declaration on the Right to Development*. UNESCO (2005) *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, articles 1-2, UNDRIP 2007, arts 11-31

95 *Expert Mechanism on the Rights of Indigenous Peoples* "Right of Indigenous People to Data" A/HRC/EMRIP/2025/2

96 United Nations Human Rights Council (2011) *Guiding Principles on Business and Human Rights*, A/HRC/17/31, principles 25-31. Committee on Economic, Social and Cultural Rights, General Comment No 24 (2017) UN Doc E/C.12/GC/24.

97 Y. Donders, *Foundations of Collective Cultural Rights in International Human Rights Law* (2015) (SSRN Working Paper), https://pure.uva.nl/ws/files/144142528/9789004312029-B9789004312029-s006.pdf accessed on 9 April 2026.

98 UNDRIP arts 36 and 41, Declaration on the Right to Development, art 3.

99 UNDRIP, arts 23, 39. Expert Mechanism on the Rights of Indigenous Peoples (2025) A/HRC/EMRIP/2025/2

G. Concluding Observations on Indigenous Peoples and AI

120. AI has the potential to contribute to cultural revitalization, environmental stewardship and economic opportunity for Indigenous Peoples. However, without robust safeguards, it may also replicate historical patterns of dispossession and marginalization in digital form.

121. The right to development, read in conjunction with collective cultural rights, requires that AI governance respect self-determination, ensure free, prior and informed consent, promote equitable benefit-sharing and safeguard epistemic pluralism.

VII. Regulatory Models and Global Governance: Toward a Human Rights Based Framework for Artificial Intelligence

A. Domestic Regulatory Approaches

122. States have adopted diverse approaches to the governance of AI, ranging from voluntary ethical guidelines and national strategies to binding legislative frameworks establishing enforceable obligations.

123. A growing number of States have introduced risk-based regulatory models that classify AI systems according to their potential impact on safety and fundamental rights. Systems deemed to present higher risks are subject to enhanced requirements, including obligations relating to transparency, accountability and human oversight. While such frameworks have focused primarily on data protection, non-discrimination and consumer protection, their implications for cultural rights and creative sectors are increasingly evident.

124. The European Union AI Act establishes a comprehensive risk-based framework, including obligations on transparency, documentation and human oversight. Its provisions relating to general-purpose AI have significant implications for generative systems used in artistic production and cultural dissemination[100].

125. Domestic copyright frameworks have also begun to address the legality of text and data mining for AI training. Regulatory approaches diverge significantly: some jurisdictions provide exceptions under specified conditions, while others emphasise licensing regimes or opt-out mechanisms. This divergence risks regulatory fragmentation and legal uncertainty[101].

126. From a right-to-development perspective, domestic regulation should extend beyond risk mitigation to address structural inequalities. This includes public investment, such as government funding projects in culturally diverse datasets, support for local creative industries and measures to curb excessive market concentration[102].

B. Regional and Multilateral Initiatives

127. Regional organisations play an increasingly important role in shaping AI governance. Such initiatives can promote regulatory convergence, reduce fragmentation and strengthen collective engagement with transnational corporations.

128. The Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law constitutes the first legally binding international treaty on AI. It requires that AI systems be developed and deployed in a

100 Regulation (EU) 2024/1689 (the EU AI Act)

101 Directive (EU) 2019/790 on Copyright and related Rights in the Digital Single Market, arts 3-4, WIPO Copyright and Digital Content: AI and Creativity (2022)

102 See for example, UNESCO's *Reshaping Policies for Creativity* (2026*)* chapter 3.

manner consistent with human rights, democracy and the rule of law, while allowing flexibility in national implementation[103].

129. The UNESCO Recommendation on the Ethics of AI provides comprehensive normative guidance, including principles relating to cultural diversity, inclusion and international solidarity. While non-binding, it reflects broad global consensus on foundational values for AI governance[104].

130. Multilateral development banks and United Nations entities have launched initiatives to support AI readiness in developing countries. Such efforts are essential to prevent widening technological divides and to enable effective participation in global governance processes.

C. The Case for Binding International Standards

131. The transnational nature of AI systems, characterized by cross-border data flows, distributed value chains and platform-based markets, limits the effectiveness of purely domestic regulation. Divergent standards may enable regulatory arbitrage and weaken human rights protections.

132. Article 3 of the Declaration on the Right to Development affirms the duty of States to cooperate in eliminating obstacles to development and promoting a just international economic order. In the context of AI, this supports the development of international standards addressing data governance, transparency, accountability and equitable benefit-sharing.

133. A global framework could establish minimum requirements for human rights due diligence, including algorithmic impact assessments, cultural impact assessments, participatory processes and safeguards for collective rights. It could also strengthen access to remedy across jurisdictions.

134. Progress toward binding international regulation remains constrained by divergent national interests, geopolitical competition and disparities in technological capacity. Incremental approaches, such as interoperable standards, mutual recognition arrangements and coordinated enforcement, may nevertheless contribute to greater coherence[105].

D. Corporate Governance and Human Rights Due Diligence

135. Private actors play a central role in the development and deployment of AI systems. The United Nations Guiding Principles on Business and Human Rights establish that business enterprises have a responsibility to respect human rights, including through the conduct of ongoing due diligence[106].

136. In the context of AI, such due diligence should include the assessment of cultural and developmental impacts, including effects on creative labour, minority languages and Indigenous knowledge systems. These processes should be iterative and responsive to technological change.

137. Transparency regarding training data, model design and content moderation practices is essential to ensure accountability. While legitimate interests in intellectual property and security must be considered, excessive opacity undermines effective

103 Council of Europe, Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (2024).

104 UNESCO, Recommendation on the Ethics of Artificial Intelligence (2021)

105 OECD, *Common Guideposts to Promote Interoperability in AI Risk Management* (OECD AI papers No 5 2023)

106 UN Human Rights Council, *Guiding Principles on Business and Human Rights*, A/HRC/17/31 (2011), principles 11-24, Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises A/HRC/59/53 on "Artificial intelligence procurement and deployment: ensuring alignment with the Guiding Principles on Business and Human Rights" (2025).

oversight. The extraterritorial reach of major AI developers, whose systems affect rights-holders worldwide, creates enforcement challenges that domestic regulation alone cannot fully address. This underscores the need for international cooperation mechanisms, including information-sharing arrangements and coordinated regulatory responses[107].

138. Meaningful stakeholder engagement, including with creators, cultural institutions, Indigenous communities and civil society, is necessary to ensure inclusive and legitimate governance processes.

E. Competition, Public Infrastructure and Digital commons

139. Competition policy is a critical tool for addressing concentration in AI ecosystems. Enforcement measures, including merger review and interoperability requirements, can help prevent excessive consolidation of data and computational resources[108].

140. Public digital infrastructure, including open datasets, open-source models and accessible computing capacity, can enable broader participation in AI innovation and reduce dependency on proprietary systems[109].

141. The concept of digital commons offers an alternative governance paradigm based on shared stewardship and collective benefit[110]. Community-based data governance and open licensing models may support innovation while safeguarding cultural rights.

142. A right-to-development approach supports investment in such models, particularly in developing countries where access to AI infrastructure remains limited.

F. Remedies and Access to Justice

143. Effective governance requires accessible, independent and adequately resourced mechanisms for redress. Individuals and communities affected by AI systems must have access to judicial and non-judicial remedies.

144. Structural barriers, including high costs, jurisdictional complexity and asymmetries of information, continue to limit access to justice. States should strengthen collective complaint mechanisms, public interest litigation and administrative enforcement.

145. Litigation in the United States illustrates both the potential and limitations of existing frameworks. In *Andersen v. Stability AI*, visual artists are challenging the use of copyrighted works in AI training. In *The New York Times Company v. Microsoft Corp.*, claims relate to the use of journalistic content in generative AI systems[111]. These cases rely primarily on intellectual property law to address harms arising from data use.

146. Such approaches remain limited in their ability to address collective cultural harms and broader impacts on cultural diversity and information ecosystems.

147. Concerns regarding large-scale data extraction have also been raised in the Global South. Policy discussions within the African Union emphasize issues of data sovereignty, unequal value distribution and the use of culturally embedded data without meaningful consent or benefit-sharing[112].

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107 See Human Rights Council, Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/59/53 (2025), paras. 45–52, discussing extraterritorial dimensions of corporate human rights responsibility in the AI context.

108 European Commission, Directorate-General for Competition: *Competition Policy for the Digital Era* (2019)

109 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (UNESCO 2021)

110 UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (UNESCO 2021)

111 *Andersen, McKernan and Ortiz v Stability Al Ltd*, No. 3:23-cv 00201 (N.D.Cal 2023): *The New York Times Company v Microsoft Corporation and OpenAI*, (S.D.N.Y.2023)

112 African Union, AU Data Policy Framework (28 July 2022) https://au.int/sites/default/files/documents/42078-doc-DATA-POLICY-FRAMEWORKS-2024-ENG-V2.pdf accessed on 18 March 2026.

148. These developments point to a broader accountability gap. Reliance on private litigation places disproportionate burdens on affected individuals and communities, particularly those in marginalized contexts.

149. Enhanced international cooperation, including mutual legal assistance, coordinated enforcement and transnational regulatory networks, is essential to address cross-border harms. Consideration should also be given to international complaint mechanisms and collective redress frameworks[113].

G. Conclusions

150. AI governance remains at an early stage of development. Current regulatory approaches, while evolving, are fragmented and uneven in their capacity to address transnational and structural impacts.

151. Existing legal frameworks, particularly those grounded in intellectual property and domestic regulation, are not fully equipped to address collective cultural harms, inequalities in data governance and asymmetries in technological capacity.

152. The right to development provides a normative framework for AI governance, emphasizing participation, equity, accountability and international cooperation.

VIII. Conclusions and Recommendations

A. General Conclusions

153. The EMRTD concludes that AI represents a profound transformation in the organization of cultural production, access to knowledge, economic participation and global power relations. AI systems are not neutral technologies; they can reflect and reproduce existing structural inequalities and, if left inadequately governed, risk deepening them.

154. The EMRTD reaffirms that the right to development provides a comprehensive normative framework for assessing these transformations. In this regard, States are obligated to ensure that AI-driven development processes are participatory, equitable and directed towards the constant improvement of the well-being of all individuals and peoples.

155. The EMRTD emphasizes that cultural rights, as guaranteed under article 15 of the International Covenant on Economic, Social and Cultural Rights, are directly and significantly affected by AI. The rights to participate in cultural life, to enjoy the benefits of scientific progress and to benefit from the protection of moral and material interests must be implemented in a balanced and mutually reinforcing manner.

156. While AI technologies offer important opportunities, including expanding access to creative tools, supporting linguistic diversity and enhancing cultural heritage preservation, the EMRTD expresses concern that, in the absence of adequate safeguards, they may exacerbate inequalities, undermine the rights of creators, marginalize minority cultures and reinforce extractive economic models in digital environments.

157. The EMRTD underscores that these risks may disproportionately affect Indigenous Peoples, minorities, small-scale cultural producers and developing countries. Persistent asymmetries in data access, computational capacity and market

[113] *United Nations Office on Drugs and Crime (UNODC), Mutual Legal Assistance (MLA) (E4J Organised Crime Module 11, updated in 2018);* United Nations Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc A/HRC/17/31 (21 March 2011) principles 25-31.

power risk entrenching new forms of dependency, cultural homogenization and digital colonialism.

158. The EMRTD recalls that existing international human rights law provides clear and applicable standards for the governance of AI. Technological innovation must be aligned with human dignity, equality, non-discrimination and justice.

159. The EMRTD notes with concern, however, that important normative and regulatory gaps remain, particularly with regard to equitable benefit-sharing, cross-border data governance, corporate accountability and the protection of collective cultural rights.

B. Guiding Principles

160. The EMRTD recommends that all actors be guided by the following principles in the governance of AI:

(a) Human-centred development: AI must serve human dignity, agency and well-being, and must not be deployed in ways that undermine human rights.

(b) Participation and inclusion: States and other actors must ensure the meaningful, effective and inclusive participation of individuals and communities, particularly those in vulnerable situations, in decisions affecting their cultural rights and development.

(c) Equity and international solidarity: The benefits of AI must be distributed fairly within and among States, consistent with the principles of equality and international cooperation.

(d) Cultural diversity and epistemic pluralism: AI governance must respect, protect and promote diverse cultural expressions, languages and knowledge systems, including Indigenous knowledge.

(e) Accountability and access to remedy: States and business enterprises must ensure that effective accountability frameworks and accessible remedies are available for violations of cultural rights linked to AI systems.

C. Recommendations to States

161. The EMRTD urges States to integrate mandatory human rights impact assessments and algorithmic impact assessments into national AI strategies, with explicit consideration of cultural rights and the right to development.

162. The EMRTD calls upon States to adopt and enforce robust regulatory frameworks ensuring transparency, human oversight and accountability in AI systems, particularly those used in cultural and creative sectors.

163. The EMRTD urges States to review and reform intellectual property regimes to ensure that the moral and material interests of creators are effectively protected in the context of AI, including through equitable remuneration and benefit-sharing mechanisms.

164. The EMRTD calls upon States to invest in open, inclusive and multilingual data infrastructures, with particular emphasis on supporting minority and Indigenous languages and cultural expressions.

165. The EMRTD urges States to recognize and fully implement the principle of free, prior and informed consent with respect to the collection, digitization and use of Indigenous cultural data, and to support community-led data governance.

166. The EMRTD calls for strengthened international cooperation, in line with the Declaration on the Right to Development, including through technology transfer, capacity-building, financial assistance and the development of interoperable regulatory standards.

D. Recommendations to Business Enterprises

167. The EMRTD calls upon business enterprises to conduct ongoing human rights due diligence in accordance with the United Nations Guiding Principles on Business and Human Rights, including specific assessments of algorithmic, cultural and societal impacts.

168. The EMRTD urges enterprises to ensure meaningful transparency regarding training data, model design, capabilities and limitations, and content governance practices, subject only to narrowly defined and legitimate confidentiality constraints.

169. The EMRTD calls upon companies to establish effective and continuous consultation mechanisms with creators, cultural institutions and affected communities, including Indigenous Peoples.

170. The EMRTD urges business enterprises to develop and implement fair and equitable remuneration and licensing frameworks to ensure that creators and rights holders share in the economic benefits generated by AI systems.

E. Recommendations to International and Regional Organizations

171. The EMRTD encourages international and regional organizations to further develop normative frameworks linking AI governance with cultural rights and the right to development, ensuring coherence across existing standards.

172. The EMRTD calls for consideration of binding international instruments or interoperable regulatory frameworks addressing transparency, accountability, equitable benefit-sharing and cross-border governance of AI.

173. The EMRTD urges development actors to prioritise digital infrastructure, education and locally driven innovation ecosystems, particularly in developing countries and marginalised communities.

174. The EMRTD calls upon international and regional bodies to strengthen inclusive, multi-stakeholder participation in global AI governance, ensuring the effective representation of cultural sectors, Indigenous Peoples, civil society and academia.