iP: The Case for Participatory Culture

Traditional media is dying and some argue that copyright must cure its ills. A new refrain is that the very purpose of copyright is to promote the work of “creative professionals” and not those of “amateur” creators. In contrast, this Article argues that now is the time for intellectual property law to throw its weight behind “participatory culture,” from citizen created blogs to YouTube to Rock Band and massive multiplayer online games. The Article argues for iP—that is, a law that promotes democratic participation in the making of culture. Liberal democratic theory has championed the value of democracy in the political sphere. But scholars have spent far less time considering the benefits of democratic culture. This Article considers the broad ranging significance of democratic culture. The capacity to participate in cultural life has particularly important implications for human flourishing. The cultural spheres of life are those we typically associate with the communities or experiences that give one’s life meaning. Participating in religious or cultural community; listening to or making music with others; reading, watching, and then re-writing Harry Potter—promoting freedom to partake in these activities may be thought of as central to what development is for. At the same time, freedom to create and share culture with others has important implications for other freedoms. Participatory rather than passive culture engenders engaged democratic citizens in the public sphere, facilitates learning, and fosters mutual understanding of others. Additionally, culture plays an increasingly important role in promoting economic development in a Knowledge Age where prosperity flows from making and sharing culture. My praise of participatory culture builds on the insights of philosophers from Habermas to Foucault. Where traditional liberal theorists focus on the political sphere, these theorists put culture at the center of modern social thought, noting how culture constitutes both self and society, while also providing the very building blocks for reconstructing the social edifice. In short: we can never leave what Habermas calls the lifeworld, but as modern beings we must be empowered to question and transform it. Indeed, it is precisely because culture is so influential in shaping our world and ourselves that individual rights to debate it and participate in its making are imperative.