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On Copyright and Social Policy

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Abstract

This paper advocates for a view of copyright not as economic incentive or reward, but as a critical piece of a broader social policy, the goal of which is to help build a just and inclusive society. The exclusive rights granted to creators under copyright legislation, as well as the limits placed on those rights, can be structured in ways that help advance this goal. However, copyright alone can only do so much. In seeking to build a just and inclusive society, copyright must be embedded within, and seen as part of, a broader system of supports, incentives, and social programs focused on justice and inclusion. This paper will identify several ways in which the current Canadian copyright regime is in tension with the goal of building a just and inclusive society. It will then highlight a number of supports, incentives, and programs that together with copyright can help make our society more just and inclusive. Among other supports, it will discuss the important role played by libraries in seeking to build a society in which everyone has the opportunity to learn, create, and communicate in ways that are consistent with one's own cultural and legal traditions, in an environment that is safe and secure.²

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On Copyright and Social Policy

Introduction

What kind of world do we want to create for ourselves and for future generations, and what is the role of copyright law in helping to bring this world into being? Copyright laws play an important role in helping shape societies. The exclusive rights granted under copyright legislation provide an incentive for parties to create and disseminate works.³ Because of their potential economic value, the rights provided under copyright laws can also afford creators, at least in theory, a certain degree of space or freedom within which they can pursue their artistic, musical, dramatic, or literary ambitions. Copyright laws also help determine how and the extent to which individuals can interact with works created by others. Through these ways and others, copyright laws have contributed to the development of a world in which incredible works of art, music, literature, and cinematography (among other art forms) are created every day and disseminated to global audiences.

Our world is also marked by extremes in both wealth and income inequality (Piketty, 2014, 2020). Viewed through the lens of copyright, ours is a world in which some have immediate access to digital warehouses full of works of expression, and in which others' access is much more limited; in which the voices of some can be heard around the world through a range of platforms, billions of times over, and in which others play to empty rooms; in which generative AI models, trained on works created by humans, threaten to displace the livelihoods of the creators on whose works they trained; and in which the benefits and costs of copyright regimes are distributed unequally, with negative impacts felt particularly strongly by Indigenous peoples (Henderson, 2021), members of racialized communities (Vats, 2020), persons with disabilities (Harpur, 2017), persons who identify as women or as gender-diverse (Craig, 2024), and members of the 2SLGBTQIA+ community (Albert, 2021).

In this paper, I argue that copyright law can play a limited but important role in helping build a just and inclusive society, and that we should pursue reforms to copyright to allow it to fulfill this role. My argument will proceed in three parts. First, I will expand upon my claim that we should strive to build societies that are just and inclusive. Second, I will discuss the role that copyright can play in helping to build a just and inclusive society. I will argue that the exclusive rights granted to creators under copyright legislation, as well as the limits placed on these rights, can be structured in ways that help advance this goal. In order for copyright to fulfill its potential in this regard, however, reforms are required. One such reform relates to the purpose of copyright legislation. I will argue that one way to advance justice and inclusion through copyright is to adopt a view of copyright not as economic incentive or reward, but as a critical piece of a broader social policy, the goal of which is to help build a just and inclusive society. Another way to help build a just and inclusive society through copyright is to identify and address the copyright barriers that impede the realization of this goal. However, even with the implementation of these reforms, the ability of copyright to help build a just and inclusive society is limited. At its core, copyright is a system built around grants of limited, exclusive rights to works of expression and other copyright matter. Even if this system is reformed, there are limits to what copyright alone can achieve in terms of satisfying broader justice and inclusion aims. To fully achieve the goal of building a just and inclusive society,

³ Questions can and have been asked about the strength of this incentive function, and the contexts in which it does and does not operate (Stadler, 2006; Bracha and Syed, 2014; Liu, 2015).

copyright must be embedded within, and seen as part of, a broader system of supports, initiatives, and social programs focused on justice and inclusion. In the third and final section of this paper, I will highlight a number of programs and initiatives that together with copyright reform can help build a just and inclusive society.

This paper will focus on Canada. In addition to being my home jurisdiction, it is also one that, due to several factors, is particularly appropriate to focus on in the context of a paper that considers the role of copyright in helping to build a just and inclusive society. These factors include the presence of a constitutional bill of rights (Canadian Charter of Rights and Freedoms, 1982); a Supreme Court that has accepted the importance of balancing the rights of copyright owners, the rights of users, and other interests (*CCH Canadian Ltd. v. Law Society of Upper Canada*, 2004; *SOCAN v. ESA*, 2022; *Théberge v. Galerie d'Art du Petit Champlain*, 2002); and a commitment to reconciliation with Indigenous peoples, by multiple levels of government, that is increasingly being acted upon.

Part I: Towards a just and inclusive society

I view a just and inclusive society as one that attempts to achieve substantive equality for all of its residents, including with respect to the ability of individuals to experience, create, and disseminate works of expression. As well, I view a just and inclusive society as one that respects, creates space for, and celebrates multiple legal orders including Indigenous legal traditions. With respect to conceptions of substantive equality, my work relies on the analytic framework developed by Sandra Fredman, who proposed a four-dimensional principle for substantive equality: “to redress disadvantage; to address stigma, stereotyping, prejudice and violence; to enhance voice and participation; and to accommodate difference and achieve structural change” (2016, p. 713). Fredman noted that “behind this ... is the basic principle that the right to equality should be located in the social context, responsive to those who are disadvantaged, demeaned, excluded, or ignored” (2016, p. 713).

My work also builds on the work of scholars writing in the areas of critical legal theory and its relationship to intellectual property law, including Margaret Chon (2021) and Carys J. Craig (2019). In describing the work of early critical theorists, Chon highlighted the way in which they:

demanded an interpretation of the equality principle in law that was not just formal in nature (i.e. law on the books, which promised but did not deliver equal opportunity). They pointed instead to the lodestar of substantive equality (i.e. law in action, which would result in material and demonstrably positive impact on social groups otherwise disproportionately and negatively affected by inequalities). (2021, p. 748)

Fredman and Chon’s approaches, taken together, are particularly appropriate when considering the intersection of copyright and equality. Grounded in the lived experiences of individuals, their aim is to deliver a positive impact for members of groups who are currently disproportionately negatively impacted by existing structures, including by advocating for structural change. The focus in Fredman’s work on voice and participation is particularly relevant in the copyright context, given that copyright is an area of law that both facilitates and restricts participation in culture and impacts the range of voices able to engage with works of expression.

My claim that a just and inclusive society is one that respects, creates space for, and celebrates multiple legal orders including Indigenous legal traditions is grounded in a commitment to pluralism (Borrows, 2005; Webber, 2006). It is particularly rooted in literature advocating for the need

for western jurisdictions (including but not limited to Canada) to acknowledge, create space for, and celebrate Indigenous legal orders, both within and outside of the context of copyright (Christie, 1998; Christie, 2019; Napoleon, 2024).

Part II: Copyright's role in helping create a just and inclusive society

Copyright can play an important role in helping build a society in which everyone has the opportunity to learn, create, and communicate in an environment that is safe and secure and under which multiple legal traditions are celebrated and given space to thrive. It can do so in several ways. Grants of exclusive rights provided under copyright legislation can provide parties with income that can be used to subsidize or facilitate future creativity. As well, the limited nature of these rights creates space for others to engage with works for the purposes of education, creativity, or communication, either outside of the term of copyright or through defenses, exceptions, or limitations to infringement. For copyright to fulfill this potential, a number of reforms are required. This paper will highlight two types of reform that can bring Canadian copyright closer to this goal. The first focuses on the purpose of copyright.

(A) The purpose of copyright: To help build a just and inclusive society

A number of different articulations of the purpose of copyright have been proposed, both in Canada and other jurisdictions. These purposes include to benefit authors (Bishop, 1990, p. 479); “to prevent someone other than the creator from appropriating whatever benefits may be generated” (Théberge, 2002, para. 30); to achieve a “balance between promoting the public interest in the encouragement and dissemination of works of the arts and intellect and obtaining a just reward for the creator” (Théberge, 2002, para. 30); and “to promote the progress of science and useful arts” (U.S. Const. art. I, § 8, cl. 8). These articulations of the purpose of copyright focus, to varying degrees, on authors, creators, distributors, the public, and artistic progress. They present a vision of copyright that is neutral and objective.

Over the past several decades, an increasing number of scholars have come to challenge this vision of copyright, including by demonstrating how copyright laws are not neutral; how their negative impacts are disproportionately felt by members of historically, persistently, or systemically marginalized (HPSM) groups; and how their positive benefits are similarly unequally distributed (Chon, 2021; Craig, 2019, 2024; Tehranian, 2012). These scholars have proposed a range of reforms to address the gap between the perception of copyright as neutral and objective and copyright's lived, social reality in which the benefits and burdens of copyright are unequally distributed.

Maggie Chon, for instance, advocates for the adoption of a substantive equality principle for intellectual property law (2006, p. 2823; 2007). Building on Chon's work, I argue in this paper that this commitment to substantive equality should be embedded within the purpose of copyright legislation itself. Take the Canadian approach to copyright as an example. The purpose of copyright in Canada has shifted over time. In the 1990s, the purpose of the Copyright Act was described by the Supreme Court of Canada (SCC) as to protect and reward authors (Bishop, 1990). This approach to copyright was later referred to by the SCC as “author-centric” (*SOCAN v. Bell*, 2012, para. 9). In 2002, the SCC shifted away from this author-centric approach in favor of an approach to copyright under which the goal of the Copyright Act is to achieve a “balance between promoting the public interest in the encouragement and dissemination of works of the arts and intellect and obtaining

a just reward for the creator” (*Théberge*, 2002, para. 30). This remains the prevailing approach to copyright in Canada.

Alongside other elements of the SCC’s copyright jurisprudence over the past 20 years, including its articulation of the concept of user rights (*Canadian Ltd. v. Law Society of Upper Canada*, 2004) and its application of this concept to all defenses, limitations, and exceptions to infringement, this approach to copyright has helped to create a regime that can be seen as broadly protective of the interests of non-copyright-owning parties. At the same time, Canada’s approach to copyright is not beyond critique. Scholars including Abraham Drassinower (2009) have raised questions about the SCC’s reliance on the idea or metaphor of balance, as well as the ultimate goal of this balancing exercise. For instance, one can ask what it means to “balance authors’ and users’ rights by securing just rewards for authors while facilitating public access to works” (*SOCAN v. ESA*, 2022, para. 5). How much weight should be given to each set of rights? On what principles is the idea of balance grounded? These questions remain unanswered by courts. As well, this articulation of the purpose of copyright legislation, in focusing broadly on higher-level goals such as encouraging and disseminating works and securing a just reward, does not acknowledge the reality that individuals and groups experience copyright differently depending on their identity and social status.

I am advocating for a further shift in the purpose of copyright in Canada, to explicitly acknowledge its lived reality and to account for the important role that can be played by copyright in helping to achieve a just and inclusive society. This could be framed as a further refinement of Canada’s copyright balance, under which the purpose of the Copyright Act would be to help create a just and inclusive society by striking a “balance between promoting the public interest in the encouragement and dissemination of works of the arts and intellect and obtaining a just reward for the creator” (*Théberge*, 2002, para. 30). In striking this balance, courts and legislators should take account of the fact that copyright’s negative impacts are disproportionately felt by members of historically, persistently, or systemically marginalized (HPSM) groups and that its benefits are similarly unequally distributed. This articulation of the purpose of copyright would address key critiques of the current approach by clarifying its goals and offering clearer guidance for balancing the rights of creators and users.

Because of the important role played by the purpose of legislation in the process of statutory interpretation in Canada (Driedger, 1983, p. 87; Reynolds, 2016), this articulation of the purpose of copyright legislation could, over time, help to build a body of case law that supports the goal of building a just and inclusive society. For instance, it could help reshape the fair dealing defense around ideas of substantive equality. “Fairness” means something different under this lens than under the current articulation of the copyright balance. Adopting this articulation of the purpose of copyright would also further connect copyright—now framed explicitly as social policy—to other social policies including those that support learning, creativity, and communication.

(B) Amending Canada’s Copyright Act

In order for copyright to fully embrace its role in helping to build a just and inclusive society, it is also necessary to amend the Copyright Act by removing (or reforming) those elements of copyright legislation that at present constitute barriers to the achievement of this goal. I will highlight three areas in which Canadian copyright law is in tension with the goal of building a just and inclusive society, and which are ripe for reform.

1) **Modifying the ability of parties to contract out of provisions of the Copyright Act**

One area of tension relates to the question of whether and the extent to which parties are permitted to override provisions of the Copyright Act through contract (Chapdelaine, 2017; Guibault, 2002). There are strong arguments, from a justice and inclusion perspective, in favor of limiting the ability of parties to contract out of copyright. As an example, let us consider user rights. User rights such as the right to fair dealing are one of the key mechanisms through which fundamental rights—such as the right to freedom of expression—are given protection in the context of copyright (Al-Sharieh, 2018; Reynolds, 2016, 2018). Contracts overriding user rights (for instance, contracts that limit or prevent parties from exercising fair dealing rights) thus have a negative impact on the fundamental rights of both users and the public. On this basis, it can be suggested that this type of contractual provision should not be permitted.

However, before implementing a ban on the ability of parties to contract out of copyright, it is important to consider whether in certain circumstances the ability of parties to rewrite aspects of the Copyright Act through contract should be preserved. Part of the desire to limit the ability of parties to contract out of copyright legislation stems from concern about the impact of power imbalances on individual choice. An example of this is where a more economically powerful party pressures a less economically powerful party into waiving protections otherwise available to them under the Copyright Act. However, what about circumstances where this power imbalance is not present, or when it is reversed? One such set of circumstances that could be considered are those in which Indigenous communities seek to limit the extent to which researchers can engage with expression for which Indigenous communities or their members have copyright or to which they control access. Is preserving the ability of parties to contract out of copyright in certain limited circumstances like those just noted consistent with the desire to build a Copyright Act that is grounded in ideas of justice and inclusion? If so, how might a partial ban on the ability of parties to contract out of copyright be structured?

2) **Amend the Copyright Act to provide better access to works for persons with disabilities**

Canada's decision to sign the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (World Intellectual Property Organization, 2013), and the subsequent steps taken by Parliament to amend the Copyright Act to implement its provisions (An Act to Amend the Copyright Act, 2016), resulted in the creation of additional exceptions to copyright infringement that help facilitate access to copyrighted expression for persons with perceptual disabilities. This was an important milestone for justice and inclusion in the context of Canadian copyright law.

However, despite this achievement, Canada's Copyright Act continues to act as a barrier to accessibility. While the Marrakesh Treaty focused on perceptual disabilities, what about other accessibility concerns? What additional exceptions are needed to make copyrighted expression truly accessible? A fulsome review is needed to draw attention to the full range of accessibility barriers in Canada's Copyright Act.

As well, questions can be asked with respect to the on-the-ground impact of the Marrakesh Treaty in Canada. The Marrakesh Treaty was developed to address what is referred to by many as the "book famine"—the fact that the overwhelming majority of published works are not accessible to persons with perceptual disabilities (Helfer et al., 2017, p. xxi). Has implementation of the Marrakesh Treaty in Canada expanded the availability of copyrighted expression that is accessible for persons with perceptual disabilities? What expression has been made more broadly available?

Are there regional variations in the availability of accessible works? Are accessible works available in both rural and urban areas? Are there certain jurisdictions that have addressed the book famine better than others? What have they done, and will those initiatives work in Canada? Important work has been done on the question of Marrakesh Treaty implementation by the Association of Research Libraries together with the Canadian Association of Research Libraries (2023). This work provides a foundation upon which legal scholars as well as scholars from other fields and disciplines, including critical disability studies, can build.

3) Amending the Copyright Act to create space for Indigenous legal traditions

It has been widely acknowledged that Canada's Copyright Act conflicts in a number of ways with Indigenous knowledges and legal traditions (Henderson, 2021; Napoleon, 2024). In seeking to build a just and inclusive society, these conflicts need to be addressed. As part of my attempt to repay my obligations as an uninvited guest on Indigenous traditional territory, I seek to contribute to Indigenous-led efforts to address these conflicts. At the Peter A. Allard School of Law, I am working with a colleague and friend, Professor Johnny Mack, on several works related to the intersection of Indigenous legal traditions and intellectual property law. We recently completed a chapter for an edited text that highlights "the importance of seeking out ways through which to create spaces of autonomy for Indigenous peoples in the context of copyright, for instance by expanding and strengthening Indigenous law, institutions, and authorities in this area" (Mack & Reynolds, 2025). We look forward to continuing our work in this area, which builds on and connects to the work of other scholars who have engaged with the intersection of Indigenous legal traditions and copyright in Canada (Christie, 1998; Henderson, 2021; Napoleon, 2024).

Among other issues that need to be addressed is the question of how Canada's ratification of the United Nations Declaration of the Rights of Indigenous Peoples (2007) might impact Canadian intellectual property law. As stated above in the context of accessibility, a fulsome review is needed to consider this question. In addition to being necessary as part of a broader commitment to reconciliation, such a review is also required for the Government of Canada to fulfill its commitment under the United Nations Declaration on Rights of Indigenous Peoples Act to, "in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration" (2007, art. 5).

Part III: The limits of copyright in helping create a just and inclusive society— Complementary supports

While copyright legislation can be structured in ways that help advance justice and inclusion, there are limits to what copyright alone can accomplish. As such, in seeking to build a just and inclusive society, it is necessary to pair copyright reform with the development of other supports including access to healthy food, safe and secure housing, well-funded schools, daycare programs, before-/after-school care programs for school-age children, internet access, access to technological devices including computers and mobile phones, a base level of income, access to tools through which to create expression, access to publishers or distributors, and access to rehearsal and performance spaces.

These supports can be provided through a range of initiatives, including school lunch programs; community fridges; rental assistance and other housing subsidies; adequate funding of and construction of schools; subsidized daycare and after-care programs; affordable internet access and cell

phone plans; the provision of technological devices to those who would otherwise not have access to them; universal basic income; funds to publishers/distributors to ensure the dissemination of works of expression by creators who are members of HPSM groups; and subsidized rehearsal and performance spaces.

These initiatives complement attempts to reform the copyright regime to make it more just and inclusive. While copyright can incentivize the creation and distribution of works in an indirect way through the grant of transferable rights that may or may not be deemed by the market to hold economic value, the initiatives referenced above directly assist creators and distributors. In many cases, they either put money into the pockets of creators and distributors or provide in-kind contributions that would otherwise need to be paid for at market rates. As well, while copyright reform requires the intervention of the federal government, many of these initiatives and supports can be developed by other levels of government as well as by other parties including businesses, nongovernmental organizations, and individuals.

These complementary initiatives can also be crafted in ways that focus on creators who are members of groups “who are disadvantaged, demeaned, excluded, or ignored” (Fredman, 2016, p. 713), something that is more challenging to accomplish through copyright legislation. In April 2024, for instance, Nova Scotia’s Office of Equity and Anti-Racism (OEA) gave out 12 grants through the OEA Community Network Program, several of which engage with expression, including a \$20,200 grant to the African Nova Scotia Music Association toward “a dedicated creative space for African Nova Scotian/Black artists to gather, perform, collaborate, network and support each other” and a \$25,000 grant to the Delmore (Buddy) Daye Learning Institute toward “archiving, preserving and contextualizing home videos from the African Nova Scotian community through youth-led interviews with elders, supporting cross-generational connections” (Nova Scotia OEA, 2024).

In British Columbia (BC), the BC Arts Council notes that it “supports the artistic development of Indigenous artists and organizations across British Columbia” (British Columbia Arts Council, n.d.). It does so in partnership with First Peoples’ Cultural Council and through dedicated programs like the Individual Artists Program that “supports the artistic development of B.C. First Nations creators residing in B.C. with a creative practice of any medium or expression”; the Arts Strengthening Program that “supports arts revitalization opportunities for B.C. First Nations creatives to pursue either a one-on-one arts mentorships or arts group knowledge transfer”; the Arts Infrastructure Program that “supports B.C. First Nations-led nonprofit arts and culture organizations and societies with art spaces with construction or renovations, artistic production projects, administrative capacity building and operational support”; and the Music Program that “supports the development of B.C. First Nations music creatives and professionals residing in B.C. through grants and training programs”; among other initiatives (British Columbia Arts Council, n.d.).

In Manitoba, my home province, the nonprofit organization Artspace has a mandate to improve the efficiency, effectiveness and capacity of Manitoba arts and culture organisation by ... providing facilities, at below market value rates, to house their operations [and by] providing shared administrative and management services to support their operations. (Artspace, n.d.-b).

Among other services, it “houses artist studios, writing studios, a gallery, a movie theatre, and eighteen arts and cultural organizations working in film, video, book publishing, magazines, visual arts, theatre, music, and photography” (Artspace, n.d.-a). One of the current tenants (as of the time of

writing) is TakeHome BIPOC Arts House, “a space for exhibitions, residencies, presentations and creative production for BIPOC artists in Winnipeg” (Artspace, n.d.-c).

Libraries—including public libraries, K–12 school libraries, university libraries, and research libraries—play a particularly important role in seeking to build a society in which everyone has the opportunity to learn, create, and communicate in ways that are consistent with one’s own cultural and legal traditions, and in an environment that is safe and secure. While this paper will focus on public libraries, the role of other libraries in helping create a just and inclusive society should also be noted. Many public libraries embody the conception of copyright that I proposed earlier. They help create a just and inclusive society by striking a “balance between promoting the public interest in the encouragement and dissemination of works of the arts and intellect and obtaining a just reward for the creator” (*Théberge*, para. 30). They also help to address some of the differential impacts of copyright legislation on individuals and communities. As I have noted in a previous work, public libraries do so by ensuring that everyone, regardless of their income level or institutional status, has the ability to freely access and engage with works of expression including books, video games, movies, and music (Reynolds, 2020). In Vancouver’s public library system, for instance, library cards are free for Vancouver residents as well as for many other categories of individuals (Vancouver Public Library, n.d.-c). Vancouver residents who are cardholders can access both physical and digital resources. They can also access the internet while at public library branches. While access to some works may be delayed, it is guaranteed.

Library services in many public library systems permit individuals to engage with works in ways that go beyond what copyright regimes can offer. For one, libraries provide free access to entire works of copyrighted expression, something that fair dealing often cannot do (Reynolds, 2020). In addition to providing access to expression, libraries also provide safe places in which individuals can engage with expression. For instance, the Halifax Central Library—which I had the pleasure to visit recently—has an open space on the second floor in which to play video games. While there, I noticed what appeared to be a child and their adult playing Minecraft together. Minecraft on Switch is currently available for purchase for \$30 at one major electronics retailer (as of October 31, 2024). The Switch retails for approximately \$400. There is also the cost of the screen on which to view the game, and electricity to power it. This game is freely available to be played at the Halifax Central Library (BeyondBooks, 2018). Libraries also give access to the tools through which expression can be created. These tools include computer terminals, iPads, musical instruments, and—in some branches—recording studios. The Vancouver Public Library, for instance, has an Inspiration Lab that allows people to record audio for podcasts, music, voiceovers, and narration, and a Creation Space that is “dedicated to digital creativity” (VPL, n.d.-a).

Earlier, I highlighted the tensions between Canada’s copyright regime and Indigenous knowledges and legal traditions. Like law more generally, libraries have also been criticized for the roles that they play and have played in the colonial system (Canadian Federation of Library Associations, 2016). In response, libraries including the Vancouver Public Library have taken a range of actions to “honour Indigenous rights,” and to “begin to address the [Truth and Reconciliation] Calls to Action” (Vancouver Public Library, n.d.-d). These steps include adding additional works by Indigenous authors and illustrators to library collections in consultation with community, featuring these works in prominent positions in library branches, reviewing governance mechanisms and communication processes, and creating initiatives like the Vancouver Public Library Indigenous Storyteller in Residence program (VPL, n.d.-b, n.d.-d). It is a work in progress.

Conclusion

I started this paper by asking, what kind of world do we want to create for ourselves and for future generations, and what is the role of copyright law in helping to bring this world into being? I argued that the kind of society that we should strive to build is one that is just and inclusive: one that attempts to achieve substantive equality, by ensuring that everyone has the opportunity to learn, create, and communicate in ways that are consistent with one's own cultural and legal traditions, and in an environment that is safe and secure, and one that respects, creates space for, and celebrates multiple legal orders, including Indigenous legal traditions.

I took the position that copyright can help to build such a society. In order for it to fully embrace its potential to do so, reforms are required. I highlighted two types of reforms that could be pursued: adopting a conception of the purpose of copyright under which the goal of copyright is to help create a just and inclusive society and addressing barriers within copyright regimes that stand in the way of such a goal. Three examples of barriers given in this paper include those related to the ability of parties to contract out of copyright, accessibility barriers, and barriers related to the tensions between Indigenous knowledges and legal traditions and the Canadian copyright regime.

I then addressed the limits of copyright. While copyright reform can help move us toward a more just and inclusive society, its ability to do so is limited, including by the structure of copyright legislation itself, under which exclusive rights are granted to creators, subject to limitations and exceptions. In order to fully achieve the goal of building a just and inclusive society, copyright needs to be embedded within, and viewed as part of, a broader set of social policies that include other complementary supports or incentives. These supports can be directed toward creators who are members of HPSM groups in ways that are much more difficult to accomplish through copyright legislation. These supports can also be both financial and material, another contrast with copyright, which provides its support indirectly through the vehicle of exclusive rights which may or may not hold economic value. I highlighted a range of supports that can complement copyright in achieving this broader goal, focusing in particular on public libraries.

Ultimately, I am advocating for a view of copyright as social policy, a system of laws focused on basic social needs including education and the ability to participate in culture. Under this view, copyright can be seen as existing alongside other social policy initiatives such as school lunch programs, subsidized housing, basic income, public libraries, and targeted supports for creators. Thinking about copyright as social policy helps to reveal the connections between these areas, as well as opportunities for alignment between them. It is possible to build societies that are just and inclusive. Reconceptualizing copyright as social policy, in the manner outlined above, can help reach this goal.

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