

Helge Rønning  
Tore Slaatta

# Ambitious Literary Policies.

International Perspectives.



Published by International Publishers Association  
and Norwegian Publishers Association



THE NORWEGIAN  
PUBLISHERS ASSOCIATION



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**International Publishers Association.  
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## Ambitious Literary Policies. International Perspectives.

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## Preface

As the title indicates, this book argues for ambitious literary policies worldwide. It shows that literary policies are cutting across different policy areas and are widely contributing to the maintenance and development of society.

Our book *The Tools of Literary Politics. The Norwegian Model*, published by Scandinavian Academic Press/Spartacus Forlag in 2019, served as an introduction to the cultural policy measures that currently shape literature in Norway. In this new publication, the analysis is truly international in its scope. It refers to policy tools in many parts of the world, within different cultures, and within different political and economic systems. Literature, written language and the book as a medium are seen as fundamental to every society.

In today's discourse on culture and knowledge politics, however, literature and literary policies easily fade into the background when digital development and screen-based reading are promoted in both politics and business. Literature and literary policies are needed now more than ever!

Innovation and technological development are capital-intensive and cause aggressive competition for cultural markets. If the culture and knowledge industries develop solely on the conditions of the market, mass-produced entertainment and bestsellers may win at the expense of breadth and diversity in cultural expressions.

Without literary policies, will literature survive? In what form? And within which cultural industrial framework will it thrive?

Oslo, 20.5.2020

**Helge Rønning** and **Tore Slaatta**

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# Chapter 1

## Core Values of Literary Politics

This book is a call to arms for active literary politics and serves as an introduction to cultural policy measures that currently shape literature and publishing industries in different states and regions around the world. Literary policies should be understood as part of a complex and flexible field of politics that can be identified at national, regional and international levels of governance, across several policy areas. The aim of this book is to improve understanding of how politics can shape literary markets and the practices of publishing, and to give a good overview of literary policy tools and measures currently in place around the world.

The shape and configuration of literary politics vary substantially between different states and transnational regions according to national political systems, traditions for governance and histories of cultural policy making. In particular, there is great variety in the use of measures and tools in literary policies. Thus, the book attempts to identify and systematise these variations in an effort to create a conceptual order so that literary policy measures may be compared and analysed, with a view to inspire political initiatives and reforms worldwide. The book starts by arguing that all areas, measures and tools of literary policies, wherever they are to be found and in whatever form, should be seen as based on four *core values*. In various degrees and combinations, these values underpin the rationale and aims of the four kinds of policy measures or *policy tools* detected. Whilst mapping the various policy tools, an international perspective is taken, and examples are given of policy tools from a wide range of markets and regions. Each and every one of these tools has been initiated, planned, sanctioned, implemented and refined in national political systems and processes over the course of many years and has involved many different players. Despite their differences and their belonging to different states and regions, they can be divided into four basic categories of policy measures or tools: legal measures, economic measures, educational measures and infrastructural measures. These four categories are the chapter titles and form the main structure of the book. As a political field, literary politics connects with and combines several policy areas and as such it is argued that literary policies inform both cultural politics and knowledge politics. It is therefore important that educational and academic literature gets its fair share of attention in future debates on literary policies. Literature operates within several societal institutions and, in chapter two, concepts and models of the literary political field are systemised and show how literary policies can be discussed from an international perspective.

To begin with, the *core values of literature must be identified*:

### Value 1: Written language as a medium for social communication

When most people can read and write, literature acquires a special value for the community, both as a form of communication and as an art form. Literary policy is about sustaining this value, with particular attention on the art of writing and the main conduit of literary

texts — the book. In one sense, literature is present in all media, in newspaper debates and reviews, in parliamentary documents, in literary radio programmes, in conversational talk shows on television, on the internet, and in social media. Tomorrow's literary policies will most likely embrace broader and more diverse areas and platforms than those of today.

## Value 2: Availability, participation, copyright and use

Having cultural goods available to all is a fundamental and inclusive democratic principle. It is connected to the value of having a common language and a population that is literate, but extends to all cultural and artistic expressions in a society. The principle of making cultural goods generally available as well as the right to protection of material and moral interest of scientific and artistic works including remuneration for their use is most clearly incorporated in Article 27 of the UN Declaration of Human Rights.<sup>1</sup> This is also supported by the formulations on freedom of thought and religion (Article 18), and on freedom of opinion and expression (Article 19). This implies that the rights to freedom of expression, cultural participation and protection of artistic and scientific production belong to a set of fundamental rights and freedoms. In this context free does not mean gratis, as some advocates for abolishing copyright argue.

The interests of those who make a living from writing and publishing must be balanced against the need for accessibility—hence, the copyright legislation found in the Berne Convention, as well as in regional and national jurisdictions of individual countries, for instance, the recent Directive on Copyright in the Digital Single Market (DSM) of the European Union must be respected.

An emerging issue within literary politics is connected to the use of metadata and algorithms to secure participation and use. Society is becoming increasingly aware of the risks that follow from having communication conglomerates as the main builders and developers of communication infrastructures around the world.

## Value 3: Diversity and freedom of expression

The value of accessibility and use directly links to the important principle of literature being diverse and wide-ranging—not dominated by one type of literature or a particular author. From here there is a direct link to the third core value; freedom of expression and freedom of speech. In many states, freedom of speech was a constitutional right long before the Human Rights Declaration made it normative to implement it into national legislations. The basis for all constitutional requirements for freedom of speech is that there should be no prior censorship of any kind for freedom of expression to take place. In the freedom of expression article in the Norwegian Constitution there is a clause stating what may be called an 'infrastructure requirement', stating that the state shall "create conditions that facilitate open and enlightened public discourse."<sup>2</sup>

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<sup>1</sup> 1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. 2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. <https://www.humanrights.com/course/lesson/articles-26-30/read-article-27.html> (Last accessed May 26, 2020)

<sup>2</sup> <https://lovdata.no/dokument/NLE/lov/1814-05-17?q=The%20Constitution> (Last accessed September 21, 2020)

Such a formulation gives the state a statutory responsibility for ensuring diversity and freedom of expression in all cultural and media policies, and thereby strengthening democracy and enabling political and cultural participation. The fact that literature is a place to write freely, whether to promote perspectives and beliefs, or to present scientifically substantiated findings, is an invaluable asset for both the individual and for society.

The desire for an open and diverse public discourse is particularly important in small language communities and in countries with many languages. Even in the smallest of language communities there is diversity, but this diversity is increasingly challenged by dominant national or foreign languages, especially English. Preserving and developing the plurality of languages is therefore an important literary-political task around the world. The demands for diversity also entail that the public sphere must be spacious enough to capture a wide range of meaningful content. Opinions should be tested in public discourse and the best argument should win.

For the literary audience, it means that books should be available to borrow or buy, be accessible to people with disabilities, and be representative of a multitude of voices and opinions. One concern that every cultural industry wrestles with is the way in which demand for economic profit narrows the market supply. An arms' length cultural policy may compensate for market failures by creating systems for support of a broad supply of literary works in all genres and all platforms provided by different publishers.

This connects literary policies to media policies and discussions as to whether public broadcasting companies and a variety of local and national news media can be sustained in an increasingly globalised media landscape. At the same time it is important for literary policies to cultivate conditions that are conducive to a rich and diverse ecology of authors. This must include authors working in different genres and formats, from all parts of the country, from different social classes, as well as being reasonably diverse in terms of gender, age, ethnicity and use of language form. Literary policy is closely linked to language policy issues that aim to maintain and protect a plurality of languages.

## Value 4: Reflection and critique of quality

The fourth value is connected to the criteria by which literature and writing are valued and recognised as quality literature. The number of books increases each year, to the point where even the most voracious reader is unable to keep up. Thus, literary policy is often faced with the challenge of selection: Are there certain areas of literature that need an extra push to get into the readers' hands? Are there some aspects of literature that are worthier of preservation than others? If so, should these particular books be better subsidised, distributed, translated and adapted, and become more readily available than others?

In general, literature is subject to quality assessments through critique and publicity. Works of literature that are deemed 'valuable' is a distinction guarded by professional critics and literary scholars, but this grading does not necessarily best serve the public interest.

As history often tells us, quality assessments can change over time and an author's work can be experienced as more or less important as years go by. Literary quality is thus one of the more ambiguous values of literary policy. Nobody ever agrees, once and for all, what quality is or what it should be. Sociologists can say that something is 'narrow' or that something is 'broad' but they cannot judge whether one is better than the other. If politicians define quality, they may quickly face criticism for breaking the unwritten principle of 'at arms' length'. Literary policy tools often have more general and quantitative goals, such as stimulating more publications, motivating more women writers, or providing more non-fiction for children and adolescents. The question of literary quality nevertheless remains ubiquitous: what is the point of support schemes for literature if they do not lead to the writing and publishing of texts that are considered good literature?

Still, in several literary policy schemes, there are explicit or implicit assessments that must be made to fulfil the schemes' objectives, for instance, what type of literature should be taught and used in schools, which authors should receive government grants, or which books should public libraries buy?

With these four values in mind, and their different local and regional contexts, the book will now proceed to go through analytical concepts and perspectives on the literary political field.

# Chapter 2

## The Fields of Literary Politics

What distinguishes literary politics from other political fields? What characterises it, and how should we work to improve it? This chapter will set out to define the main characteristics of literary politics and present an overarching model that connects core values and areas of literary policies. It will be shown how literary policies relate to different policy areas and introduce four categories of policy tools as the main conceptual framework for the analysis. Models of the production and distribution of literary cycles, which may be helpful in gaining an understanding of how and where different measures come into effect will also be presented.<sup>3</sup>

It is important to be aware that these models and concepts perhaps fit some countries and regions better than others. Still, their heuristic value is inherent and they are a fruitful contribution to further discussions and analyses of literary politics around the world. The UNESCO policy monitoring archive contains 182 out of 2107 registered policy measures from 102 countries, covering the domain of publishing.<sup>4</sup> The information is sourced from a variety of platforms including the internet, scholarly literature, and also the valuable reports from IPA member associations on national policies.

### Values, areas and tools of literary policy

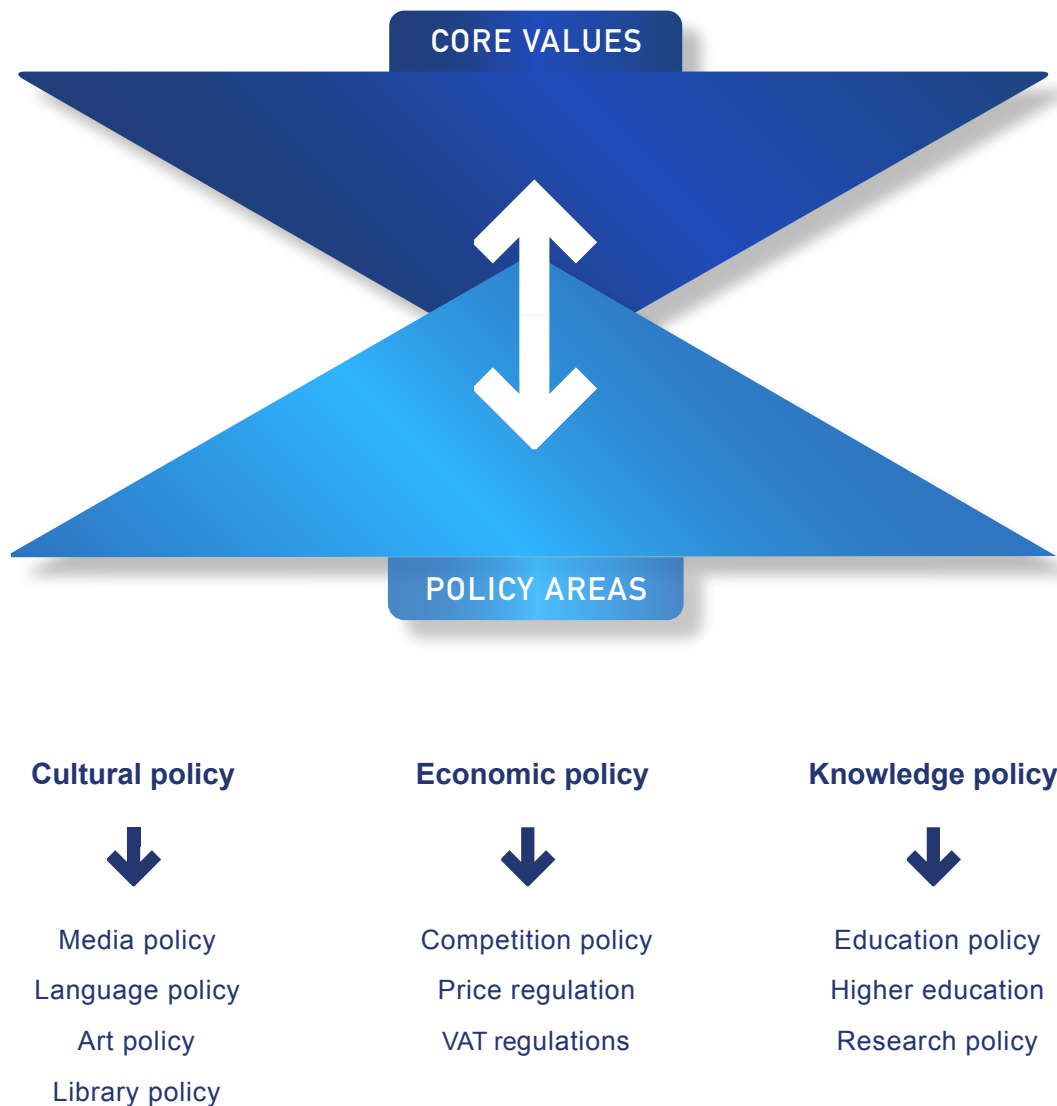
In the opening chapter, the core values of literary politics were introduced; written language as a means of social communication, the availability of literary works and texts for education, democracy and citizens' rights, the importance of copyright and freedom of speech, as well as literary quality. The four core values form the basis of the entire field of literary politics—its institutions and its agents, and they also inform various, relevant policy areas. There are several policy areas that fall under the jurisdiction of different government agencies at national levels. It is possible to condense these into three main areas: cultural policy, business policy and knowledge policy. The field of literary politics can thus be seen as moving from values, via policy areas, to measures in the following way:

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<sup>3</sup> This chapter is a much updated and revised version of chapter 2 in our book on the Norwegian literary system: Rønning, Helge & Tore Slaatta (2019) *The Tools of Literary Politics. The Norwegian System*. Oslo. Scandinavian Academic Press.

<sup>4</sup> <https://en.unesco.org/creativity/policy-monitoring-platform?> (Last accessed March 4. 2020)

## The core values and areas of literary policy



The various literary policy tools relate to different policy areas depending on how the political system in a country is organised and historically rooted. The division of political responsibilities reflect how the tools once came to be, which held consequences for how they went on to develop and survive, taking into consideration historical changes, shifting regimes and governmental policies as well as campaigns for improvements from various players in the political field.

In political science textbooks, political management tools are usually divided into four main categories. In the first category are the *legal or normative tools* associated with laws and regulations that stipulate how things should be and how violations should be sanctioned. There are several laws that regulate literature, first of all the laws regarding freedom of expression and the availability and enjoyment of cultural goods and articulations. Of

equal significance to those who make a living from writing and publishing, is the copyright legislation found not only internationally in the Berne Convention, but also in the national and regional jurisdictions of individual countries, for instance, the recent directive on copyright in the single market of the European Union.

Lastly, many countries around the world have library laws, which require the state to act as archivist and facilitator for access to and the use of the 'literary heritage'. The publishing industry is also subject to national and regional competition laws, as it is an industry. Since a large part of literature is knowledge literature written and published for students at schools and universities, laws regulating education at all levels affect the design of literary policy. The legal and normative tools of literary policies are covered in Chapter 3.

In the second category are the *economic tools*, which are discussed further in Chapter 4. Typical examples are support and regulation schemes or forms of so-called 'subsidy policy' or 'stabilisation policy', where the state gives certain economic benefits to an industry or market player. An example of an important economic literary policy tool is the VAT exemption that benefits booksellers, publishers, and book buyers in many countries. In other countries, however, books are taxed and often subject to import duties, as is the case in many African countries. An alternative to supporting publishers directly is to give authors extended deductions on their taxable income, which was a common business policy in post-war Europe. But within the EU today, such tools are considered to distort competition and cause unfortunate protectionism. Therefore, for economic support schemes in the EU literary fields to be defensible, they need to be defined as cultural policy tools rather than business policy tools. This is the case for the most important economic literary policy tool in Europe, the fixed price book regimes and the European book laws, which limit the ability of booksellers to deviate from a price that the publishers have set for a statutory period.

The third category of policy measures, covered in Chapter 5, contains the educational or pedagogical tools. Of primary importance are the many Education Acts from around the world, which usually requires the state to provide adequate education for all children. Laws might also specify the use of textbooks and teaching aids that are made available in national languages. These measures come under the umbrella of both legal and educational tools. In the literary-political sense, pure educational tools are more likely to be reading campaigns or initiatives where authors visit schools to facilitate reading for selected groups of readers, especially for children and adolescents. More recently, serviceable technology solutions, which are used as interventions to improve reading and writing, can also be viewed as educational tools (as well as infrastructural tools).

The fourth and last category, covered in Chapter 6, contains the technological management tools (infrastructure). These can be various organisational policy tools that are used, for example when publishers, booksellers and distributors make agreements among themselves to ensure that books are available in all sales chains, regardless of the ownership of said chains and suppliers. Also, libraries use these tools under the regulations of the Library Acts, which form an important infrastructure for access and reading. These acts often make it an important public task to build libraries and keep archives and collections open and accessible. Today's politicians also want to facilitate digital development by guaranteeing



basic infrastructure for the digital lending and selling of books, thus digital networks and platforms providing streaming services may be seen as important resources for literary policies.

When connecting the above-mentioned areas and tools together, we are presented with the following examples:

## Areas and tools of literary politics

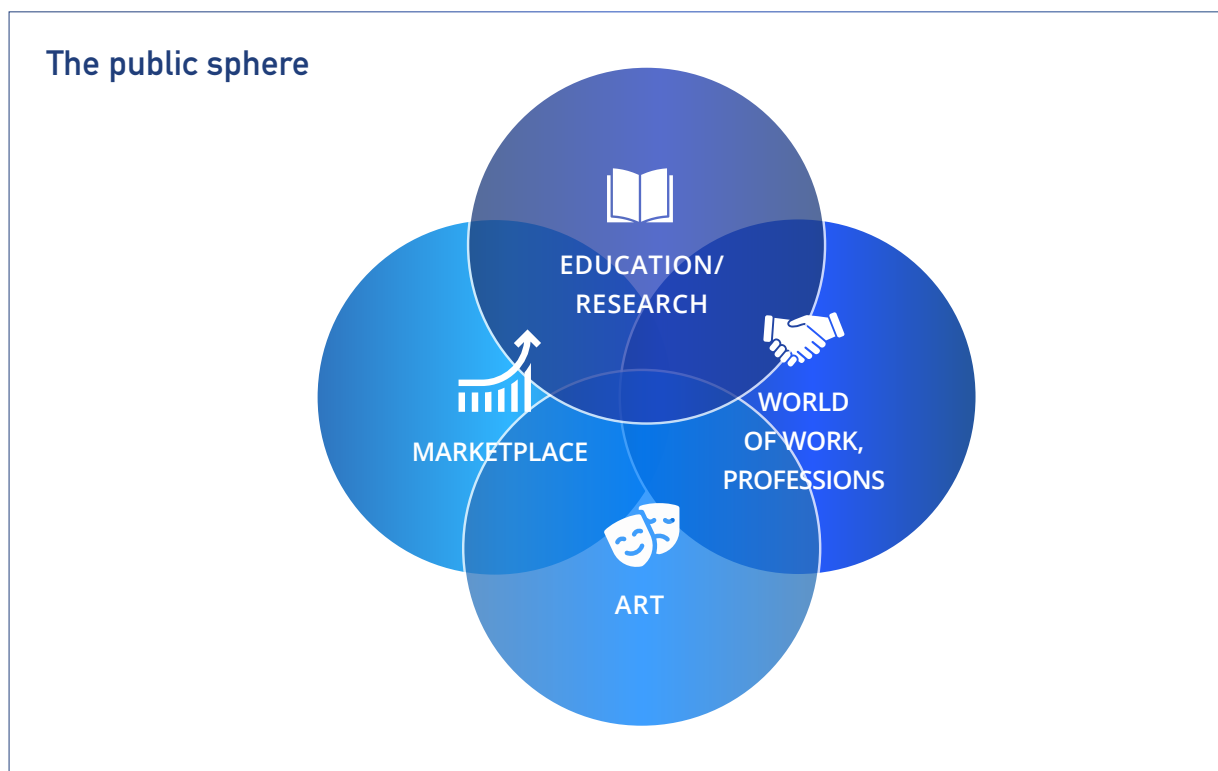
Cultural Policy Tools		
Legal	Economic	Educational/Infrastructural
Freedom of expression act, copyright, contract law	Purchasing schemes	Public libraries
	Government grants for artists	Legal deposit system
	Support for literature dissemination	Houses of literature, promotion of author visits to schools etc.
Business Policy Tools		
Legal	Economic	Educational/Infrastructural
Competition legislation	Taxes	Cultural dissemination programmes at embassies
Book law, if applicable	VAT exemption	Internationally oriented cultural politics
	Fixed book price	Facilitation of digital development
	Support for translations and other forms of input.	
Knowledge Policy Tools		
Legal	Economic	Educational/Infrastructural
Education Act University and College Acts	Coordinated purchase of syllabus literature to schools	School libraries
	Financing of open access publishing in the university and college sector	Reading campaigns
		Adapted books

**For the purpose of this book,** this overview of the literary policy areas will form the basis of a wider exploration into the implications of literary politics as a whole.



## The institutions and actors of literary policy

It is useful to divide the field of literature between five major societal institutions: the educational institution, the art institution, the marketplace, and the world of work, which are all part of the fifth institution—the public sphere. These institutions overlap and literature flows between and within them, as visualised in the following Venn diagram:



Literature fulfils various communicative functions within these five institutions and is sustained by institutional anchoring of the core values. In educational institutions, textbooks and other educational texts are relatively stable mediums for sharing knowledge between teachers and students or for communicating research findings to the general public. In the public sphere, books debating contemporary issues, documentaries, journalism, and essays help create an enlightened general public and a genuine debate between equal citizens in accordance with the public's normative ideals through democratic, non-authoritarian discourse. This ideology is within reach for all countries with well-functioning democratic public spheres, unfortunately this is, however, not the case in many countries of the world. It presupposes an enlightened and free public discourse where there is no censorship. As an art form, literature explores the possibilities of the written language to express and give linguistic form to interpersonal experiences and reflections by entertaining, relating, or otherwise conveying meaning through letters, words, and text. All four institutions listed are enclosed in the fifth institution, an extended public sphere. Just how extended it is, depends on how the media ecosystem in various countries works, and whether there is well-functioning cultural journalism and literary

criticism where publications within one institution can also be absorbed by the others. The five institutions with their various literary functions work according to a wide range of institutional values and norms that literature must relate and adhere to. In fact, literature as a means of communication within these institutions is important for the functioning and the reproduction of the institutions as stable forms of social organisation in society.

## Institutions, values, and actors

THE PUBLIC SPHERE		
Literary functions	Core values	Primary actors
Communication	Freedom of expression	Citizens
Reflexivity	Diversity and openness	Book trade
Debate and criticism	Truth and rationality	Publishers and other media
	Legitimacy	Writers
EDUCATION		
Literary functions	Core values	Primary actors
Knowledge dissemination and learning	Search for understanding, knowledge	Primary schools, secondary schools
Developing the individual and society's ability to reason	Compliance and critique	Publishers, universities, colleges, and research institutes
	Academic freedom, truth	
ART		
Literary functions	Core values	Primary actors
Aesthetics, beauty, exploration of the written word's ability to express human experiences	Literary quality, artistic freedom, autonomy, art for art's sake	Authors and all kinds of writers
		Publishers, critics
MARKETPLACE		
Literary functions	Core values	Primary actors
Sale, distribution	Free competition based on price, demand	Publishers and other media outlets
	Quality and effectivity	Distributors, booksellers, etc.

WORLD OF WORK		
Literary functions	Core values	Primary actors
Dissemination of experience-based knowledge	Effectivity	Business and professions
	Professionalism	Publishers
	Work environment	Trade organisations and unions
	Quality	Government administration

Literary policy is connected to all five of these institutions and is historically related to a media industry that once had the book and the art of printing as its point of departure, but which is now characterised by a global media industry based on many platforms. Furthermore, the structures of the publishing industry vary in different language markets. There may be an array of small, independent publishers and bookshops, which function alongside a few of the big industry players. There may also be a large or small market concentration, or both horizontal and vertical integration between publishers and distributors. Just as the five institutions have different texts and genres, the book trade, in different language markets, has different centres of gravity. In small countries it is especially common for large publishers to publish books for all five institutions and to play complex roles in society's culture and knowledge production. International publishing today can seem even more specialised, with clearer divisions of labour between publishers that target the general market and the wider reading public (trade publishing), and publishers who specialise in education and research. However, through acquisitions and reorganisations there are, on the one hand, large international publishing groups, and, on the other hand, so-called imprints, which are smaller, specialised publishers scattered between the large and medium-sized publishers. The division of labour shapes the relationship between a writer and a publisher, with the publishers assuming completely different roles for the writer and the reader, depending on which institution the text is produced within. This is something that literary policy makers must keep in mind.

## Literary policy and genres

Institutions and industry players work with the various policy areas within the parameters of different literary genres. The most important and fundamental distinction between literary genres is between fiction-based literature and fact-based literature, often called non-fiction. There is a similar line drawn between the cultural policy and the knowledge policy divisions of literary policy. Fiction, poetry and drama clearly fall under the cultural policy part of literary policy, whereas nonfiction belongs to the knowledge policy, which is characterised by several, larger internal divisions. Firstly, there is nonfiction literature written for the national educational system. Secondly, there is scholarly literature aimed at the academic community of students, professors, and researchers. Thirdly, there is professional literature that includes applied

and experience-based knowledge. All of these can be categorised under the umbrella term of knowledge literature. Knowledge literature differs from the general non-fiction trade books that address the general public in the form of political and social arguments and analyses, biographies, or popular science literature. Both trade fiction and nonfiction are important genres for encouraging children and young adults to become active readers, with ready access to science, history and the world's literary heritage. Interestingly, this last genre most often falls under the cultural policy part of literary policy. However, it does not belong to art policy and the genre definitions can thus be decisive when deciding which support schemes or grants are appropriate to apply for when one wants to write and publish a book. The dividing lines between genres are also used to differentiate or delineate literary policy tools.

The distinction between fiction and general non-fiction is being discussed in many countries and literary markets. Debates have appeared over when and how autobiographical materials are being used in novels. The level of detail in personal disclosures often go hand in hand with an insistence that these novels are in fact true or truthful. Many people who are mentioned by name subsequently demand manuscripts to be changed. Some even go to court in an attempt to stop books from being released.<sup>5</sup> Because of differences in subsidy schemes, critics sometimes believe that there are economic motives at play when publishers and authors turn an autobiography into a novel.

Parallel to the discussions regarding fictional literature, there has been a new and stronger will among general nonfiction authors to insist that non-fiction also has literary qualities, and that creative writing and literary tools are not the domain of fiction writers alone. It is less problematic when fiction writers make use of research and facts when they are not objective, because fictional genres are not weakened by using facts in the way a documentary book is weakened by a lack of evidence for its historical or scientific claims. It is easier to distinguish genres within nonfiction because the relationship between the author and the reader is more closely linked to specific institutions and reading situations.

For instance, textbooks and texts for school children are developed and adapted for classroom teaching and home learning according to class level, subject, and situation. Academic articles have an important function in science and research dissemination where subject specialists examine research methodologies and findings within a limited scientific sphere. Literary policy tools are, however, virtually absent in this area of literature. Even though academic literature contributes greatly to language and public discourse, authors in the academic field have few incentives to write, apart from pure academic or scientific motivations. Minority professional languages become more vulnerable when localised dissemination activities are not rewarded or given budgetary support.

## The effects of policy on the literary cycle

Literature is a form of communication and can be presented as a literary cycle between an author and a readership with several important intermediaries.<sup>6</sup> In the media-industry, this communication cycle can be viewed as the creation and refinement of texts between

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<sup>5</sup> See for instance <https://www.zeit.de/2017/22/karl-ove-knausgard-kaempfen-autobiografie> (Last accessed March 4, 2020)

<sup>6</sup> The concept of the literary cycle was first proposed by the French literary sociologist Robert Escarpit in the book *Sociologie de la littérature* (1958), Paris: P.U.F.

a producer and a consumer, from the author and publisher, via printing and technological or physical distribution systems, to the public sphere and the target groups of the various institutions. The cycle of a printed, physical book can be presented in an idealised and simple model like the one below:

### The literary cycle, production/distribution



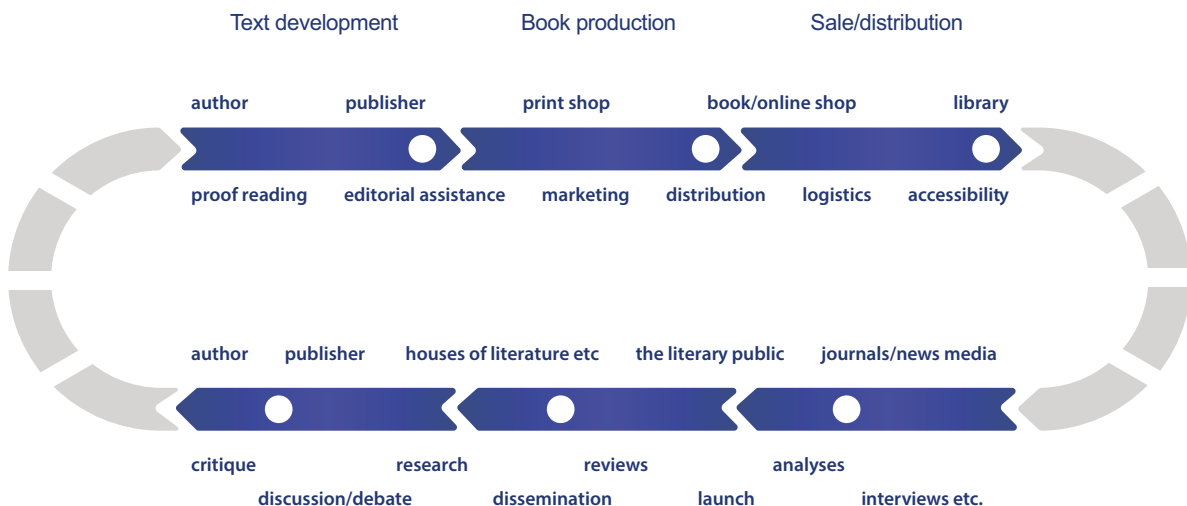
This simplistic linear model could do with a retrospective arrow linking the different reader markets and what we can call the literary public of professional critics and specialised readers, to a wider audience, and an extended concept of writing and reading culture.

### The literary cycle, reception



Taken together, the full model looks like this:

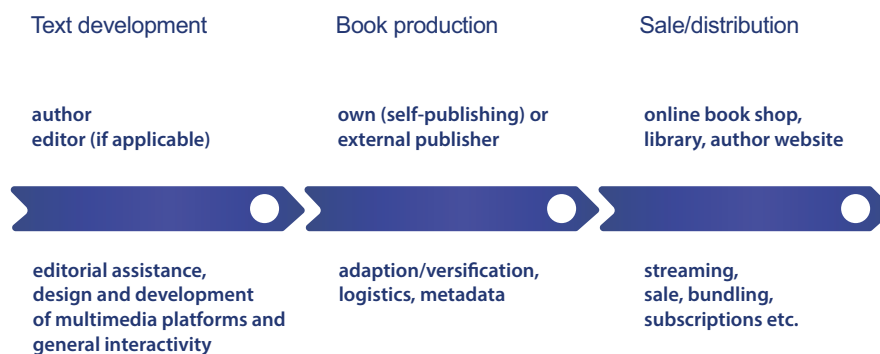
### The literary cycle



When the written medium is digital, the contact between author and reader can be more direct (self-publishing), but publishers and booksellers still want to stay abreast of this development by creating and producing platforms for digital distribution via the sale of ebooks. Nevertheless, the traditional process of creating new literature continues to underpin the transition from paper book to ebook, and it is in the distribution of these digital books where the greatest changes lie. For instance, the streaming of ebooks and audiobooks through subscription services is a new method of distribution, but it is still an adaptation of the traditional book. National libraries are staying abreast of developments regarding the digital distribution of books by making ebooks accessible in the same way as physical books.

Digital developments have the potential to disrupt the traditional literary cycle. Instead of the paper book being the dominant format, where text is autonomous, digital text is often presented, for instance, as part of an enriched, interactive website, app, or other software. Then the distribution processes become more complex. Publishers are especially focused on developing editorial services and competencies that combine text and audio-visual tools on interactive platforms. The authors control of the text is reduced, unless they themselves develop competencies pertaining to multi-media productions. The text occupies a more subordinate place in a multimedia, interactive, and virtual universe. This is especially happening in the sphere of educational literature; where screens have long since entered the classrooms and the teachers use interactive digital boards.

## The digital cycle, production



The literary cycle model is helpful to see where and when different literary policy instruments are useful. Literary policy instruments can influence an author's income, with incentives to write specific types of literature, and it can also be conducive to publishers' profitability within specific genres. They can facilitate a richer diversity of books in the distribution chain or help lower book prices for readers by reducing taxes and sales fees (VAT). This means that the tools interact and even reinforce each other, while at other times they compensate for each other. At the same time, they can be a precondition for each other. It is important to keep this in mind when developing literary policy tools.

## How literary policy develops

Literary policy tools have been created over a long period of time, through changing political alliances and parliamentary majorities in different societies. They would not have seen the light of day without certain distinctive features offered by society and the political institutions they emerge from. For instance, cultural politics in general are often characterised by more interaction and cooperation between business interests, organisations, politicians, and bureaucracy, than in other fields. It is easier to find common interests among the national players, and for them to understand how important it is for national cultural heritage and the protection of national languages to be overarching core values.

In the field of literary policy, it is also important how societies regard artists and art as an important and justified profession in society. This is not always the case, and in many countries today, there is a growing frustration among artists about the general resentment and hatred they are met with, from populist regimes or parties. It is important in times like this that the core values of freedom of expression, formation, diversity, and accessibility are protected. But artists also need to have an economic basis to work from. Whether author associations, for instance, have a right to negotiate with the state in representing its members' economic and literary interests is an important indicator of how the literary political field can develop.

Based on the principles and values of a democratic constitutional state, the idea that cultural policies enable citizens to access and participate in a wide range of cultural and leisure activities is important. Art and culture should be made accessible to the public through the building of publicly funded cultural institutions for theatre, visual arts, fine art, music, and literature. The running of these national institutions are often divided between the state, the municipality and in some cases private interests and organisations, alongside a cultural policy model based on a classic enlightenment and education idealism.

The following chapters will describe the diversity and complexity of the many literary policy tool boxes found around the world. Firstly, the properties of the tools will be discussed, and their effects, and finally, the discussion will focus on three questions:

1. Are there any basic, universal literary policy tools that everyone should strive for?
2. Are there any existing tools that might be modelled for others as best practice?
3. Are there any tools that should be looked for and developed, as possible models for the future?





## Chapter 3

### Legal Policy Tools

Legal policy tools consist of the various laws and frameworks that regulate the rights and obligations of the state and individuals. The kind of legal tools that pertain to literary policies vary from country to country. Some countries have laws that concern the area of culture in a stricter sense of the word, typically such that regulate politics of the arts; arts councils. The regulation of the media also relates to the literary system as do competition laws. Media regulations will not be discussed in detail, but it is worth highlighting that book policies are closely related to the format of international media policies, due to the fact that the book is the oldest mass medium. First and foremost, media legislation is linked to constitutional freedom of expression rights, and is thus aimed at ensuring citizens right of access to information from a wide range of media content on all platforms.

Around the world media regulations are established by law, rules or procedures. They are mostly in the form of legal provisions, but also based on voluntary agreements between different organisations in the media field. There are several goals coming into play when states and organisations regulate the media. They are linked to providing for a diverse and versatile public discourse, protecting public interests –typically in the form of public service broadcasting. Marketwise, such regulation should encourage competition and prevent monopolisation, as well as balancing the influence of public and private media enterprises. Equally important is to establish common technical standards. Small countries might need protective measures to maintain and develop national languages and local media industries. Such measures must be balanced so that the values of freedom of speech, plurality and accessibility are not infringed.

Thus, the legal tools that influence literary systems may be split into a variety of laws. This chapter will discuss international and constitutional provisions for freedom of expression. These provisions will then be related to laws that regulate authors rights. Furthermore, there will be a discussion of the acts that secure so-called public lending rights. Laws pertaining to the strict economic regulation of literary policies such as book laws will be covered in the chapter on economic tools, the legal aspects of educational systems will be treated in the chapter on educational tools, and the laws that regulate libraries will be dealt with in the chapter on infrastructural tools. Book policies that are related to legal provisions, but are not laws in a strict sense of the word, such as contractual agreements and obligations that relate to different forms of funding, will also be reviewed.

### Freedom of Expression

The legal frameworks that secure freedom of expression vary around the world. They are, however, generally a part of a country's Constitution. Internationally, the principle is first and foremost formulated in the Universal Declaration of Human Rights, Article 19, which states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

This right is furthermore enshrined in Articles 19 and 20 of the International Covenant on Civil and Political Rights:

#### Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order, or of public health or morals.

#### Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law

This means that freedom of expression is recognised as a universal human right, but it is also a citizens' right when it is implemented in national constitutions. The American legal scholar and philosopher of law, Ronald Dworkin has argued that constitutions should be regarded as embodying general philosophical principles rather than specific legal conceptions. Thus, they currently occupy a position between universal principles of moral and political reasoning on the one hand and concrete legal decisions on the other.<sup>7</sup> For the purpose of this discussion, the initial reference point will be The European Convention of Human Rights (ECHR), Article 10, Freedom of expression.<sup>8</sup> Variations of ECHR Article 10 exist in other regional human rights conventions: The African Charter on Human and Peoples' Rights;<sup>9</sup> The American Convention on Human Rights;<sup>10</sup> and the ASEAN Human Rights Declaration.<sup>11</sup> However, the Cairo Declaration on Human Rights in Islam<sup>12</sup> differs and includes limitations regarding freedom of speech and information and religion. It is also worth making reference to the First Amendment of the US Constitution.

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<sup>7</sup> Dworkin, Ronald (1977) *Taking Rights Seriously*. London. Duckworth. Pp 132—137.

<sup>8</sup> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

<https://www.coe.int/en/web/human-rights-convention> (Last accessed April 7. 2020)

<sup>9</sup> <https://au.int/en/treaties/african-charter-human-and-peoples-rights> (Last accessed March 6. 2020)

<sup>10</sup> <https://www.cidh.oas.org/Basicos/English/Basic3.American%20Convention.htm> (Last accessed March 6. 2020)

<sup>11</sup> <https://asean.org/asean-human-rights-declaration/> (Last accessed March 6. 2020)

<sup>12</sup> [https://en.wikisource.org/wiki/Cairo\\_Declaration\\_on\\_Human\\_Rights\\_in\\_Islam](https://en.wikisource.org/wiki/Cairo_Declaration_on_Human_Rights_in_Islam) (Last accessed March 6. 2020)

Furthermore, it is pertinent to bear in mind the so-called infrastructural principle that is formulated in the Norwegian Constitution's Freedom of Expression Article 100, clause 6: "The authorities of the state shall create conditions that facilitate open and enlightened public discourse." This clause gives the public authorities a responsibility to ensure that the institutions central to protecting freedom of expression and the public's right to criticise function properly. This is both a legal and a political responsibility and it means that many of the state measures that support both cultural and media policies are based on this constitutional provision. This is not the place to argue why free speech should be protected, suffice to say that freedom of expression is a fundamental human right. It underpins other rights. It entails the right for citizens to discuss all important issues in a society, access information, and hold the powers that be to account. It is based on a form of scientific rationalism, a concept of individual as well as collective rights, and a distinction between a public and a private sphere. It is a right exercised in the public realm.

Freedom of speech is based on three characteristic features of modern society; the principle of the seeking of truth, upholding the right of the citizen to form opinions, and the principle of promoting a democratic society. Thus, the right to express yourself freely will probably produce good effects because it is a way to eliminate error and promote truth, creating conditions for producing good rather than bad policies. It protects the right of people to govern themselves. It serves to expose corruption and abuse of power. As Ronald Dworkin says:

Free speech is a condition of legitimate government. Laws and policies are not legitimate unless they have been adopted through a democratic process, and a process is not democratic if government has prevented anyone from expressing his convictions about what those laws and policies should be.<sup>13</sup>

Freedom of speech is a feature of a society that treats its members as moral autonomous agents who are responsible for their own views and actions. But it extends beyond rationality to also covering areas where individual and collective expressions of fantasy and imagination are being formulated and depicted. This implies that the general ideas which justify freedom of expression are likely to be loose and open ended rather than strictly legalistic. They do not only relate to discussions over truth and political choice, they deal with art and imaginative expressions. They also presuppose the right to criticise religions in all their forms and in all manners, even if some may be offended and find the expressions tasteless, as in the case of caricatures. In Ronald Dworkin's words, "[...] in a democracy no one, however powerful or impotent, can have a right not to be insulted or offended."<sup>14</sup>

An essential part of Dworkin's argument is the balance between equality and liberty and individuality.<sup>15</sup> This is important regarding the relationship between constitutional protections for freedom of speech and copyright regulations. This connection is by no means uncomplicated. It is related to Dworkin's arguments about rights belonging to two forms or categories. Those that are absolute, and in a way, abstract, and those that are conditional and concrete.

The first category calls for full enforcement in all circumstances. The second categories are sometimes subordinated. Unconditional rights refer to broad goals or values. Concrete rights

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<sup>13</sup> Dworkin, Ronald (2006) "*The Right to Ridicule*". New York Review of Books, March 23. 2006. Volume 53, Number 5. <https://www.nybooks.com/articles/2006/03/23/the-right-to-ridicule/> (Last accessed September 21, 2020)

<sup>14</sup> Ibid.

<sup>15</sup> Dworkin 1977. op.cit. p 259—290.

are more specific, and they are often dependent on the principles of absolute rights. They are linked to certain institutional contexts, while abstract rights make claims upon society in general. Thus, freedom of expression is an absolute right, while copyright laws, though they may also in a certain way be classified as human rights, are non-absolute. The balance between the principles involved in these two sets of rights are at the centre of debates over the relationship between the right to freedom of expression and authors rights.

## Authors Rights and Copyright

Arguably the most important concrete legal tool for literary development in all jurisdictions is copyright and other laws regulating authors rights. However, these do not stand alone. Like other laws they build on national constitutions, which relate, it might be argued, to the international conventions on human rights mentioned above.

Copyright law provides the author with exclusive rights to her creations for a limited period of time—in some countries for fifty years after the author's death, or in Europe and the US and many other countries it is seventy years. These rights give the author both economic and moral control of her work, and in principle the ability to receive remuneration for its use, typically in the form of royalties. It is only the right holder who can give permission for the work to be produced for general use in, for example, a book.

Right holders hold two sets of rights to their work. One set is called the moral rights and includes two aspects: the right to be named as the right holder—meaning named as the author—and a form of respect right. That is, others cannot make the work available to the public without the right holder's consent, nor can others change any part of the original work. For this to be possible there must be an agreement on how the work may be used. An example that is often highlighted in this context is the film adaptation of novels. Another example relates to revisions of textbooks done by anyone other than the original author. Right holders cannot transfer moral rights to others, nor can they renounce them. An author may, however, demand that a film adaptation based on her text does not name the right holder as the inspiration or scriptwriter. This does not mean that the author loses the right to financial remuneration. In principle, the exclusive right applies to all right holders, whether they are independent authors or employed writers, like journalists. In the latter case, the economic rights can be transferred to the author through a salary instead of payment for the individual text. The author, however, maintains the moral rights.

The other set of rights has to do with the control of the work and how it is being used, this is not only about money but about how and on which platforms the work is being used. Primarily, however, this set of rights are the financial rights—enabling the right holder to reap monetary benefits when his or her work is being used in a public context. For an author, this means when the text is published and distributed to the public. Others may use a work and make it accessible, but it assumes that the right holder has approved such use and transferred the rights to others on certain terms. This means, for example, that remuneration is paid when the work is used. In this case, the author and the publisher must enter a contract stating how the author should be compensated for the published text. The contract must stipulate how the publication should take place and what the compensation

should be. Of course, the author may choose to waive the fee, but this should always be the decision of the right holder and not that of the publisher.

Copyright and authors rights laws differ from country to country. But it is possible to distinguish between two legal codes or systems; one which dominates in the Anglo-American or common law systems on the one hand, and on the other the continental European civil law tradition. In the first legal system economic considerations are fundamental and thus emphasise copyright as the most important principle, whilst the other, which is often identified as an authors' rights code, has the moral right of the author as a basis. The first tends to emphasise the protection of the work, and that initial copyright may be assigned to a corporate body or a legal entity. While the other system emphasises the protection of the author of a work, as the natural person who created the work. This difference has historically been important in relation to the respect for authors' moral rights, which are foundational in the civil law tradition, but only later has been adopted in common law systems. The concept of the public domain also first became part of the civil law tradition through French decrees on the concept of literary property of 1791 and 1793 —“le droit d'auteur”. The two traditions are conflicting and have caused many disagreements between the EU and the United States on how rights and international trade should be practiced in the media and cultural industries.

The modern international system of the regulation of copyright and authors rights is based on principles that were first developed at the end of the nineteenth century, which recognised that the protection of authors rights could not stop at national borders. Until this principle was instituted in 1886 by the Berne Convention for the Protection of Literary and Artistic Works, literary works such as novels were freely published across borders in translation without authors receiving proper remuneration for their work. Before the establishment of the Convention some bilateral agreements had been signed between select European countries. To emphasise how important literary policies have been in the historic development of authors rights, we would like to draw attention to the fact that The Berne Convention was instigated by the great French author Victor Hugo because his books were being published in Switzerland without his permission. Before the Berne Convention, copyright legislation remained uncoordinated at an international level, and there was widespread book piracy. According to the Convention, the rights to creative works are automatically in force upon their creation without being asserted or declared. An author need not 'register' or 'apply for' a copyright in countries adhering to the Convention. This was one of the reasons for late American signing of the convention, because the US insisted on a copyright registry.<sup>16</sup> Foreign authors are given the same rights and privileges to copyrighted material as domestic authors in any country that has ratified the Convention. The Convention has, since it was first signed, undergone a number of revisions. Other treaties have also come into existence: The Buenos Aires Convention (1910); the Universal Copyright Convention (1952), administered by UNESCO; the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of WTO; as well as the World Intellectual Property Organisation (WIPO) treaties. The EU is also working to harmonise copyright law in Europe and in 2019 it passed a Directive on Copyright in the Digital Single Market.<sup>17</sup>

Before the Directive was finally approved in April 2019 there was an intense debate with both the Federation of European Publishers and European authors organisation highlighting the concerns of the book sector. Controversial elements in the DSM proposal involved what in the

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<sup>16</sup> It may be worth noting that the US did not formally accede to the Convention till 1988 because it was deemed to be in conflict with elements of the US copyright act—among others that it recognised moral rights, and it did not require mandatory copyright registration.

<sup>17</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj> (Last accessed March 14, 2020)



final version are labelled Articles 15 and 17. These Articles were aggressively opposed by big tech companies—the so-called GAFA (Google, Apple, Facebook, Amazon)—which claimed that they would undermine freedom of expression and destroy the character of the Internet. Their campaign was not successful. Article 15 which gives newspapers and other press publishers more direct control over the re-use of their products, which may impact companies that serve as aggregators for material produced by rights holders, particularly when it comes to news. The implications of the Article 17 are that tech firms must acquire licenses from rights holders before using copyrighted content. This is aimed at platforms whose business model is based on using massive amounts of copyrighted material by users who do hold the rights. Such platforms must agree to licensing from either the rights holders or their CMOs.<sup>18</sup>

The European book sector welcomed the content of the directive in general.<sup>19</sup> There were two Articles that in particular concerned publishers and authors, where the two groups were not necessarily in agreement, namely Articles 16 and 20. Article 16 provided that publishers could receive shares of the revenue from collecting societies. Article 20 on the other hand may be said to support authors' interests as it implies a form of contract adjustment mechanism meaning that authors can demand the renegotiation of agreements "[...] when the remuneration originally agreed turns out to be disproportionately low compared to all the subsequent relevant revenues derived from the exploitation of the works [...]"<sup>20</sup>

Similarly, at the World Intellectual Property Organization (WIPO) headquarters in Geneva, the International Publishers Association (IPA) has been arguing for over a decade that broadening exceptions and limitations in copyright for education purposes would seriously undermine the business models for educational publishers as well as seriously affect the livelihoods of authors. There has been incessant pressure from some WIPO Member States to formulate an international treaty to achieve this broadening of exceptions and limitations. The IPA has been supporting other WIPO Member States that oppose such a broadening, arguing that an international treaty is unnecessary because all states already have the power to enact national legislation that is more attuned to local needs; that educational publishers are most at risk from such measures and it is these publishers that are predominant in the least developed and developing countries which are calling for a treaty; and that rather than a treaty, WIPO should organise a series of systematic exchanges of 'best practices' between Member States. The debates continue with the potential for very serious damage to the educational publishing ecosystem.

Copyright stimulates the writing of new books and guarantees the author financial benefits from their work. It also helps publishers recover the investments they make when producing and distributing books and texts. Copyright is the very incentive for writing and publishing new literary works. It contributes directly to a diverse literary field in which many voices are expressed. It is therefore possible to argue that copyright is the most important tool of the entire literary policy toolbox.

## Collective Management

Most printed material is protected by copyright, which grants the author an exclusive primary right to authorise publication of her work. The author can manage this right

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<sup>18</sup> For an overview of the debate concerning the issues in the implementations of these articles, see: <https://www.create.ac.uk/european-copyright-roundtable-how-to-implement-new-rules-for-online-platforms/> (Last accessed May 27, 2020)

<sup>19</sup> See: <https://publishingperspectives.com/2019/04/european-union-copyright-directive-gets-final-green-light/> Last accessed May 27, 2020)

<sup>20</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj> (Last accessed May 27, 2020)

individually or collectively. When it is done individually, rights to primary publication are signed over to a publisher through a publishing contract that states which rights the author has signed away. Thus, the publisher also acquires rights. Collective management of rights is typically handled secondarily and is used when it is not possible to manage rights individually, for mainly practical purposes.

The exclusive right also includes the right to secondary use of the work, like photo and digital copying. The latter is called a secondary right. Modern copyright legislation also ensures that authors and publishers receive fair compensation for the secondary use of their works. In the Nordic countries, this is ensured through a collective agreement license which gives the right holders' organisations the legal authority to collect remuneration on behalf of their members. This means it is not necessary to gain permission from each individual right holder. The representative copyright organisation negotiates compensation agreements with those who wish to use the copyrighted material. The remuneration is then distributed by the organisation to the organisations of individual right holder groups for further distribution to the various groups of authors and artists. Such an organisation is called a Collective Management Organisation (CMO).

In the area of literature, national CMOs typically cover the reprographic rights of literary writers of all kinds – creative, nonfiction and academic writers, journalists, translators, songwriters and composers, as well as visual creators. They also cover publishers of books, magazines and newspapers. Reprographic reproduction and copying cover both analogue and digital copies. However, what is licensed and how varies from country to country, and how remuneration is distributed depends on how national copyright laws are formulated. Licenses typically cover copying in educational institutions, government offices, public bodies, industries, and other situations where there is mass reproduction of protected material. Collective licensing is governed by distinctive national legislation and operates differently in different countries, for example through VG Wort in Germany, or Copyright Licensing Agency (CLA) in the UK, or the Copyright Clearance Center (CCC) in the US, Dramatic, Artistic and Literary Rights Organisation (DALRO) in South Africa, Composers and Authors Society of Singapore (COMPASS) or Kopinor in Norway. The international organisation representing literary CMOs is called the International Federation of Reproduction Rights Organisations (IFRRO).<sup>21</sup>

In the Nordic countries there is one aspect of copyright which may be of particular interest when it comes to collective management, especially since the 2019 EU Directive calls for it to be applied in the EU as well. It is an Extended Collective License System.<sup>22</sup> The system was first introduced in the Nordic countries in the 1960s in the field of broadcasting and for music, but as it worked well it was extended to other areas. It was introduced because both right holders and users found that there were areas of mass use of protected works, where it was difficult, if not impossible, to find all rights holders and it was also costly to enter into contracts with all of them individually. In order to prevent copyright infringements and

<sup>21</sup> <https://www.ifrro.org/> (Last accessed January 19, 2020) and Stokkmo, Olav (2019) The role of collective licensing. International Publishers Association. <https://www.internationalpublishers.org/news/913-licensing-practices-in-a-global-digital-market-the-role-of-cmos> (Last accessed May 26, 2020)

<sup>22</sup> Riis, Thomas & Jens Skovsbo (2010) "Extended Collective Licenses and the Nordic Experience - It's a Hybrid but is It a Volvo or a Lemon?" Columbia Journal of Law and the Arts, Vol. 33, Issue IV. [https://www.researchgate.net/publication/228227301\\_Extended\\_Collective\\_Licenses\\_and\\_the\\_Nordic\\_Experience\\_-\\_It%27s\\_a\\_Hybrid\\_but\\_is\\_It\\_a\\_Volvo\\_or\\_a\\_Lemon](https://www.researchgate.net/publication/228227301_Extended_Collective_Licenses_and_the_Nordic_Experience_-_It%27s_a_Hybrid_but_is_It_a_Volvo_or_a_Lemon) (Last accessed September 2, 2020)

And Olsson, Henry (2005) "The Extended Collective License as Applied in the Nordic Countries." KOPINOR 25th ANNIVERSARY INTERNATIONAL SYMPOSIUM Grand Hotel, Oslo, Friday, May 20, 2005.) [http://bat8.inria.fr/~lang/orphan/documents/europe/nord/the\\_extended\\_collective\\_license\\_as\\_applied\\_in\\_the\\_nordic\\_countries.html](http://bat8.inria.fr/~lang/orphan/documents/europe/nord/the_extended_collective_license_as_applied_in_the_nordic_countries.html) (Last accessed September 22, 2020)

also to provide a simple system of remuneration for rights holders, as well as for users to get access to protected works, The Extended Collective License System was set up. It has the following characteristics: Right owners in particular areas come together in representative CMOs. They receive mandates from their members to negotiate remuneration typically for secondary rights through licenses or contracts with groups of users in the specific field. The user may then use the material covered by the license. Right holders who are not members of the organisation have the right to be treated on equal terms and are covered by the mandate unless they speak up - this is the 'extension'. In the area of literature, the different organisations of right holders that organise authors, publishers, illustrators etc acquire non-exclusive secondary rights from their members, and transfer these rights to a reprographic CMO, which then negotiates on the behalf of the member organisations collectively and distributes the collected remunerations back to the organisations and their members.

## Freedom of Speech and Copyright

In his book on the legal aspects of *Freedom of Speech*, Eric Barendt writes: "Admittedly the impact of copyright law on freedom of expression raises complex economic and cultural issues."<sup>23</sup> Barendt mainly discusses American and British legal systems, and his point of departure is that copyright and freedom of speech should be balanced against each other. He first points out that in dealing with the issue it is important to take into consideration the distinction between the ideas expressed in a work and the physical manifestation of these ideas. Authors' rights do not prevent the dissemination of the ideas or information or thoughts or dreams that lie behind the physical work. It is the manifest creation itself that is protected. Secondly Barendt maintains that there is a principle of "fair use" or "fair dealing" in relation to previous works being used, for example. as the basis of parody or to be quoted in scholarly works.<sup>24</sup> A special case comes up in relation to the practice of sampling, and how far the right to base new work on the content of old, can be applied.

In the US it is assumed that free expression and copyright law are not in collision. On the contrary as Barendt writes: "The argument is that copyright protection encourages authors and artists and composers to create new work, without the incentive of royalties and license fees, they would be less productive. Copyright, in short, promotes freedom of speech."<sup>25</sup> In addition, the argument goes that if there is a conflict between copyright and free speech, the communication of information and ideas and creative content prevails over the possible rights of the author and the publisher.

There may, however, be differences between American and European legal practice. As it is stated in Article 17 of the Charter of Fundamental Rights of the EU, "Intellectual property shall be protected." This might come into conflict with other human rights particularly the provisions in Article 10 of the Convention, which build on two core values namely both the right to express ideas and opinions, and secondly to receive information and knowledge. To decide upon which of the rights should have precedence, it is necessary to apply a three-step test to decide whether to restrict freedom of expression. The elements of this test are that any limitation to freedom of expression must fulfil three criteria. It must be prescribed by law; it must pursue a legitimate aim; and it must be necessary in a democratic society.

In all copyright legislations there are exceptions to the author's absolute right. This, in

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<sup>23</sup> Barendt, Eric (2007) *Freedom of Speech* (Second edition) Oxford. OUP. p. 260

<sup>24</sup> Here the law differs from one jurisdiction to another.

<sup>25</sup> Barendt (op.cit) p. 252



American legislation, is called 'fair use', in other common law jurisdictions it is called 'fair dealing'. This does not concern the common exceptions to copyright, such as to quote, or the use of previous material for instance for parody or illustrative purposes, or to quote in relation to discussions and academic arguments. It has wider implications and often includes the right of educational institutions or libraries to make use of protected material in their activities. In 2015 more than 40 countries accepted wider or more narrow fair use or fair dealing exceptions, typically for educational purposes. Many of these were in developing countries and common law countries.<sup>26</sup> For example, the recently proposed copyright act in South Africa has been criticised for extending the exemptions to copyright protection too far.<sup>27</sup>

The 2019 EU Digital Directive also opens in its article 5 for exceptions to the protection of copyrighted material.<sup>28</sup> In Europe so far fair dealing as regards educational institutions has not been accepted when it comes to mass copying. The exceptions have been subject to the Berne Convention three-step test and in particular: "It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."<sup>29</sup> However, Article 5 of the recent EU Digital Directive allows for new exceptions to the protection of copyrighted material concerning text and data mining, education, and preservation activities. It has been argued that the Directive thus widens "[...] the gap between Europe and more market-oriented IP regimes such as that in the US."<sup>30</sup>

In an important analysis Krisjanis Buss, a Latvian scholar and lawyer, discusses several cases that have been tried in the European Court of Human Rights (ECHR).<sup>31</sup> This is not the place to enter into a lengthy discussion of specific cases, but in principle, European jurisprudence balances authors' rights and freedom of expression as human rights through a separate three-step test. In this test it is possible to argue that for practical purposes freedom of speech usually takes precedence over copyright. This is mainly based on the provision of what is necessary in a democratic society, and that again means that if the work is of special public interest it may access may be granted without permission.

<sup>26</sup> See: *The Fair Use/Fair Dealing Handbook*. <http://infojustice.org/archives/29136> (Last accessed January 19, 2020)

<sup>27</sup> See: <http://infojustice.org/?s=South+Africa> (Last accessed January 19, 2020)

<sup>28</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj> (Last accessed January 19, 2020)

In the fields of research, innovation, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the existing Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 96/9/EC, 2001/29/EC and 2009/24/EC in those fields could negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, innovation, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. The existing exceptions and limitations in Union law should continue to apply, including to text and data mining, education, and preservation activities, as long as they do not limit the scope of the mandatory exceptions or limitations provided for in this Directive, which need to be implemented by Member States in their national law. Directives 96/9/EC and 2001/29/EC should, therefore, be amended.

<sup>29</sup> <https://www.law.cornell.edu/treaties/berne/9.html> (Last accessed January 19, 2020)

<sup>30</sup> <https://www.copyright.com/blog/copyright-law-and-international-publishing/> (Last accessed January 20, 2020)

<sup>31</sup> [https://www.infona.pl/resource/bwmeta1.element.doi-10\\_1515\\_bjlp-2015-0024](https://www.infona.pl/resource/bwmeta1.element.doi-10_1515_bjlp-2015-0024). (Last accessed September 2, 2020) The arguments here are partly based on this article.

An example of this is that public enquiries and reports may not be copyrighted. This further means that the argument in the work must take into consideration the audience of the work, the form and content of the information and the motives of the speaker (e.g. is it for profit or for democratic debate?). Parallels can be drawn between this three-step test and the three-step test that exists in the Berne Convention, as well as in the TRIPs agreement. This test might be summarised as giving the right holder exclusive right to his work as long as limitations are confined to certain special cases that “[...] do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rights holder.”<sup>32</sup>

## Contracts

The relationship between a writer and a publisher is regulated by copyright laws and contract laws. These are national, in spite of authors rights being regulated by the international treaties that we have referred to above. Authors, publishers and booksellers in different countries operate according to both national and international legal principles. Copyright laws govern the scope of protection for authors such as the minimum duration of rights. These rights are covered in the international treaties, but they still vary from jurisdiction to jurisdiction. However, there is no international regulation for how contracts may be drawn up between authors and publishers, or for that matter, between publishers and booksellers. They are regulated by national contract laws, so that authors rights in a Norwegian publishing contract might for instance differ substantially from an American contract. All publishing contracts should, however, always be in writing, and the EU directive calls for transparency regarding contracts as stated in Article 75.

Contractual regulations aim at ensuring a balanced relationship between publishers and authors. In the contract with the publisher the author licenses the rights of reproduction and distribution over a work, thus providing the publisher with the legal means necessary for publication. The contract should state the duration of the license. The contract should also stipulate how secondary, tertiary and other subsidiary rights are to be dealt with. This is particularly important with regards to rights in the digital environment. Electronic publishing implies licensing the right of communication to the public in such a way that members of the public may access the content at any time, any place. The 2019 EU Directive on Copyright in the Digital Single Market, which we have referred to above, must be interpreted as reinforcing the importance and rights of the author, particularly when it relates to new platforms. The Directive presupposes EU wide requirements for greater transparency in author-publisher contracts and might necessitate changes in some national copyright contract legislations. The streaming of audiobooks raises special contractual issues that have yet to be solved properly.

In contracts that grant the publisher an exclusive license, copyright of the work technically remains the author's, even if all commercially relevant rights are passed on to the publishers. The economic compensation can be in exchange for a one-off fee, or for on-going sales-dependent royalty payments. In some cases, when it comes to academic articles, copyright is assigned to the publisher, who often is free to exploit, adapt, and sell the work in whatever way he chooses. Such a process offers an advantage to the publisher

(no further agreements are needed, and sometimes no more payments are made), but it is resisted by many authors, who do not believe creators should be made to give up their rights permanently. Such a contract will also be in conflict with the author's moral rights, which is the only right that cannot be signed away. There are unfortunately contracts in academic publishing that for instance will state the following: "The author grants the publisher the right to publish, sell, and profit from the listed works in all languages and formats in existence today and at any point in the future; to create or devise modified, abridged, or derivative works based on the works listed; to allow others to use the listed works at their discretion, without providing additional compensation to the author."<sup>33</sup>

It has to be admitted, however, that the academic and research ecosystem, revolving as it does around notions of 'publish or perish', permanent tenure, a distinction between teaching and research, and preferment through getting published in high impact journals, is complex and difficult to summarise. It should also be mentioned here that in academic and scientific publishing specialised editors play an invaluable role. That should, however, not lead to academic authors having to sign over all their rights and forego the right to proper remuneration for their work.

In a European author economy survey from 2015, the data from several EU countries was analysed based on a hypothesis stating that differences in literary policy schemes and contractual practises affect the income levels of authors.<sup>34</sup> The study used three sets of indicators based on information about the book economy of the various countries: the market size for sales and authors' royalty income, to what degree author rights were protected in national legislation, and to what extent the countries had systems for collective rights management. As the response rate varied from country to country, the results were inconclusive. But it is possible to draw the conclusion that there are quite substantial differences both between countries and between publishers in the same country when it comes to what rights authors assign and what their remuneration is.

In this context the Norwegian situation differs from most other countries, as Norwegian authors and publishers use standard agreements that have been negotiated between the authors organisations and the publishers association. Through these agreements, the relationship between author and publisher is carefully regulated and monitored by the respective associations. The associations on each side offer legal assistance to both members and non-members, and they can act as a representative of all authors through the contract licence agreement in the Copyright Act.

A recent interesting development in France is the so-called Racine Report— *L'auteur et l'acte de création*, which was submitted to the Ministry of Culture at the beginning of 2020.<sup>35</sup>

<sup>33</sup> Gleaned from <https://www.pandadoc.com/book-publishing-contract-template/> (Last accessed January 20, 2020)

<sup>34</sup> Europe Economics, Lucie Guibault and Olivia Salamanca. "Remuneration of authors of books and scientific journals, translators, journalists and visual artists for the use of their works" (2016) Available at: <http://works.bepress.com/lucie-guibault/22/> (Last accessed September 2, 2020)

<sup>35</sup> Racine, Bruno (2020) Avec le concours de Noël CORBIN, Inspecteur général des affaires culturelles, et Céline ROUX, maître des requêtes au Conseil d'Etat e Bertrand SAINT-ETIENNE, auditeur à la Cour des comptes. *L'auteur et l'acte de création*. Paris. Ministère de la Culture. Racine, Bruno (2020) Avec le concours de Noël CORBIN, Inspecteur général des affaires culturelles, et Céline ROUX, maître des requêtes au Conseil d'Etat e Bertrand SAINT-ETIENNE, auditeur à la Cour des comptes. *L'auteur et l'acte de création*. Paris. Ministère de la Culture. <https://la-rem.eu/wp-content/uploads/2020/03/Rapport-Bruno-Racine-sur-les-auteurs-et-artistes-.pdf> (Last accessed September 21, 2020)

The report consists of a discussion of the situation of authors in France and provides 23 recommendations for strengthening their role and improving their situation. Among the proposals are to create a National Council composed of representatives of artist-authors, collective management organisations and representatives of producers, publishers and distributors. The National Council would be responsible for formulating proposals and conducting collective bargaining on any subject of interest to the artist-authors as well as their relations with the exhibitors and publishers of the works. Furthermore, they would introduce into the intellectual property legislations, provisions for a standardised contract.<sup>36</sup>

The fact that Article 20 of the EU directive on copyright in the digital market now covers contractual relations will strengthen authors rights and enable the tracking of expected revenues across Europe.<sup>37</sup>

## The Creative Commons Movement

Over the last years it may seem that corporate copyright holders and particularly big entertainment companies have extended their influence through free speech and common goods arguments. It has been argued that this is a result of the passing of the so-called Sony Bono Act in the US in 1978. The Act extended the protection of a copyrighted work to the life of the author plus 70 years, and for works of corporate authorship to 120 years after creation or 95 years after publication, whichever end is earlier. It has been argued that the extension bills represent a fundamental departure from the United States philosophy that intellectual property legislation shall serve a public purpose. This is an argument that is at the centre of the problem of how to accommodate the public right for access to material for information and learning and the right holders' right to remuneration and profit for the work and investments they have made.

As a reaction to the US extensions of copyright a number of prominent lawyers have attempted to declare the acts unconstitutional because, they argued, the acts protect big conglomerates that use copyright to secure their business interests and that this was not in the public interest as it particularly prevents the use of works that were previously in the public domain. This resulted in an initiative to create a movement of authors wishing to provide free access by licensing some of their works for free use.<sup>38</sup> The most prominent of the initiators, Lawrence Lessig, argued that such an initiative would create opportunities for promoting innovative reuse in the form of access and also the

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<sup>36</sup> Recommandation n°7 : Créer un Conseil national composé des représentants des artistes-auteurs, des organismes de gestion collective et des représentants des producteurs, éditeurs et diffuseurs, chargé de formuler des propositions et de conduire les négociations collectives sur tout sujet intéressant la condition des artistes-auteurs ainsi que leurs relations avec les exploitants des œuvres.. Ibid. P. 5.

<sup>37</sup> Article 20 Contract adjustment mechanism 1. Member States shall ensure that, in the absence of an applicable collective bargaining agreement providing for a mechanism comparable to that set out in this Article, authors and performers or their representatives are entitled to claim additional, appropriate and fair remuneration from the party with whom they entered into a contract for the exploitation of their rights, or from the successors in title of such party, when the remuneration originally agreed turns out to be disproportionately low compared to all the subsequent

relevant revenues derived from the exploitation of the works or performances.  
<https://eur-lex.europa.eu/eli/dir/2019/790/oj> (Last accessed June 9, 2020)

<sup>38</sup> See: <https://www.wired.co.uk/article/history-of-creative-commons> (Last accessed January 18, 2020)

creation of new works based on existing ones through sharing and transforming them.<sup>39</sup> The movement was facilitated by the internet having created a new way of disseminating existing knowledge. The movement, which took the name Creative Commons (CC), issued its first set of licenses in October 2002. It is important to be aware that CC is not against copyright as such, but ideally supports a way to secure both the right of authors and the public, while limiting the possibilities of big media conglomerates to exploit copyright for profit.

Creative Commons operates with six different licenses which grant the users the right to utilise the material in varying degrees.<sup>40</sup> There is one common criteria for all licenses—that the original author is to be referenced. But otherwise they provide the users with different sets of rights ranging from only the right to copy and distribute, to the opportunity to remix and adapt the original work, as well as to exploit it commercially.

The CC licensing system has increasingly gathered interest and debate over the last few years, particularly in the area of scientific and academic publishing as it has been suggested to form the basis for rights attribution in the Open Access research system. The criticism has arisen from the fear that CC licenses will undermine the copyright system not only in academic contexts, but generally. That it will open up an arena for the work of academic authors, as well as creators, to be exploited by non-authorised commercial users. Furthermore, the right in most of the licenses to freely remix and adapt and change work, probably violate the moral rights of authors. It has also been argued that CC licenses are more in tune with American than European authors rights traditions.

Closely linked to the ideas behind the Creative Commons movement are initiatives for open access provisions within the sphere of knowledge literature, and particularly science and academic publishing.<sup>41</sup> Digital change has happened much faster in schools and universities, through the way they use literature and text-based media, than in the sphere of ordinary trade book publishing. This has had as a result that both research funders, governments, and academics want to change the rules for funding regulations and contracts for production and distribution in the market for scientific journals, but also for academic literature in general—e.g monographs and anthologies. The intention was originally to challenge the extreme profitability of the major international publishers of academic journals by encouraging a move away from the subscription-based markets where research libraries pay very high subscription fees.<sup>42</sup> The new model would imply free and open access for all. The costs for editing, publishing and distribution would be paid for by the researchers or authors institutions.<sup>43</sup>

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<sup>39</sup> For an extended version of Lessig's arguments see: Lessig, Lawrence (2004). *Free Culture. How Big Media uses Technology and the Law to Lock Down Culture and Control Creativity*. New York. The Penguin Press.

<sup>40</sup> See: <https://creativecommons.org/licenses/> (Last accessed January 19, 2020)

<sup>41</sup> We will deal more at length with the relationship between Creative Commons and Open Access in the chapter on educational tools.

<sup>42</sup> See: «The price of information». *The Economist*. Feb. 4, 2012.

<https://www.economist.com/science-and-technology/2012/02/04/the-price-of-information> (Last accessed September 22, 2020) Restricted to subscribers.

<sup>43</sup> <https://www.ub.uio.no/english/writing-publishing/open-access/deals-and-discounts/> (Last accessed September 21, 2020)



## Public Lending Right

Public lending right (PLR) schemes,<sup>44</sup> which are regulated by legislation and in many cases related to authors rights, exist in order to compensate authors for the free use of their works in libraries. PLR schemes exist in 35 countries, most of them in Europe. Outside Europe the only countries that have introduced PLRs are Australia, Canada, Israel and New Zealand. However, a further 26 countries are in the process of making provisions for introducing PLR. In Europe the legal background to the system is based in the EU Rental and Lending Right Directive (Directive 2006/115/EC). But in some countries, it is also regarded as being part of copyright legislation. Elsewhere it is also recognised as a separate remuneration right. In the Nordic countries PLR is first and foremost a feature of cultural politics and funds are provided over cultural policy budgets, not as part of provisions for libraries as such. The system was first introduced in the Nordic countries: Denmark in 1946, Norway in 1947, and Sweden in 1954. Other European countries followed suit and the introduction of PLR has largely been the result of campaigning by author organisations, as in the UK.

Each country has a different approach to how the payments from PLR are distributed and what the basis is for the amounts being set aside for the schemes. The most usual format, as seen in Sweden and the UK, is to decide the amount for each author based on how often their works are being lent in libraries, and then it is distributed directly to the writers. Denmark's system is that the amount to be paid out is based on how many copies are being held in the libraries. Whereas France measures payments against statistics on registered library users. Other approaches are linked to book purchases. Booksellers make small payments into a fund each time a book is sold. "PLR is a 'lending' right, but payment calculations need not be based on counting loans. Best practice may include payment based on a stock count, book purchases etc."<sup>45</sup>

In addition to writers, other contributors to books, such as illustrators, translators, editors and photographers are being covered by PLR. In Australia, France and Switzerland, the publishers share the PLR payments with their authors. PLR currently applies in many countries to both printed books and a range of audio-visual material (including audio books). Ebook lending is a rapidly growing feature of public library activity across the world, for example, in Denmark. The money is most commonly administered by CMOs, or by a special government department, as in Australia, or the National Library in the UK. PLR funds may be used to remunerate individual authors, or be made available collectively in the form of grants based on applications.<sup>46</sup>

It is important to emphasise that PLR concerns physical copies. When ebook lending is involved, and it is a rapidly growing feature of public library activity across the world, for example, in Denmark, it is covered by separate licensing.

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<sup>44</sup> For an overview see: <https://plrinternational.com> (Last accessed January 21, 2020)

<sup>45</sup> Copied from "Charter of PLR Best Practice" PLR International. <https://plrinternational.com/res> (Last accessed May 27, 2020) See also *ibid* [...] "in France, where part of the overall PLR fund comes from a small payment made by booksellers every time they sell a book to a library. The remaining part of the PLR fund is covered by the state budget according to how many users are registered in the libraries (the users do not have to pay any fees)." PLR International. "PLR: An introductory Guide."

<sup>46</sup> *Ibid*.

## Law and Politics

The relationship between law and politics is two-sided. Political processes and discussions embed principles and arrangements in acts that regulate the rights and obligations of a society. But society is constantly changing, and in literary policies the development of digital media and services is an important source of innovation in government policy making. Within the literary political field, we can see how the interaction between law and politics has evolved, both in the design of laws that directly relate to the literary field (copyright and PLR programmes) and extend to open access provisions. Such laws are again based on, and are in constant interaction with, constitutional arrangements such as provisions for freedom of expression. For authors and publishers, it is vital to have predictability and a strong protection of their rights as creators and disseminators of literature. In the next chapter there will be a closer look at the economic policy tools in the literary-political toolbox, including a discussion of the so-called book laws that provide fixed book prices in many European countries.





## Chapter 4

### The Economic Tools of Literary Policy

The economic tools of literary policy by and large have a market-regulating function, which means that their legitimate aims, their organisation and institutional design depend on how the relationship between politics and markets is generally organised. In societies where there is a liberalist emphasis on market independence and a minimal level of state interference in cultural markets, one would avoid using interventionist economic tools and mainly trust the economic incentives coming from the market itself. In other words, a principle of 'fair and non-interrupted competition' among publishers and booksellers in their respective markets, as well as fair competition between authors in the cultural market, would be seen as the most important 'tool' in literature and publishing. No doubt the market can provide positive effects on literature without any help from a state or a political agent. In addition, market agents can use similar tools as governments do, for instance by setting up private grant schemes, developing literary prizes in their names and creating public cultural events in order to develop their social responsibility profile in the literary field. States might still think of national culture and cultural identity as too important to be left solely to the markets, and therefore prefer publicly owned production companies and state subsidised systems for cultural production and distribution.

In what is often known as mixed economic systems, it is more accepted that the state and the market exist together in a symbiotic relationship, where the state creates an institutional infrastructure to secure the cultural and civil rights of citizens and artists, and commercial agents and companies operate within the set limits of cultural policies and state regulation. The legitimate reasons for using economic tools are often based on cultural rights and democratic participatory ideals, rather than economic efficiency and market benefits, or a combination of the two. For instance, in many European publishing markets literary policies tend to emphasise a linguistic component in the long-term preservation of national languages and national literatures. Thus, although economic tools intervene in the market, there are important distinctions being fought over, for instance when economic tools can be defined under both cultural and literary policies, rather than only being seen as exemptions from competition law. It is argued below that a shift in legitimation and institutional anchoring from economic rationality to cultural values play an important role in how fixed-price regimes are developing in Europe.

In terms of public spending, the most important economic tool in literary policies is direct financial support to public institutions in the literary field, most importantly the financing of libraries. They play an important role in providing access to literature and fulfilling the institutional promise for public accessibility to the literary world. In most countries state-run libraries like a National Library alongside institutional and public libraries run by regional or county municipalities, mean that libraries are in fact national and transnational networks of cultural distribution. In addition, libraries are important and often publicly funded institutions in the educational and academic sectors. Leaving the libraries to later chapters, here the focus will be on three economic tools:

- 1) Fixed-price regulations.
- 2) Indirect public funding through VAT-reduction.
- 3) Direct public funding through purchasing schemes and grant schemes.

## The Fixed Book Price Regimes

Fixed Book Price (FBP) is a form of price maintenance that allows publishers to determine the price of a book to be sold to the public. The fixed-price regime comes in two formats, either in the form of legislation and a 'book law' (Fixed Book Price Legislation, FBPL) or in the form of a trade agreement between publishers and booksellers (Fixed Book Price Agreement, FBPA). Around the world, fixed book price regimes are found in Argentina, Japan, Lebanon, Mexico, South Korea, Thailand and in most European countries.<sup>47</sup>

A book law (FBPL) or a trade agreement (FBPA) works in two ways. It regulates the booksellers relationship with the publishing houses and stipulates among other things publishers' opportunities to give discounts, and when and how to accept returns of unsold books. It also determines how long a fixed price shall apply. It regulates the retail price for the buyer and the reader of the book, and guarantees that a book will cost the same, regardless of where the buyer makes a purchase within a country and regardless of what kind of bookshop the buyer patronises. In other words, FBPLs primarily govern the relationship between publishers and booksellers, with a special emphasis on pricing and availability.

A trade agreement (FBPA) is a contract between parties in a market that covers different types of cooperation, and such a scheme can easily be at variance with both national and European competition legislation. Thus, one important difference between a trade agreement and a book law is that a book law covers all players, while a trade agreement is binding only on the players that are party to the agreement. Publishers and booksellers (for example, chains) may elect to remain outside the agreement (and outside a trade organisation that requires members to be party to such an agreement), meaning they will not be bound by the agreement. Legislation can thus be said to be more universally effective and a more stable arrangement. Hervé Gaymard, chair of the French committee that wrote the 2009 report on the current economic situation of books and FBPLs in Europe considers, for example, a law to be more practical than a trade agreement, since they avoid so-called flexible or voluntary schemes.<sup>48</sup> A statutory regulation covers all those involved, meaning that it is not possible to circumvent the regulations by not signing an agreement. Statutory regulation covers everyone, making it impossible to avoid regulation by not signing an agreement. An FBPL is also easier to enforce than an FBPA, since the latter is a (time-limited) agreement that regulates competition and is conditional upon the approval of the competition authorities. This appears to be one of the reasons that a growing number of European countries have replaced FBPA's with FBPLs. The book industry is considered unique, and it is recognised as having special needs for protection through market regulations.<sup>49</sup>

Historically speaking, provisions stipulating fixed prices evolved as time-limited market regulations indicated that free competition in the book market leads to destructive price

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<sup>47</sup> International Publishers Association (2014): *Global Fixed Book Price Report*. 23rd May 2014. <https://www.internationalpublishers.org/copyright-news-blog/196-ipa-global-fixed-book-price-report> (Last accessed September 21, 2020)

<sup>48</sup> See, e.g., Gaymard, Hervé (2009), *Situation du livre, Evaluation de la loi relative au prix du livre et Questions prospectives*. Rapport à la Ministre de la Culture et de la Communication. Paris: Conseil du livre, p. 81.

<sup>49</sup> According to surveys conducted in Europe by the European Commission, FBPLs are among those regulations that contribute to the diversity of the media. Leuven, K.U. (ed.) (2009): *Independent Study on Indicators for Media Pluralism in the Member States—Towards a Risk-based Approach*. Prepared for the European Commission Directorate-General Information Society and Media SMART 007A 2007-0002, European Communities.

wars, to lost profits for distributors, to the closures of local bookshops, and to subsequent reductions in the availability of and demand for the books produced by publishers and authors. For society, this decline has been characterised as a reduction in cultural diversity and a constraint on the geographical catchment area occupied by books in the public sphere. Accordingly, fixed-price regulations are often supported by mandatory purchasing schemes (all bookshops should in principle carry books from all publishers, and they should be able to obtain any book that a customer and potential reader asks for). For instance, the so-called subscription and return scheme, which ensures that booksellers can obtain books from publishers but are under no obligation to buy and that they can return unsold copies in accordance with specific rules. Overall, these rules should make it possible to obtain books, at a fixed price, in a bookshop where all books that are on the market in principle can be obtained and sold. This is a service that booksellers perform for society, just as news media and public broadcasting may have similar obligations. Such obligations are often based on a set of assumptions or implicit understandings: that a book is a unique, cultural statement, and that books represent a special value for society's mode of expression and educational culture, and that books as a medium are particularly well-suited to collective and individual learning.

One important aspect of the fixed-price system is that diversity at the production stage is contingent on having a wide variety of book products available concurrently and in more or less the same way all across the country. At the same time there is a desire to maintain bookshops in all parts of the country, that is, in cities and small towns alike. The costs incurred from offering a wide variety of books in a bookshop cannot be borne by the bookshop alone but must also be borne by publishers through subscription and return systems. There may also be legitimate reasons for having an unregulated book industry, but they are based on a very different standard that is linked not to the unique nature of the book industry, but rather to the principles underlying the free market. This relates to book buyers' freedom to purchase books wherever they choose, based on the knowledge that prices may also vary.

A last important element in the legitimization of FBP regimes is connected to an interest in regulating digital distribution from abroad. For instance, in 2011, France passed an additional law on ebooks, stating that as long as it is possible for French consumers to buy an ebook, the law applies, thus allowing no room for exemption for companies based in other countries to sell at lower prices in the French market.<sup>50</sup> In 2014, two additional laws were passed, one of which introduced an independent authority that will intervene in conflicts related to the fixed price laws. The other law was related to the 5 percent discount that is allowed in the original French law, stating that the discount should only be allowed for in-store purchases.<sup>51</sup> The new law made it illegal to offer free shipping on books sold through online bookstores.<sup>52</sup> This anti-Amazon law led Amazon to offer shipping at 1 cent cost to its French customers.<sup>53</sup>

France has been a steadfast contender for cultural diversity within the EU, always arguing for greater acceptance of the idea that cultural diversity and national differences must be maintained and promoted by pursuing national and European cultural policy more actively.

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<sup>50</sup> International Publishers Association (2015a): *Seminar summary: Fixed book prices as a policy element in a strategy on literature and language*, p. 6.

<sup>51</sup> <https://frenchculture.org/books-and-ideas/3667-french-parliament-passes-anti-amazon-law-online-book-sales> (Last accessed September 21, 2020)

<sup>52</sup> International Publishers Association (2014): *Global Fixed Book Price Report*. 23rd May 2014. <https://www.internationalpublishers.org/copyright-news-blog/196-ipa-global-fixed-book-price-report> (Last accessed September 21, 2020)

<sup>53</sup> <https://www.geekwire.com/2014/amazon-france/> (Last accessed March 4, 2020)

The 2001 UNESCO Universal Declaration on Cultural Diversity,<sup>54</sup> has played an especially important part in French cultural policy and French-language cultural research.<sup>55</sup> Already at that time, French cultural policy was concerned with preserving 'all things French' in the face of rising American cultural hegemony and the increasingly more globalised cultural industry market of which French art and culture production was a part.

However, initiatives for fixed book pricing date back to the 1800s and to the emergence of national literary markets and the early modern publishing industry with national publishers and local booksellers in Europe. It was in Germany, in 1816, where the first initiatives for a fixed book price agreement (FBPA) were founded, pre-dating the establishment of the German Booksellers' Association (Börsenverein des Deutschen Buchhandels) in 1825. That books should be sold at a fixed price by all booksellers was written into the Booksellers Association's by-laws in 1887 and articulated in a separate contract in 1909 (Verkaufsförderung für den Verkehr des deutschen Buchhandels mit dem Publikum, VAO). Similar contractual agreements between publishers and booksellers were soon established in other European countries, regulating retail prices and potential discounts to booksellers and subscribers. As time passed, the schemes also encompassed return schemes (reverse system). Breaches of rules would be punished by exclusion and boycotts by publishers and trade associations.

During the 1970s and 1980s, these European schemes were increasingly regarded as a violation of national and European competition legislation. The trade agreements were thus to a large degree abolished in the 1990s and 2000s. With inspiration taken from the French 'book law' of 1981, many Fixed Book Price Regimes instead reappeared as FBPLs; Austria in 2000,<sup>56</sup> Germany in 2002,<sup>57</sup> and Netherlands in 2005 all introduced 'book laws' that more or less kept the fixed price regimes intact. These book laws belong to a generation of FBPLs that were framed within the parameters of the EU's competition and cultural policy regimes. The EU's emphasis on the so called "four freedoms" in Europe regarding movement of goods, of services, of capital and people (and the imperative of standardised competition rules in the single market, first played a part in the repeal of the original agreements. But in the next round, wider acceptance in the EU for national legislation in the cultural domain led to a more proactive, cultural legislation in European, national book markets. According to EU law,<sup>58</sup> "[...] restrictions on free movement may be justified if two requirements (necessity and proportionality) are met. First, the restriction must be needed to achieve a goal of public interest (health, consumer protection). Second, the restriction should not go further than needed to reach this goal."<sup>59</sup> National book laws with justifiably cultural policy reasons are thus in effect preferred to trade agreements.

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<sup>54</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=13179&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13179&URL_DO=DO_TOPIC&URL_SECTION=201.html) (Last accessed September 21, 2020)

<sup>55</sup> Poirrier, Philippe (2000): *L'État et la Culture en France au XXe siècle*. Paris, Librairie Générale Française. Théoret, Yves (2008): *David contre Goliath: la Convention sur la protection et la promotion de la diversité des expressions culturelles de l'UNESCO*. Montréal (Québec): Éditions Hurtubise HMH Itée.

<sup>56</sup> Hanreich, Hanspeter, Kuschej, Herman, Grohall, Günther & Reis, Sebastian (2009): *Buchpreisregelungen in Europa als Mittel der Kulturpolitik. Wirksamkeit und wohlfahrtsökonomische Bedeutung*. Institut für Höhere Studien (IHS), Wien.

<sup>57</sup> See Wallenfels, Dieter & Russ, Christian (2006, new ed. May 2012): *Buchpreisbindungsgesetz: Die Preisbindung des Buchhandels*. München: C.H. Beck.

<sup>58</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=13179&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13179&URL_DO=DO_TOPIC&URL_SECTION=201.html) (Last accessed February 20, 2020)

<sup>59</sup> Van den Bergh, Roger (2016) "Vertical Restraints: The European Part of the Policy Failure" *The Antitrust Bulletin* 2016, Vol. 61(1). The author of the article is not a supporter of fixed book prices, but he outlines the arguments used to make them legally compatible with EU law.

We here refer to the situation in Europe, and we are aware of that such freedoms and restrictions on them are not comparable to the situation in other parts of the world, however the justifications for introducing regulations on markets may be applicable for reasons of health, consumer protection and cultural concerns also elsewhere.

In market economies, when there is an agreement between publishers and booksellers, an exemption from the competition authorities is usually needed. For instance, the current Norwegian book agreement is warranted by a regulation that grants it exemption from the Competition Act.<sup>60</sup> A few trade agreements (FBPAs) thus still exist in Europe,<sup>61</sup> while free pricing is found in countries like Cyprus, Czech Republic, Denmark, Finland, Estonia, Ireland, Iceland, Latvia, Lithuania, Poland, Romania, Sweden, Switzerland and the UK. The book industries in Poland and Romania have for some time pushed to introduce a FPBL.<sup>62</sup>

The countries that have or recently have had FBPLs or FBPAs are presented in the table below, along with key aspects of the acts in question. The list is alphabetical.

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<sup>60</sup> Regulation of 29 April 2005 relating to the exemption from the Competition Act, Section 10, for cooperation on the trade in books, pursuant to Act No. 12 of 5 March 2004 relating to competition between undertakings and the control of concentrations (the Competition Act), Section 3, second paragraph. Amended 17 December 2010. <https://forleggerforeningen.no/vi-mener/rammebetingelser/bokavtalen/> (Last accessed March 4, 2020)

<sup>61</sup> Stockman, D. (2014): "Free or fixed prices on books—Patterns of book pricing in Europe", *Javnost—The Public*, 11(4), 49-63.

<sup>62</sup> See Fruntes, Cristina (2016) "Supporting the development of the Romanian book market. Establishing a fixed book price according to the European model", *Bulletin of the Transilvania University of Braşov Series V: Economic Sciences*, Vol. 9 (58) No. 2 - 2016 and <https://publishingperspectives.com/2017/03/polish-publishers-tax-deductions-fixed-prices/> (Last accessed March 4, 2020)



**Ambitious Literary Policies.  
International Perspectives.**

Country	Regulatory system	Term of fixed prices	Discounts granted	Type of books covered
<b>Argentina</b>	Law		10% during book fairs, book festivals; 10% for schools and libraries, 50% for public entities.	
<b>Austria</b>	Act of 2000	Two years	5% 10% for sales to libraries (public, research, or school libraries)	All, except textbooks
<b>Belgium. French speaking Flemish speaking</b>	Act of 2017 Act of 2019	2 years. 1 year for comics	5 % with slightly higher options available for libraries and schools (15% for general titles and 25% for textbooks)	All
<b>Brazil</b>				
<b>France</b>	Act of 1981	minimum two years	5% 9% for libraries	All
<b>Germany</b>	Act of 2002	18 months The default is that the price is fixed for the duration of the book's "life" in the market (so forever). 18 months is the standard minimum duration of FBP, with an exception (12 months) applying to products with a shorter "shelf life", such as yearbooks or books linked to sporting events, etc.	5% for scholarly libraries 10% for county, municipal and school libraries plus volume discounts for orders from the public sector for use in the classroom	All
<b>Greece</b>	Act of 1997	Two years	10% Unlimited discounts to the state and volunteer organisations, provided they are not buying for resale	Fiction and children's books (including ebooks)
<b>India</b>	Act			
<b>Italy</b>	Act of 2001		Permanent (exception: books that are out-of-print, for libraries, archives, museums, and that have been on the market for at least 20 months, and where bookshops have not placed orders for at least six months) 15% 20% for book fairs, books ordered by mail order, and sales to schools, universities and research institutions	All, except ebooks

Country	Regulatory system	Term of fixed prices	Discounts granted	Type of books covered
<b>Israel<sup>63</sup></b>	Act of 2013, repealed 2016	18 months		
<b>Japan</b>	Agreement			
<b>Lebanon</b>	Decree of Ministry of Economy		20% to schools, distributors and booksellers.	
<b>Mexico<sup>64</sup></b>	Act of 2008	18 months		
<b>Norway</b>	Agreement, revised 2017	Until 30. April year after publication and max. 12 months. Discriminating agreements for exclusive distribution or bundling of fixed price titles in subscription regimes not allowed.	Public libraries and salesorders 50-200x until 20%, orders above 200x free pricing. All distributors 12,5%.	All new print and digital titles, in all versions, also audiobooks streaming and subscription are included. If pocket-edition is published within the fixed price period, the ebook version will simultaneously be excluded from the agreement.
<b>Poland<sup>65</sup></b>	Act is drafted, not agreed on	18 months	exemption for ebooks	
<b>Portugal</b>	Act of 1996, as amended in 2000	18 months	10% 20% for libraries, school libraries, reading promotion campaigns and book fairs	All, except textbooks and ebooks
<b>Slovenia</b>	Act of 2014	6 months	0% 20% only for book fairs, book series and subscriptions	All (textbooks included), exempt imported books.
<b>South Korea</b>	Act of 2013 Revised 2014			
<b>Spain</b>	Act of 1975, subsequently amended, most recently in 2007	2 years after publication, +6 months after distribution in bookstores	5% 10% for book days/ trade fairs 15% for libraries, museums, archives, research centres	All, except textbooks
<b>The Netherlands</b>	Act of 2005	Minimum one year, maximum two.	Publishers/importers can give discounts every six months 5% to students 20% to book clubs Miscellaneous volume discounts	All books in national languages, with the exception of schoolbooks and textbooks

<sup>63</sup> <https://publishingperspectives.com/2016/09/rights-edition-israel-book-law/> (Last accessed September 22, 2020)

<sup>64</sup> There are reports that the law in Mexico is not working as intended. <https://www.mhpbooks.com/how-have-fixed-book-prices-affected-mexican-publishing/> (Last accessed March 15, 2020)

<sup>65</sup> <https://publishingperspectives.com/2017/03/polish-publishers-tax-deductions-fixed-prices/> (Last accessed March 4, 2020)

Spain has the oldest, current book law, which dates back to 1975, four years before the French law that was adopted in 1981 (the latter is often called 'le loi Lang' after the then French Minister of Culture Jacques Lang). Portugal followed suit in 1996 and Greece in 1997. More recently, Slovenia passed a law on fixed book prices in 2014 and in January 2018 the French speaking part of Belgium also initiated a book law. In 2019 the Flemish part of the country followed suit.

As shown, legislation varies on many crucial elements: the fixed price period, the types of books covered and the discounts that are allowed.<sup>66</sup> Particularly varied are the different discount schemes. In Portugal, for example, a 10 percent discount is allowed within the fixed-price period, while in Spain and France, a 5 percent discount is allowed.<sup>67</sup> In Germany, Switzerland and the Netherlands, the discount schemes are less general. They have specific criteria that must be satisfied for a discount to be given within the fixed-price period. For instance, in Germany, a publisher can stipulate a discount on the purchase of multiple copies of a book by the same customer, which booksellers are required to give. Furthermore, publishers have an opportunity to offer a special discount for a series of books. Booksellers are not bound by the fixed price for sales to publishers, other booksellers or employees. In the event of books being damaged, booksellers are also free to set the retail price of their choice. All FBPLs apply to both fiction and nonfiction. However, the French, Italian, and German FBPLs also apply to textbooks within the school system (the fixed-price agreement in Slovenia also includes textbooks). In the other countries listed in the table, the FBPLs do not include textbooks (Greece is a special case, as textbooks are published by the state and not by private publishing houses).

An interesting Italian development in this context is what may be called an 'anti-Amazon' cap for book discounts. At the beginning of February 2020 the Italian Senate gave the go-ahead for a new national action plan to promote reading. The law includes the following provisions: A national endowment of €4.4 million, earmarked for several purposes including an increase of €1.3 million in a tax credit for merchants who sell books; a drop in permissible booksellers' discounts from the current 15 percent to just 5 percent; stores can create promotions once per year with discounts of 15 percent; publishers can discount books no more than 20 percent. One intention is to protect bookstores from competition by curbing Amazon's digital platforms. The Italian Publishers Association has protested against the law maintaining that it will undermine the publishing industry economically. The law will, however, bring the Italian law closer to the provisions of the French 'le loi Lang'.<sup>68</sup>

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<sup>66</sup> We have used several sources and search methods on Internet for the table, most importantly are our own report to the Norwegian Government 2012 *At what Price* (Rønning and Slaatta et al. 2012) and the report from International Publishers Association (2014): *Global Fixed Book Price Report*. 23rd May 2014. Information sometimes deviates.

<sup>67</sup> In France, the practical consequence of this seems to be that the regular sales price is "fixed price less 5%". Similar practices can also be found in other countries with fixed-price provisions.

<sup>68</sup> <https://www.euractiv.com/section/digital/news/digital-brief-eu-competition-clampdown/> (Last accessed September 22, 2020)

<https://publishingperspectives.com/2020/02/italian-booksellers-publishers-face-new-law-on-book-discount-restrictions/> (Last accessed September 21, 2020)



## The future of Fixed Price Regimes

The transfer from agreements to legislation has not always been untroubled, even in small countries and markets.<sup>69</sup> In Switzerland, the process of creating an FBPL was stopped when a referendum in 2012 rejected a proposal for a book law, and similarly a FBPL in Norway was halted in 2013. Norway remains regulated by a non-statutory FBPA, but Switzerland had abolished its former agreement at an earlier stage, and now is without a fixed book price regime. The list of free-price countries thus remains long in Europe, with Denmark, Iceland, Hungary, Poland, Russia,<sup>70</sup> Sweden, Switzerland and the UK.<sup>71</sup> The effects of fixed pricing are still disputed, but results from a large-scale research project led by the Faculty of Economics and Business Studies at The Justus Liebig University in Germany indicates that such systems do serve the purposes they have been set up to fulfil. The research group was initially financed by the German Publishers and Booksellers Association but will now go on to search for funding from the European Research Council to further substantiate their findings.<sup>72</sup> Future research might entail further emphasis to be placed on the threat to European cultural markets from global, digital media giants.<sup>73</sup> As mentioned, France passed a special law pertaining to digital books in 2011 and became the first member state to test the EU's position on the matter. For some time, EU had maintained the argument that digital books were a digital service, and not a cultural product for consumption. However, the EU accepted the legislation on 10 November, 2011.<sup>74</sup>

The German FBPL used not to mention ebooks, but it does cover "... products that reproduce or replace books, sheet music or cartographical products which, based on an overall assessment, must be considered very typical for publishing houses or booksellers."<sup>75</sup> The reference to them being "very typical for publishing houses or booksellers" seems to point in the direction of the traditional book industry. However, in 2016 Germany introduced fixed prices also for ebooks. This makes the German law equal to the French FBPL in its focus on products developed directly for digital distribution. The Spanish FBPL is even more clearly formulated on the basis of this perspective and identifies all types of technologies.<sup>76</sup> Discussions are taking place in other countries as well about whether or

<sup>69</sup> Small countries with a nationally oriented publishing industry can more easily justify its book policies on the basis of a protectionist cultural policy, and as a defence of language and local authorship in educational literature and fiction alike.

<sup>70</sup> For an old overview of the peculiarities of Russian publishing, see: <https://publishingperspectives.com/2011/08/russian-publishing-101-what-you-need-to-know/> (Last accessed September 21, 2020)

<sup>71</sup> A FBPA also existed in the UK as the The Net Book Agreement until it was discontinued in 1997.

<sup>72</sup> <https://www.buchreport.de/news/boersenverein-gesammelte-argumente-fuer-die-preisbindung/> (Last accessed March 4, 2020)

<sup>73</sup> <https://thenewpublishingstandard.com/half-of-belgium-gets-fixed-price-book-law/> (Last accessed September 2, 2022)

<sup>74</sup> Draft bill of 26 May 2011: "La loi du 26 mai 2011 relative au prix du livre numérique". Passed by EU decree on 10 November: "Décret n° 2011-1499 du 10 novembre 2011." <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024079563&dateTexte&categorieLien=id> (Last accessed March 4, 2020). However, France was less successful when they also wanted to adopt the same VAT for ebooks and printed books. See <https://www.liberquarterly.eu/articles/10.18352/lq.8539/> (Last accessed April 6, 2020)

<sup>75</sup> Gesetz über die Preisbindung für Bücher (Buchpreisbindungsgesetz), adopted on 2 September 2002 and enacted on 1 October 2002.

<sup>76</sup> "Se entienden incluidos en la definición de libro, a los efectos de esta Ley, los libros electrónicos, los libros que se publiquen o se difundan por Internet o en cualquier otro soporte que pueda aparecer en el futuro, los materiales complementarios de carácter impreso, visual, audiovisual o sonoro que sean editados conjuntamente con el libro y que participen de su carácter unitario, así como cualquier otra manifestación editorial." Source: El Libro Electrónico. Grupo de Trabajo sobre El Libro Electrónico. Observatorio de la Lectura y el Libro. Abril 2010, p. 10. [http://www.mcu.es/libro/docs/MC/Observatorio/pdf/LIBRO\\_ELECTRONICO\\_2010.pdf](http://www.mcu.es/libro/docs/MC/Observatorio/pdf/LIBRO_ELECTRONICO_2010.pdf) (Last accessed February 15, 2012). This website is not any longer considered up to date, but our quote is from when we first accessed it in 2012.

not ebooks should also be covered by the FBPL. The issue can put the whole discussion about fixed book prices back on the agenda. The context of this issue is at the same time changing, as many of the players exerting pressure on the digital segment of the publishing industry are large US corporations such as Google, Apple and Amazon. These are players that should not be expected to have any particular interest in European cultural policy, they are distributors, not creators or adapters of cultural content. The FBPLs in Europe seem to offer an opportunity to control developments, at least to some extent.

## VAT: Value Added Tax

An important economic instrument for promoting literature around the world is to reduce or completely abolish value-added tax (VAT) or Goods & Services Tax (GST) on book sales. An exemption (zero-rate) or reduced-rate for books is a tax-regulating measure and thus an obvious economic tool in terms of literary policies. In 2015 and 2018, the International Publishers Association (IPA) and the Federation of European Publishers (FEP) have carried out global surveys of the levels being applied to printed books and ebooks. The survey reveals great contrasts between print and digital, as well as between nations, and between regions.<sup>77</sup>

A key finding was that only 22 percent of countries applied the standard rate of VAT to printed books, while a large majority of nations, about 69 percent, applied standard VAT to ebooks. 37 countries applied the same rate of VAT/GST to print and ebooks, and 35 countries applied a higher rate of VAT/GST to ebooks than to print. Chile was the only Latin American country not to apply zero-rate VAT to printed books and Israel was the only Middle Eastern country which applied standard VAT to printed books. Neither in Africa nor in Asia, was there any standard regional approach, although the majority of African countries surveyed (8 out of 13) had zero-rate VAT on printed books.

Western European countries introduced the VAT system for goods and services in the 1970s, but in many countries an exemption for books was instituted in order to make printed books cheaper for consumers and give books a competitive edge and strengthen the national book markets. Given the size of the markets, a reduced VAT rate or an exemption is the most important indirect literary-political support in any literary policy regime. For instance, the value of the VAT exemption for books in a small country like Norway was estimated to be around €200 millions (NOK 1.5 billion) annually in 2012.<sup>78</sup>

The reduced VAT rate and exemptions on books are often contested by other media industries for lack of consistency as a cultural policy tool. In many countries, if you buy a video or a digital game there is no VAT exemption. However, tickets for attending the theatre, opera or concerts are often exempt from VAT. Movie tickets on the other hand could be sold with full VAT. “What is so special with the print media?” one could ask.

In 2005, the Swedish Book Price Commission submitted a report that examined the effects of a reduction in the VAT rate on the Swedish book market. Their conclusion stated that:

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<sup>77</sup> There is a useful map in this report on page 4, also found here: <https://publishingperspectives.com/2015/07/vat-rates-on-books-and-ebooks-around-the-world> (Last accessed March 4, 2020) See also International Publishers Association (2019): *VAT on Books. An IPA/FEP Annual Global Special Report 2018*.

<sup>78</sup> Oslo Economics. Utredning om litteratur- og språkpolitiske virkemidler. On assignment from the Ministry of Culture. Oslo Economics report 2011–16, p. 22.

It is obvious that a reduction in the VAT has contributed to higher sales for book and magazine publishers and for retail sales, and that this has made it possible for the industry to cover increasing costs and reach a level of profitability which is perceived by the industry itself as being comparable to other segments of business and industry.<sup>79</sup>

Similarly, a Norwegian report from 2014 unequivocally concluded that the VAT exemption on books had a positive impact on the breadth and diversity of Norwegian literature, both in terms of the number of publications and the number of books that were purchased and read.<sup>80</sup> An Annual Global Report from IPA/FEP on VAT on Books has a full list of the varying VAT rates around the world.<sup>81</sup>

In countries like Ireland, Norway, the United Kingdom and the Ukraine books are fully exempt from VAT. In the budget presented to Parliament in March 2020 the British Government abolished the reading tax on digital content, which means that ebooks, online newspapers, magazines and journals will no longer be faced with a VAT tax. Previously, only print products enjoyed this perk, which has been in place since 1973.<sup>82</sup> Denmark and Bulgaria, on the other hand, are the only EU member states with full VAT on books. In Sweden the VAT on books was reduced in 2002 from 25 percent to 6 percent, which is the same rate applied to newspapers and magazines.<sup>83</sup>

Other countries with reduced VAT rates on ebooks are Luxembourg, Romania, Slovenia, Croatia, Hungary, Italy, Malta, Portugal, Slovenia, as well as Germany, The Czech Republic, Bulgaria and Spain. Japan is reported to have gone from 8 percent to 10 percent VAT in 2019, and there are further appeals for reduced tax in order to meet the competition from imported ebooks, which are not taxed.<sup>84</sup>

In the EU, VAT was regulated by Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.<sup>85</sup> This referred to books “on all physical means of support”, in other words, to paper books. For ebooks delivered electronically, Article 98, number two, stated that reduced VAT rates could not be applied. However, for ebooks delivered on physical media, for example on CDs or memory sticks, a reduced VAT rate was thought to be possible. Member states had different opinions. France and Luxembourg introduced reduced VAT rates on ebooks, 5.5 percent and 3 percent respectively. Discussions emerged on whether the EU should take legal actions against France and Luxembourg for breach of the VAT Directive,<sup>86</sup> which they finally did in 2015.<sup>87</sup>

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<sup>79</sup> SOU (Official Reports of the Swedish Government) 2005:12 *Bokpriskommissionen. Slutrapport*. (Book Price Commission. Final Report). Stockholm: Fritzes offentliga publikationer.

<sup>80</sup> Oslo Economics 2014, 'Konsekvensanalyse av ulike merverdiavgiftscenarier for bøker', forleggerforeningen.no/wp-content/uploads/2015/12/OE-rapport-2014-12-Konsekvensanalyse-av-ulike-merv.pdf (Last accessed March 15, 2020) First in January 2018 the Norwegian government declared an intention to remove VAT on ebooks and a proposal to remove VAT on electronic books was sent out for comments in January 2019. In July 2019 VAT on electronic books was scrapped in Norway. <https://blogg.pwc.no/skattebloggen/mva-fritak-for-e-boker-og-elektroniske-tidsskrifter-pa-horing> (Last accessed March 15, 2020)

<sup>81</sup> International Publishers Association (2019): *VAT on Books. An IPA/FEP Annual Global Special Report* 2018.

<sup>82</sup> <https://www.bbc.com/news/technology-51832899> (Last accessed March 12, 2020)

<sup>83</sup> Fredriksen, Terje (2006): *Bok og marked. En komparativ rapport* (Book and market. A comparative report). Kulturudvalget (Committee on Cultural Affairs, Denmark) KUU General sec., Annex 116.

<sup>84</sup> *An Introduction to Publishing in Japan 2017-2018*, Japan Book Publishers Association 2017

<sup>85</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32006L0112> (Last accessed September 21, 2020)

<sup>86</sup> “Luxembourg VAT cut set to hit UK book trade”, *Financial Times*. Houlder, Vanessa & Kite, Lorian, 21 December 2011.

<sup>87</sup> [http://www.tax-news.com/news/Reduced\\_VAT\\_Rates\\_For\\_EBooks\\_Outlawed\\_67466.html](http://www.tax-news.com/news/Reduced_VAT_Rates_For_EBooks_Outlawed_67466.html) (Last accessed March 4, 2020)

Discussions continued,<sup>88</sup> and on 7 April 2016, the European Commission (EC) released an action committed to the reduction of VAT rates on ebooks.<sup>89</sup> On 2 October 2018 a law was finally passed allowing member states to apply reduced, super-reduced or zero VAT rates to electronic publications, thereby allowing the alignment of VAT rules for electronic and physical publications.<sup>90</sup>

## Purchasing schemes and other subsidy-regimes for trade books

All around the world, states, regional and local authorities, organisations, businesses, political parties and citizens are engaged in attempts to get particular books published and distributed. Traditionally, in media sociology, the book as a medium is expected to be of higher symbolic value compared to news media, film and television, and authors usually have a higher professional standing than for instance politicians and journalists.<sup>91</sup> The name of an author, and sometimes also a publisher or an editor, thus can give an extra element of personal voice and trust to the experience of reading. However, both the book as a medium and the name of an author are inflated when the number of available titles and sales rise at an unprecedented scale. In many countries around the world, the situation today for national literature is at peril. The imports of foreign books and the impact of foreign languages can be so dominant that authors writing in national languages are marginalised. National publishers often struggle in the competition with international and foreign publishing companies.

This is the situation for many countries in Africa, where imported books, according to Holger Ehling in 2012, amount to around 70 percent of all sales.<sup>92</sup> In former colonies, locally based publishers are also publishing English, French, Spanish and Portuguese books for their national markets. This is the case in India, rated as the second largest English-language print book publisher in the world with over 9000 publishers. Accordingly, 55 percent of all titles are in English. Of the national Indian language markets, books in Hindi account for 35 percent (15.75 percent of the total).<sup>93</sup> Thus national culture is believed to benefit from encouraging and supporting a national publishing industry, as is the purpose of a support scheme set up in Senegal.<sup>94</sup> Many Asian countries face similar circumstances, for instance Thailand imports 40 percent of all trade titles.<sup>95</sup> In the educational markets for academic literature, the situation for national publishers can become even worse, because of the international dominance of the large European and American conglomerates. Thus, as is made clear in the beginning of the book, states, markets and languages are both connected and disconnected in many complex ways.<sup>96</sup>

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<sup>88</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/874>. (Last accessed March 4, 2020)

<sup>89</sup> <http://www.thebookseller.com/news/ec-committs-addressing-e-book-vat-inequality-action-plan-326076> (Last accessed March 4, 2020)

<sup>90</sup> <https://www.consilium.europa.eu/en/policies/reduced-vat-e-publications/> (Last accessed January 30, 2020)

<sup>91</sup> See for instance the books by Thompson, John B. (1995) *The Media and Modernity. A Social Theory of the Media*. Cambridge: Polity, and (2010) Thompson, John B. *Merchants of Culture*. Cambridge: Polity

<sup>92</sup> Ehling, Holger (2012) "Publishing in Africa: An Overview", in Gordon Collier et al. (eds) (2012) *Engaging with Literature of Commitment*. Volume 1. London: Brill

<sup>93</sup> <https://economictimes.indiatimes.com/industry/media/entertainment/media/indian-book-market-to-touch-rs-739-billion-by-2020-survey/articleshow/49996781.cms?from=mdr> (Last accessed September 21, 2020)

<sup>94</sup> <https://en.unesco.org/creativity/policy-monitoring-platform/livre-fonds-daide-ledition> (Last accessed March 4, 2020)

<sup>95</sup> <https://2seasagency.com/international-publishing-insights-thailand/> (Last accessed January 31, 2020)

<sup>96</sup> There is little written information on publishing in the Arab world. An exception is Samar Abou-Zeid (2013) "A Report from Lebanon on Publishing in the Arab World", in *Publishing Research Quarterly* 30(1) [https://www.researchgate.net/publication/259636466\\_A\\_Report\\_from\\_Lebanon\\_on\\_Publishing\\_in\\_the\\_Arab\\_World](https://www.researchgate.net/publication/259636466_A_Report_from_Lebanon_on_Publishing_in_the_Arab_World) (Last accessed March 4, 2020)



Given this situation, it is no wonder that states are active political and economic supporters of production and distribution of literature in national languages. Of particular importance to nation states is the production of educational literature in national languages, to be used in schools and higher education. In this market, states sometimes consider ownership of means of production (for example, state-owned print shops, publishing and distribution operations), or they engage in detailed set ups of subsidy regimes and purchasing systems for educational literature. These policy measures are seen as being part of a nation's educational legislation and governance regime. These educational schemes will therefore be treated as pedagogical or educational measures, rather than as economic tools in literary politics. Instead focus will be on fiction or nonfiction trade literature, where there are a wide variety of measures around the world that will be exemplified and analysed.

The most important measures in these markets are purchasing schemes and state subsidy regimes. A purchasing scheme usually works through a sales guarantee within the literary cycle and thus attempts to increase the economic incentives for a publisher to publish a particular book or a particular author.<sup>97</sup> Ecuador, for instance, has a support programme for their publishing industry and reading markets, as has Indonesia, Chile, Madagascar, Tunisia, Morocco, Albania, Venezuela and many other countries. These states subsidise or support their national book sector with various programmes and support initiatives.<sup>98</sup> It need not cost that much, and it increases the predictability for a profitable print run. For instance, in the case of a state-initiated book policy that guarantees a minimum purchase, automatic distribution through the libraries, and the presence of authors, publishers and schools at book fairs or festivals, selected (or most) books can be profitable for both the publisher and author, while also reducing the libraries' purchasing costs. State-initiated schemes can be 'automatic' or 'selective'. If automatic, all books being published routinely become subsidised by the scheme. The effect is a low risk threshold for introducing new authors and a possibility for publishers to earn money on 'average-selling' and 'minimal-selling' authors. If selective, the purchases within the scheme are settled after an application process where the number of purchased titles depends on the budget. In the automatic schemes, the publishers register the titles, and since the registered titles can be guaranteed to be purchased, they are also distributed automatically to the libraries.<sup>99</sup>

In the selective schemes, the number of purchased titles depends on a committee's quality assessment, as well as the allocated budget. A composite assessment committee can determine whether a registered title meets the required quality criteria, and if they do, prioritise them for purchase within the budgetary limits of the schemes.<sup>100</sup> In many countries, particularly in Europe, schemes like these will be handled by Arts Councils, operating within a framework at 'arm's length' from the political interests of government departments and fractions in the political system. In some countries, the set up and handling of purchasing schemes might also involve the active participation of authors organisations, for instance when committee-members are appointed.

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<sup>97</sup> With the backdrop of the Covid19 crises in the cultural industries, FEP have made a call at the EU Parliament to install purchasing schemes in all member states, for all kinds of books. The call has been taken forward jointly by FEP and EIBF in a list of 10 proposed measures to come out of the crisis. See <https://fep-fee.eu/Proposed-measures-to-support-the-and-https://fep-fee.eu/EIBF-and-FEP-call-on-the-Minister> (Last accessed 28. May 2020)

<sup>98</sup> <https://en.unesco.org/creativity/policy-monitoring-platform/policies-publishing-sector> (Last accessed March 4. 2020)

<sup>99</sup> But even in an automatic scheme a committee must review the books in order to guarantee that they are purchased. They must satisfy a minimum quality requirement and if the book does not meet the quality criteria, the publisher must repay the entire purchase amount, except for the author's royalty.

<sup>100</sup> <https://en.unesco.org/creativity/policy-monitoring-platform/purchasing-scheme-literature> (Last accessed March 4. 2020)

But states think differently about how political institutions and organisations should be engaged in the actual funding of literature and books, and the protection of cultural rights depend on political contexts and power. Minority languages might need particular attention and support in a situation where the market is seen as sufficiently efficient to uphold quality and breadth. And what happens when the number of national languages exceeds 10, 50 or maybe even more than 100? Which language is the right language to support, and which language needs it most, to survive as a written language? No doubt, politicians may often want to leave things to the invisible hand of the market. In an increasingly globalised world, challenges with minority languages are bound to increase. Italy is a case in point and has developed a programme to support linguistic minorities through various measures, as has Hungary and many other European countries, according to the UNESCO archive.<sup>101</sup>

India again is a good case. The National Book Trust (NBT) was established by the Government of India in 1957 with the objective “to produce and encourage the production of good literature in English, Hindi and other Indian languages and to make such literature available at moderate prices to the public and to bring out book catalogues, arrange book fairs/exhibitions and seminars and take all necessary steps to make the people book minded.”<sup>102</sup>

Not only single states, but also transnational organisations, such as the EU, are thinking about which policy tool is best to support literature for minority languages. Increasingly, translation is seen to be the tool of choice: The objectives of the ‘Literary translation’ scheme in the EU are to promote the transnational circulation of literature and its diversity in Europe and beyond and to expand the readership of quality translated books.<sup>103</sup> The scheme offers grants to eligible publishers for the co-financing of the translation, publication and promotion of a ‘package’ of, minimum three and maximum ten, works of fiction. The translation must be from, and into, eligible languages and either the source or the target language must be officially recognised in an EU Member States or an EFTA country. The translation and promotion of books from lesser used languages into English, French, German or Spanish is encouraged as it increases the visibility of the books in Europe and beyond. The translation of books for which the authors have won the EU Prize for Literature<sup>104</sup> is also encouraged. The scheme is open to publishers and publishing houses with at least two years of existence, and established in the EU or in other countries participating in the Creative Europe Programme.<sup>105</sup> An example of lesser language translation support is found in Dutch speaking Belgium where there are grants available for foreign publishers that publish Flemish books.<sup>106</sup> Other examples of well-functioning support schemes for translations include the German measure TRADUKI, featuring both private and public support,<sup>107</sup> and the wide use of residency programmes, found in countries all over the world.

The combination of a subsidy scheme, a well esteemed literary prize, and a larger, cultural programme is a clever solution, but not always at hand, of course. To preserve national languages and encourage foreign imports, countries can also subsidy translations of foreign books. For instance, this is done in the Netherlands through the set-up of a fund,

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<sup>101</sup> <https://en.unesco.org/creativity/policy-monitoring-platform/measures-under-linguistic> (Last accessed March 4, 2020)

<sup>102</sup> [https://www.nbtindia.gov.in/aboutus\\_5\\_history.nbt](https://www.nbtindia.gov.in/aboutus_5_history.nbt) (Last accessed 4 March 2020)

<sup>103</sup> [https://eacea.ec.europa.eu/creative-europe/actions/culture/creative-europe-culture-literary-translation\\_en](https://eacea.ec.europa.eu/creative-europe/actions/culture/creative-europe-culture-literary-translation_en) (Last accessed September 21, 2020)

<sup>104</sup> <https://www.euprizeliterature.eu> (Last accessed March 15, 2020)

<sup>105</sup> [https://eacea.ec.europa.eu/creative-europe/library/eligibility-organisations-non-eu-countries\\_en](https://eacea.ec.europa.eu/creative-europe/library/eligibility-organisations-non-eu-countries_en) (Last accessed March 4, 2020)

<sup>106</sup> <https://www.flandersliterature.be/grants/translation-grants> (Last accessed March 4, 2020)

<sup>107</sup> See <https://en.unesco.org/creativity/policy-monitoring-platform/traduki-translation-programme> (Last accessed March 4, 2020)

*Letterenfonds*,<sup>108</sup> and in Norway by the governmental organisation NORLA.<sup>109</sup> Similar operations are found all around the world and are often reported to UNESCO's policy monitoring on cultural policies. Examples of state-supported subsidy programmes for national publishers include: Wallonia, Belgium, where the Service Général des Lettres et du Livre allocate 'Le Fonds d'Aide' à l'Edition' in order to financially support and promote Wallonian literature.<sup>110</sup> Furthermore, in Russia the Institute Perevoda states that, "... The Federal Agency for Press and Mass Communication and the Institute for Literary Translation, an autonomous non-profit organisation for furthering the development of the theory and practice of literary translation, will support translation into foreign languages of works written in Russian and other languages of the people of the Russian Federation in 2020."<sup>111</sup> In Kuwait, there is a particularly interesting subsidy system for magazines and literary criticism, more focused on the literary public sphere and the side effects of critical book reviews.<sup>112</sup>

## Grant schemes to authors and literary prizes

While purchasing schemes strengthen sales and guarantee a certain income to the publisher, grant schemes and literary project funding schemes are more often a direct subsidy to an author, provided for by both governmental and private organisations. Parliament committees, Ministries of Culture or arms' length bodies like Art Councils are often responsible for governmental grant schemes to authors. The size and number of grants can still vary with budget priorities, and their distribution can be more or less at arms' length, opening up for political rather than purely artistic judgements on merits and quality. Examples are plenty: For instance, the Australia Council for the Arts have three grant rounds every year for authors and artists' 'career development' as well as a 'travel fund for literature'.<sup>113</sup> In the US, the National Endowment for the Arts (NEA) has a literary section giving fellowships and support to literary projects. In the UK, the arts council observed in 2015 that mid-career authors needed more support and directed 'investment'.<sup>114</sup> Also, the British Council gives grants to international authors particularly if they need translation to reach the UK markets.

Private grant schemes are similarly found amongst all trade markets around the world and they are often provided by private and value-led funding organisations (ideal associations, trusts, private funds), who chose to support projects and careers in culture, arts and science. Writing NSW, in Australia, is a good example of an active organisation providing support for authors; creating literary events and providing professional writers with a community, courses, mentorships as well as grants.<sup>115</sup> In Africa, there are grants available for African writers from, for instance, The Miles Morland Foundation, the African Writers Trust, grants to international authors from PEN America, and dedicated web pages with lists of grant possibilities.<sup>116</sup> The world is full of grants, and the internet abounds with references to them. No need to list them here. The same goes for literary prizes, which exist in different sizes, shapes and symbolic values.

<sup>108</sup> <http://www.letterenfonds.nl/en/translation-subsidy> (Last accessed January 31. 2020)

<sup>109</sup> <https://norla.no/en/pages> (Last accessed January 31. 2020)

<sup>110</sup> <http://www.lettresetlivre.cfwb.be/index.php?id=11664> (Last accessed January 13. 2020)

<sup>111</sup> <http://institutperevoda.ru/static/225464788/50> (Last accessed March 4. 2020)

<sup>112</sup> <https://en.unesco.org/creativity/policy-policy-monitoring-platform/reading-policy-national-council> (Last accessed March 4. 2020)

<sup>113</sup> <https://www.australiacouncil.gov.au/artforms/literature/> (Last accessed March 15, 2020)

<sup>114</sup> See Corporate Plan 2015 - Literature at <https://www.artscouncil.org.uk/> (Last accessed March 4. 2020)

<sup>115</sup> <https://writingnsw.org.au/support/funding-opportunities/writing-nsw-grants/> (Last accessed March 4. 2020)

<sup>116</sup> <https://www.freedomwithwriting.com/freedom/uncategorized/35-grants-and-fellowships-for-writers-700000-in-awards/> (Last accessed September 22, 2020)

And

<https://www.transartists.org/article/funding-africa> (Last accessed March 4. 2020)





## Chapter 5

### Educational Tools

While the legal and economic literary policy tools affect framework conditions for authors and the industry as a whole, educational tools are directly aimed at teaching establishments of all kinds. They are primarily designed to foster reading and writing skills as well as for the dissemination of knowledge. The first part of this chapter deals with primary and secondary education and the policies that influence the adoption of teaching material for this educational sector. The second part discusses the development of higher education and policies related to the production of university and college textbooks. The third part will analyse the policies of research publication. And finally, the focus will be on other educational literary policies such as extracurricular education and reading campaigns.

### Publishing for Education

National curricula and the production of school books differ widely around the world. The most important policy measures in the educational publishing market are regulations that decide how textbooks are part of national procurement policies, which govern how textbooks are adopted and which type of material fit curricula and national plans for education. Such regulations and institutions also decide on what policy level teaching material is being purchased and by whom; nationwide, or decentralised to regional bodies, municipalities or schools? Also, are the books bought and distributed for free, or do parents have to pay for them? Is the distribution left to centralised systems or local bookshops? What type of procurement policies exist? Do publishers compete to fulfil policy requirements, and what type of publishers provide the textbook—international, national, local, state, commercial? Do procurement policies serve as a support for the national literary industry; the authors, publishers and booksellers?

The Educational Publishers Forum (EPF) of the IPA refers to three core principles that ought to guide educational publishing worldwide. They are *choice*, *local solutions*, and *collaboration*. Choice implies that teachers and schools must be allowed to choose from a range of educational material, formats, and resources, which provide the best learning resources suited to the needs of their classrooms. Local solutions focus on the ability of local publishers to gather local stories from local writers. Schools and teachers should be able to choose locally developed resources, based on the common cultural experiences and environments they share with their students. Collaboration means that educational authorities, teachers, authors, and researchers and publishers must work together to develop the best and most relevant teaching material. Educational authors and publishers are specialists in transforming the principles formulated in educational policies into practical teaching materials.

In order for these core values to be realised the educational market needs to be open and diverse. A variety of publishers and providers of educational material in all formats must

be able to compete to deliver the best content for teaching at all levels. Further it implies that authors' rights and copyright must be respected, and so must the freedom to publish in sustainable business environments.<sup>117</sup> As outlined above, the International Publishers Association (IPA) has been vocal in its resistance to attempts at introducing an international treaty to broaden exceptions to copyright for archives, libraries and in education, arguing that this would undermine the importance and development of educational publishing worldwide.

In the early period of public education, it was religious publishers that provided material for education. Later more specialised educational publishers started publishing basic schoolbooks for what was in the process of becoming a mass market. Thus, over the nineteenth century, in many countries in Europe as well as in the US, educational publishers established themselves as a bedrock of commercial publishing activities. The connection between educational authorities and publishing for schools have for many years been essential for the development of national book markets. Many domestic consumer publishers have started as educational publishers. An important element of this history is also the role educational publishers have played in the development of literature for children outside of the educational system.

Public spending on education, including teaching material, varies tremendously around the world, and creates gross inequalities.<sup>118</sup> In the UN Human Development Report 2019, which looks at inequalities in human development in the 21st century, only 42 percent of adults in so-called low human development countries have had a primary education, compared with 94 percent in very high human development countries. As for tertiary education, the figures are 3.2 percent in low human development countries compared with 29 percent in very high human development countries.<sup>119</sup> Spending on education and greater school attendance is growing in most countries, across all levels of development. But inequality nevertheless remains pronounced. Most countries are on track to achieve universal primary education, in spite of the fact that there still are many children who never go to school. In very high human development countries enrolment in secondary education is nearly universal, while in low human development countries only about a third of children are enrolled.

There is, however, a serious problem regarding the quality of education. In many countries, going to school does not mean that pupils achieve a minimum of proficiency in reading, writing and mathematics. The reasons for this are manifold, but one aspect has been pointed out in many reports is that there are not enough books on the market, and they are often of low quality and out of date.<sup>120</sup> In low human development countries there are not enough textbooks provided, libraries are poorly stocked, and books are expensive compared to average incomes. In highly developed countries, however, there are advanced systems in place for the distribution of teaching materials, both analogue and digital, and they are in many places provided for free.

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<sup>117</sup>See the brochure *Building smarter generations*. Published by Educational Publishers Forum. IPA. Published by Educational Publishers Forum at International Publishers Association. <https://internationalpublishers.org/our-work-menu/educational-publishing> (Last accessed September 21, 2020)

<sup>118</sup>See: <http://hdr.undp.org/en/indicators/149206> (Last accessed January 31, 2020) as well as: [https://nces.ed.gov/programs/coe/indicator\\_cmd.asp](https://nces.ed.gov/programs/coe/indicator_cmd.asp) (Last accessed January 31, 2020)

<sup>119</sup>See: UNDP Human Development Report **2019 Beyond income, beyond averages, beyond today: Empowered lives. Resilient nations. Inequalities in human development in the 21st century** <http://hdr.undp.org/sites/default/files/hdr2019.pdf> (Last accessed September 21, 2020)

And <https://www.brookings.edu/blog/future-development/2020/01/22/inequalities-in-human-development-in-the-21st-century/> (Last accessed September 21, 2020)

<sup>120</sup> Ibid. p. 42—62.

The purpose of such policy tools is to oversee educational and pedagogical qualities as well as securing fair and competitive prices on books for schools. In many countries, states engage actively in the production and distribution of textbooks, also to ensure the quality of teaching material. This means that educational policies influence the market for educational material in several ways. In many African countries, textbooks have to be approved by state curriculum development units, and publishers that manage to get their books on to the approved lists enjoy a considerable advantage in the educational market.

Governments in developing countries are under great social and political pressure to provide comprehensive educational support, equal access to quality education, and access to essential learning materials such as books. Instead of approaching the challenges in a manner that would develop both the educational system and the educational publishing industry, governments have often resorted to retrograde measures such as the implementation of a policy allowing just one officially sanctioned textbook per subject and grade, and seeking changes to copyright legislation that undermine the rights of authors and publishers. In some cases, education authorities take control of all aspects of textbook publishing and delivery. Authorities also often look the other way and sometimes even encourage widespread piracy of all forms of teaching material.<sup>121</sup>

One example is the history of school book publishing in Tanzania where the changes and failures of educational publishing have undergone a number of conflicting stages: state publishing (1966–1985), private sector publishing (1991–2012), reversion to state publishing (2014–2020). The country's Institute of Education (TIE) has been put in charge of all aspects and all levels of textbook publishing, including commissioning, manuscript development, through to production and distribution.<sup>122</sup> A more recent and troublesome example is Hungary, where the present government has nationalised and controls the production and distribution of school books in what was formerly a private, free market sector.<sup>123</sup>

Publishers are vulnerable because textbook publishing will always be susceptible to changes in government policies, textbook procurement, and changes in the curriculum. Such measures are likely to adversely affect the education publishing sector, or even have the potential to wipe it out altogether, as the economic base of many African publishers will continue to be rather precarious. As educational publishing is the mainstay for other forms of publishing in Africa, there is significant potential to adversely affect the development of books as a whole.<sup>124</sup>

This explains why many educational systems in the world are centralised and suffer from bureaucratic structures that emphasise a top down approach to learning. Through the production and diffusion of textbooks, ministries of education have implemented rigid curricula centred on memorisation and dictation as everyday activities. To counter this tendency it is necessary to develop curriculum frameworks that focus on the students, emphasise applied knowledge, and cater to different learning abilities. Competence based textbooks must be developed in line with national and international standards, taking into account the socio-cultural dimension of education at all levels. An important aim of educational publishing policies must be to “[...] create a long-term business environment that allows local writers, publishers, distributors and bookshops to develop skills and to invest with confidence, and form the basis of a vibrant, innovative and successful publishing industry.”<sup>125</sup>

<sup>121</sup> See: Zell, Hans M. (2019) *Publishing in Africa: Where are we now? An update for 2019*. Hans Zell Publishing Consultants 2019. hanzzell@hanzell.co.uk. P. 11.

<sup>122</sup> See arguments in Zell, op.cit.

<sup>123</sup> <https://fep-fee.eu/The-end-of-educational-book-market> (Last accessed March 4. 2020)

<sup>124</sup> See arguments in Zell, op.cit.

<sup>125</sup> IPA-EPF Position Paper: *2 Educational Textbook Procurement in Developing Countries: How to get the best textbooks and create a national book culture*

## Dominance and Control in Textbook Production

There is no doubt that textbooks are a very important foundation for the publishing industry. Estimates on the size of the educational publishing market (including primary, secondary and tertiary education) vary between 45 and 55 percent of the world's publishing industry. Educational publishing for pre-school, primary, and secondary schools (K-12) is typically focused on national, as opposed to international, markets. However, many publishers from previous colonial powers have established subdivisions around the world where they operate as a form of national publisher providing local content, but with inputs that make them part of a wider international educational framework. Historically, this has given such publishers, an opportunity to develop textbooks for a truly international market. This is the case for French publishers with a very developed market in Francophone Africa; Spanish publishers with a market in Latin America; and Portuguese publishers who focus on Lusophone Africa. Brazil has a significant publishing industry of its own, and the country is not really a market for books from Portugal. However, the British international publishing industry is in a league of its own through the use of English as a lingua franca for the whole world. It also benefits American educational publishers.

In the last few years, so-called educational technology companies (edtech) have developed technology-based education platforms in different national markets, posing a challenge to national publishers.

In order to illustrate the importance of the educational market in a national context we can look at the importance of the school book market for British publishers. In 2018 the invoiced value of UK publisher sales of educational books—schoolbooks and English Language Teaching (ELT) material—both paper and digital, was 588 million pounds. Digital formats (ebooks, online subscriptions and other digital products) accounted for 8 percent of the total value of educational book sales in 2018. In order to illustrate how important exports are for the British educational book market it is worth taking into account that exports represented 69 percent of the total invoiced value of sales in 2018. The Middle East and North Africa was the largest destination for exports of paper school books representing 29 percent; Sub-Saharan Africa 7 percent; East and South Asia had 24 percent; Australasia and North America 2 percent each; other Americas 21 percent; and Europe 15 percent.<sup>126</sup>

Education represented 17 percent of the total turnover in the international publishing market in 2016. And 13 of the 15 biggest publishers were either in the educational or academic sector or both.<sup>127</sup> 40.5 million school books were sold in France in 2011 accounting for 336.5 million euros. It represented 12 percent of the total turnover in the French publishing industry.<sup>128</sup> In Spain the total school book market in 2017 totalled 828.82 million euros, which also included sales of titles in minority languages.<sup>129</sup>

The educational publishing value chain may vary greatly depending on how different countries organise their educational policies and procurement and curriculum development systems. There are a few situations where governments oversee and publish all teaching material. Usually, however, there is a form of public-private cooperation where

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<sup>126</sup> Figures from *The Publishers Association. Yearbook*. 2018.

<sup>127</sup> *Die 100 größten Buchverlage. Buchreport.magazin* April 2017.

<sup>128</sup> <https://www.monde-diplomatique.fr/2013/09/A/49608> (Last accessed February 6, 2020)

<sup>129</sup> Herrera, Juan José Durán (2019) *Entorno Económico E Institucional Del Sector Del Libro De Texto*. Madrid. CEDRO. P. 20.

governments prescribe curricula and rely on publishers, who are in competition with one another, to produce, sell, market and distribute their textbooks to educational authorities, schools and teachers. Nevertheless, it is possible to maintain that educational publishing is different from the general consumer market for books. Students and teachers seldom get to choose which books they want to buy. They get a syllabus with set texts. This of course gives publishers a form of control they do not have in other markets, once they have managed to get onto the approved curriculum list, or have won a tender.

From a cultural policy point of view, in connection with the regulation of textbooks for schools, the degree of government involvement and control over production and distribution is of particular importance. All around the world, governments are engaged in making laws and stable procedures for approving textbooks. This may involve various systems for financing production, for example by means of subsidies or direct production by state-owned publishing houses. Traditionally, production control has either been legitimised based on pedagogical regimes, or on the desire to control and ensure a uniform representation of history, language or more recent interpretations of cultural identity and diversity. Today, such control is also economically motivated, when politicians and educational authorities express ambitions and expectations for cuts in educational budgets by going from print to digital, as well as with the purpose of modernising education. In connection with the production and distribution of textbooks for schools, this has led to a large number of different systems with major variations in the relationship between publishers, booksellers, schools and families. The production of school books lies in the interface of social, economic, academic and ideological relationships that involve a variety of actors and stakeholders, and is probably the area of the literary system where politics has the largest impact.

There are, however, some international tendencies to be observed. First of all, national curricula shape, to an increasing degree, what is available on the textbook market. Secondly, the international trend of an increased emphasis on testing and examinations has meant that textbook publishers are becoming acutely aware of the areas that examination boards and central testing authorities are interested in measuring. Thirdly, the two tendencies mentioned above are leading to a situation where textbooks are being produced and packaged to satisfy the demands of state controlled educational systems.

These three aspects may lead to a reality whereby the choice and variety in the school book market diminishes. Publishers that are able to fulfil the demands of the educational authorities become more and more dominant in a market where size and competitive pricing matters. This makes it more difficult for smaller publishers to enter the very lucrative school book market. An example of this is the situation in Sweden where four educational publishers dominated the market in 2019, with a fifth publisher that also is a general publisher in addition playing a role. The four publishers are Gleerups utbildning, Sanoma utbildning, Studentlitteratur and Liber. The fifth is Natur och Kultur.<sup>130</sup>

The table on the next page provides an overview of possible variations in the different stages of the school textbook market.

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<sup>130</sup> See: Steiner, Ann (2019) *Litteraturen i mediesamhället*, Fjärde upplagan, Lund. Studentlitteratur. P. 116

And Bergström, Katarina (2019) *Lärare och Läromedelsförlag. En litteratursociologisk och didaktisk översikt av läromedel från tre av de största läromedelsförlagen*. Uppsala. Uppsala Universitet. Litteraturvetenskapliga institutionen.  
See also: <https://www.boktugg.se/2019/12/13/sveriges-50-storsta-bokforlag/> (Last accessed September 22, 2020)



Production	Purchasing control	Distribution	Subsidies
Publisher (private or state-owned)	Teacher	Bookshop	Reimbursement from bookshop
Publisher (private or state-owned)	Purchasing committee	Municipality/county	Reimbursement via taxes, etc.
Publisher (private or state-owned)	School	Directly to school	School funds
Publisher (private or state-owned)	Central school administration	Online (online books only, or in combination with printed books)	Free online access
Government organisation	Membership subscription	Online (online books only, or in combination with printed books)	Free online access

Below we provide some examples of how the K-12 market is organised in different countries.

The changes in the situation for textbook publishing in China over the last ten years or so illustrate some of the challenges that educational publishing faces in relation to educational literary policy tools. Teaching materials occupy a large share of the Chinese book market, and the publishing industry in China is very dependent on the sector financially. In China, as elsewhere, a situation with strict state regulation has been overtaken by a much more market-oriented approach, intensifying competition between national publishers, as well as opening up to competition from international educational publishers. This has heralded a new system of open bidding, breaking up the traditional system whereby the publication of teaching materials was designated to certain educational publishers. This is again linked to a strong emphasis on educational network technologies and digital products. However, it does not mean that the control of the ideological content of teaching material has changed, but that the competition for providing material has moved from state-controlled publishers to private enterprises. It also implies new regulations for free procurement and distribution of teaching material to students, which distinguish more between those from poor conditions and those with a privileged background. The differences between schools in the very competitive Chinese school system also came to play a role in the provisions for the educational market.<sup>131</sup> In this context it is also relevant to mention that as of January 2020 it is not allowed to use foreign textbooks in Chinese primary and secondary schools. When original Chinese books do not fulfil educational demands, translated textbooks published by Chinese publishers might be acceptable. In higher education, foreign textbooks may be used only when they are in accordance with party regulations.<sup>132</sup>

In Japan, approved textbooks for compulsory education are published by private publishers. The textbooks are all approved by the Ministry of Education, Culture, Sports, Science and Technology following an examination for appropriateness to be used at schools. After the textbooks pass the examination, the educational committee of the local government has the right to choose which authorised textbook should be applied in each

<sup>131</sup> See: *Publishing Research Quarterly*, Volume 24, Issue 1, March 2008. Special Issue on China

<sup>132</sup> [http://german.china.org.cn/txt/2020-01/08/content\\_75591285.htm](http://german.china.org.cn/txt/2020-01/08/content_75591285.htm) (Last accessed March 9, 2020)

regional school. By law, students undergoing compulsory education have the right to receive free textbooks.<sup>133</sup>

Western European countries have traditionally entrusted the development of teaching materials to the publishing industry rather than to state-owned enterprises, that, if they so wished, could influence public opinion regarding the nation's history and its position in the international community, based on political views or doctrine. To preserve market competition, subsidies are not given directly to publishers, but either to schools or to the parents buying the books for their children.

In several countries, and especially in the free-price countries such as the UK, Denmark, Sweden and Finland, but also in some countries with an FBPL or other fixed-price system, such as the Netherlands, parts of Germany and Norway, today's distribution of textbooks bypasses the bookshops altogether. Purchasing takes place in the form of public procurement through public tender systems. It is important that such procurement systems do not define price as the sole or main criterion for tenders, but focus on quality, not least with regard to the development of digital teaching tools, educational packages and upgrades. A purely price-based tender system may quickly lead to deterioration in the quality of digital teaching tools. The basic price, for instance, may not include provisions for a steady development and improvement of additional material and online services. These and similar considerations are the reason why most countries with a fixed book price system also have fixed price systems for educational literature. When sales are being handled through local bookshops, the use and knowledge of the book media among the general public increases. Parents can still be reimbursed for books in different ways, and there are sophisticated systems for doing this.

## Going Digital?

Textbooks have been the basic teaching material in schools for centuries. They have been a fundamental part of the educational infrastructure. Schools and educational authorities have assigned them to classes. They have been under constant renewal, but the format of the book has been constant. However, this is changing. Teaching materials are now more and more multidimensional and multi-formatted, and often linked to online platforms. And this development is often accompanied by policy statements and attempts at regulations.

Already in 2011 South Korea decided that by 2015 all teaching material would be available on digital platforms.<sup>134</sup> However, due to protests from parents and teachers who thought their children spent enough time in front of screens, the policy was changed. This example points to a worldwide debate over the role of digital learning tools and their relation to paper based educational material.

A question raised is whether the funds set aside by educational authorities for the transition to digital teaching resources are aiming at new or old contenders in educational publishing. This is also an area where educational authorities look for openings and possibilities for entering into areas that previously were dominated by the educational publishing industry. One such example is the Norwegian National Digital Learning Arena

<sup>133</sup> Japan Book Publishers Association (2017) *An Introduction to Publishing in Japan 2017–2018*. Tokyo, p. 44

<sup>134</sup> <https://www.buchreport.de/news/federleichte-schulranzen/> (Last accessed January 31, 2020)

(NDLA) established in 2007 with the purpose of distributing digital teaching material to upper secondary schools in Norway.<sup>135</sup> It is a digital portal conceived as a collaborative channel for county municipalities in Norway to develop and share internet-based open educational resources free of charge for all users. Efforts are now underway to expand the NDLA to the primary school level.

However, the project is controversial for several reasons. In many ways it functions as a monopoly, in that it does not compete on equal terms with other producers of teaching aids in the publishing and ICT industries. NDLA plays several roles that normally would be held by several bodies. It is a manufacturer, purchaser, evaluator, and disseminator. Teachers and pupils have criticised the project for standardising teaching aids, thus limiting alternatives. NDLA has thus been seen as a threat to the diversity of the education sector.

Most textbook publishing companies have launched digital platforms. In fact, several have changed from being traditional textbook publishers to becoming educational technology companies, and they are encountering increasing competition from new players in the field who have never been in publishing, but in digital technology development. The curriculum design will be crucial to how the interaction between digital and printed teaching aids develops. Nevertheless, figures from sales of digital educational books show that these are only slowly catching on. In 2018 British publishers' sales of digital textbooks only accounted for 8 percent of total sales.<sup>136</sup>

Digitalised content has blurred the definition of a book. Digital lessons can present information through dynamic, interactive features like simulations and videos. Digital textbooks can also provide support features that are not possible in a printed textbook. Such "books" may be accessed on different platforms. They have added navigation links, multimedia and interactive features that include moving images and sound. Thus, old-fashioned paper textbooks, new ebooks and learning tools all combine to become part of an extended virtual learning environment, sold in one single package. However, adaptation to new e-learning environments is not easy and there are several different approaches to how it is going to be implemented. Even if the principle of using e-textbooks is being accepted, teaching methods vary from culture to culture, and the format used in one context is not necessarily the one that educationalists in another context will accept. Here there are often potential conflicts between educational, administrative and policy implementing bodies on the one hand, and teachers and students on the other.

Both teachers and students often feel that the arguments for only using electronic devices overlook the case for deeper learning when using paper books. An example of this are the results from the Learning Resource Survey, 2019-20, in the UK, which showed that 76 percent of the university student respondents said they preferred printed textbooks, compared with 18.5 percent who chose ebooks and 5.5 percent who said digital courseware would be their top choice. This result is backed-up by responses from lecturers, who preferred paper books for concentration, note taking and annotation. Ebooks and digital courseware only rated higher for accessibility.<sup>137</sup>

A 2019 report on the development of the global market for the online educational market analysed the situation mainly in the US, but also in Asia.<sup>138</sup> The global Online K-12 Education market size

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<sup>135</sup> [https://en.wikipedia.org/wiki/Norwegian\\_Digital\\_Learning\\_Arena](https://en.wikipedia.org/wiki/Norwegian_Digital_Learning_Arena) (Last accessed February 5, 2020)

<sup>136</sup> The Publishers Association. *Yearbook 2018*.

<sup>137</sup> <https://www.timeshighereducation.com/news/majority-students-still-prefer-physical-bookssurvey-finds> (Last accessed March 10, 2020) Restricted access website.

<sup>138</sup> See: <https://www.marketwatch.com/press-release/online-k-12-education-market-2019-global-analysis-opportunities-and-forecast-to-2025-2019-02-05> (Last accessed February 3, 2020)



is projected to reach USD 592.440 million by 2026, from USD 142.540 million in 2020. Furthermore, it predicted that Asia “[...] was the region that has the highest growth rate for online learning in the world. At a country level, India has the highest growth rate, followed by China and Malaysia.” With regards to the university textbook market, in February 2020 Pearson reported that the sales in physical higher education textbooks had declined by 30 percent in 2019. Furthermore, the publisher claimed that half of all students preferred ebooks over paper books.<sup>139</sup>

The main impetus to move to online education is, of course, the availability of information technologies. In the developed part of the world computers, tablets and smartphones are universal. However, the percentage of students that use computers at school varies dramatically from country to country. For example, in 2012, 98 percent in the Netherlands used technology in school, while in Germany the figure was 68.7 percent.<sup>140</sup> The gap between figures from countries around the world points in the direction of a global educational situation marked by gross inequalities. This is also the case inside countries where there may exist large geographical areas where internet access is poor. This is obviously an area where international development policies related to The Sustainable Development Goal 4 on Quality Education must play an important role.

## Higher Education

The funding, organisation and typologies of universities and other higher education institutions vary widely from one part of the world to another. The systems are embedded in historical roots. In many countries, universities are public institutions funded by the state, in others they are mainly private or autonomous institutions. In other parts of the world the system consists of a mix between private and state universities. Funding either comes from fees paid by students, or donations, or it comes from the state budget. Some universities are so-called campus universities where buildings for teaching, research and residencies are grouped together, and often located in a relatively small city or town. Others are non-residential and located in the capital or in other big cities.

It is possible to group university systems into four. The French and southern European are based on old public universities and grandes écoles. The British system has its roots in the old universities like Oxford and Cambridge, followed by an expansion in the 19th century, which included the University College of London, and then new expansions in the mid-20th century, the so-called redbrick universities, and then further expansion in the sixties and at the end of the century. The American system consists of old and new private universities and state systems of higher education, for example the University of California. The German system is rooted in the Humboldtian model from the early 19th century emphasising science and critical thinking. Until the 19th century religion played a prominent role in university curricula, however, since then universities have concentrated on science and developed a plethora of new subjects and study programmes such as the social sciences. Universities in the rest of the world have, to some degree, adopted aspects of the four models mentioned above. The type of university system that dominates has over the years also influenced the choice of teaching materials. Particularly in the American

<sup>139</sup> <https://www.marketwatch.com/press-release/global-online-k-12-education-market-2020-market-size-share-growth-sales-and-drivers-analysis-research-report-2026-with-covid-19-impact-2020-08-24> (Last accessed September 21, 2020) The website changes continually.

<sup>140</sup> OECD Report. *Students, Computers and Learning. Making the Connection* <http://www.oecd.org/publications/students-computers-and-learning-9789264239555-en.htm> (Last accessed September 21, 2020)

system of big state universities, the selection of curricula for particularly undergraduate studies has opened up a very lucrative textbook market developed in cooperation with publishers and university authorities. In other contexts, the question of how university education was, and still is, financed, either through public grants or through the payment of fees, influences the procurement of books and other teaching materials.

## Academic Publishing

From early on, publishing was associated with university activities, thus the old university presses played a significant role in the dissemination of learning to the academic and a wider community. The oldest university press is Cambridge University Press, which was established in 1534. The impetus to publish scholarly works expanded greatly in the 18th century, not least in the form of learned journals and books that combined scholarship and critical discussion with a general focus on social and scientific development.

Academic publishing includes many different publishing products. On the one hand there are teaching materials for higher education in the form of books, electronic learning tools, and “teaching packs”. On the other there are the products emanating from research in the form of monographs, scientific papers, anthologies, and last, but not least, academic and scientific journals. The most profitable sector of academic publishing is the field of STM (Science, Technology, Medicine).

There are three elements of publishing for the university and higher education market. All of them are to some degree dependent on policy decisions on one level or another. The adoption of textbooks for higher education is influenced by how higher education is being financed and particularly what kind of support students receive. Internationally the financing of higher education is undergoing great change. There is a move from a situation of mainly public funding through government subsidies to a system where students pay a larger share of the costs. In the introduction to a series of books on International Studies in Higher Education,<sup>141</sup> the series editor David Palfreyman writes that there are four major dynamics behind the changes in the financing of higher education:

1. Mass higher education is a universal phenomenon.
2. National systems find themselves located in an increasingly global marketplace that has particular significance for their more prestigious institutions.
3. Higher education institutions have acquired (or been obliged to acquire) a wider range of obligations, often under pressure from governments prepared to use state power to secure their policy goals.
4. The balance between the public and private financing of higher education has shifted – markedly in some cases—in favour of the latter. Although higher education systems in all regions and nation states face their own particular pressures for change, these are especially severe in some cases: the collapse of the established economic and political structures of the former Soviet Union along with Central and Eastern Europe, the political revolution in South Africa, the pressures for economic development in India and China, and demographic pressure in Latin America.<sup>142</sup>

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<sup>141</sup> Published by Routledge.

<sup>142</sup> Here quoted from Heller, Donald E. and Claire Callender (2013) *Student Financing of Higher Education A comparative perspective*. Abingdon, Oxon. Routledge.

This has of course also affected the financing and politics of course material, which is an international market. It is also linked to how higher education has been streamlined across borders, for example in Europe where the so-called Bologna system<sup>143</sup> on the one hand facilitates student movement between universities as well as an international recognition of exams and degrees, but on the other hand the consequence is that all course material tends to be uniform and standardised. Furthermore, English language textbooks are increasingly being used all over the world, and the so-called internationalisation of higher education has, to some degree, implied the anglicisation of academic publishing. The result of which means that the university textbook publishing industry in many minority language countries has suffered. Five publishers, McGraw-Hill Education, Houghton Mifflin Harcourt, Pearson, Cengage (formerly Thomson Gale) and Wiley, dominate 80 percent of the English language market.

Many students find that the cost of textbooks is prohibitive. There are many reasons for this such as how prescribed texts are being decided, and how the bundling of teaching resources take place. In 2016, a CNBC story reported that since 2006, the cost of a college textbook had increased by 73 percent, more than four times the rate of inflation, and it was not uncommon for an individual book to cost more than 200 dollars.<sup>144</sup>

And similarly, a blog from British University of Essex also from 2016 stated that:

According to official data, textbook inflation since 1977 is 1,041 percent—almost four times the overall rate of inflation. This means that today's typical student can expect to budget between £450 and £1070 for books and equipment per year.<sup>145</sup>

The solution at University of Essex Online was to provide core textbooks free of charge online as part of the tuition fee paid by students. There are other universities that are looking at similar solutions to the problem of rising textbook costs. This is an example of the turn to digital and open access teaching material at many universities around the world. This tendency might contribute to an undermining of the production of teaching material for higher education and thus we might be faced with a situation where a combination of digitalisation, open access and fair use provisions may hurt the interests of authors and publishers of textbooks.

## Research Publishing

Today's major STM publishers are international players who in recent years have also bought into and made their mark on the various disciplines within the social sciences and humanities. As a result, the smaller academic publishers, whose presence has traditionally been important in these fields, have come under pressure. In addition to representing an integrated part of the various academic fields in each individual country, these publishers contribute to the general public debate and help raise the bar on general knowledge. Research and science are an integral part of cultural policies, and an important consideration outside the highly internationalised English language areas, especially when it comes to the smaller European languages. Thus, language policy is an important

<sup>143</sup> [https://ec.europa.eu/education/policies/higher-education/bologna-process-and-european-higher-education-area\\_en](https://ec.europa.eu/education/policies/higher-education/bologna-process-and-european-higher-education-area_en) (Last accessed September 21, 2020)

<sup>144</sup> <https://www.nbcnews.com/business/business-news/students-are-still-saddled-soaring-textbook-costs-report-says-n516011> (Last accessed February 5, 2020)

<sup>145</sup> <https://online.essex.ac.uk/blog/630-per-student-the-cost-of-paper-textbooks/> (Last accessed February 5, 2020)

consideration to bear in mind when it comes to academic publishing, particularly in the humanities and social sciences.

The commercial publication of research results has three important functions. First of all, publication allows research results and findings to be further communicated to various public arenas. Research results are made available and are disseminated in an entirely different way than if they merely remained available in the form of “papers” in connection with congresses and seminars, or in the form of notes and unpublished manuscripts. Secondly, published research forms the basis for teaching materials and curricula at educational institutions. And thirdly, publication also has an important internal function by making it possible to check, criticise and verify the research results of others, allowing in turn publication to serve as a means of academic evaluation and accreditation.

An important element in relation to research and academic publishing is that there is increased pressure to top the ranking systems, and in the increasing growth of new private and public colleges (that are but universities in name) that compete to publish articles in an increasing number of journals. Many such academic institutions try to be accepted as research institutions. Earlier the saying was “publish or perish,” now it seems that academics will both publish **and** perish in an increasing flow of journals that no one reads. In 2018 two prominent scholars working in higher education and publishing analysis wrote an article where they argued that it was necessary to reform the academic publishing system, because too much was being published.<sup>146</sup> They argued that there is a crisis in academic publishing—too much pressure on top journals, and too much insignificant material being accepted by journals that do not matter. One of the conclusions the authors draw is:

Reducing the number of academic articles and books would permit the peer review system to function more effectively, would reduce or eliminate the predatory journals and publishers that have emerged recently, and would, perhaps most importantly, remove massive stress from academics who worry about publication rather than teaching and service.

To implement an open access system for academic publishing with resulting demands on academics would probably increase rather than decrease the number of articles being published every year.<sup>147</sup> One result of this ‘crisis’ is the rise of predatory academic publishers and journals. The ‘publishing companies’ behind these ventures will publish almost anything for fees that may range into hundreds of dollars, and they have few expenses as there is no serious editing and everything is online. All academics now receive invitations to publish on such platforms, which brag on their websites that they are indexed on Google Scholar, which may well be correct as Google Scholar does not vet journals that it indexes.<sup>148</sup> A further development in this direction might be that several university libraries in the US, UK, and Australia also have publishing departments. There are plans to extend this to university libraries in other countries by using publishing tools like those that Open Journal Systems (OJS) provide. One of the many challenges to this is that the very specialised tasks undertaken by professional academic editors will be left to amateurs, and further undermine quality demands.<sup>149</sup>

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<sup>146</sup> Altbach, Philip G. and Hans de Wit (2018) “Too much academic research is being published” *University World News*, 07 September, 2018 <https://www.universityworldnews.com/post.php?story=20180905095203579> (Last accessed September 22, 2020)

<sup>147</sup> <https://sustainingknowledgecommons.org/2020/01/03/dramatic-growth-of-open-access-2019/> (Last accessed June 21, 2020)

<sup>148</sup> <https://www.nytimes.com/2017/10/30/science/predatory-journals-academics.html> (Last accessed February 9, 2020)

<sup>149</sup> <https://khrono.no/bor-utdanningsinstitusjonene-bidra-til-apen-tilgang-gjennom-egen-forlagsvirksomhet/458948> (Last accessed February 9, 2020)

## Open Access and Plan S

It is therefore no surprise that over the past decades there has been increased political discussion over the role of research publishing. This has been particularly prominent since the development of the internet as a tool for research dissemination. New power structures are in the process of developing in the international publishing world as a result. This translates into a rapid development of digital products and online solutions, which occurs at a faster rate in STM (Science, Technology, Medicine) than in any other field.

22 October 2003, the Berlin declaration on Open Access to Knowledge in Sciences and Humanities was launched, a far-reaching proposal for changes in academia.<sup>150</sup> This was later followed up by the establishment of a Plan S. Then in September 2018 a group of national research funding organisations, with the support of the European Commission and the European Research Council (ERC), announced the launch of cOAlition S, an initiative to make full and immediate Open Access to research publications a reality. The declaration stated:

With effect from 2021, all scholarly publications on the results from research funded by public or private grants provided by national, regional and international research councils and funding bodies, must be published in Open Access Journals, on Open Access Platforms, or made immediately available through Open Access Repositories without embargo.<sup>151</sup>

There are, however, several problems here. One concern is the differentiation between what is public and what is privately financed research. Furthermore, the different contractual partners involved, the author, the publishers, the research institution (university), and the funding or commissioning party (research council), may have different interests. The issue is how to, on the one hand, enable access, and on the other hand safeguard the rights of authors and publishers.<sup>152</sup> Furthermore to oblige academic authors to publish only in OA journals and with OA publishers implies a serious infringement on academic freedom and free research, where the right to choose a publication channel freely is essential.

As of February 2020, the Directory of Open Access Journals (DOAJ) listed 14,266 open access journals, of which 11,308 were searchable at article level. They were published in 133 countries and contained 4,629,808 articles.<sup>153</sup> The models for open access publishing are the following, and they have been named according to a colour code. In the **Gold** Open Access (OA) model, the publisher makes all articles and related content available for free immediately on the journal's website. In such publications, articles are licensed for sharing and reuse via creative commons licenses or similar. **Green** OA implies that authors self-archive their articles by posting them to open repositories usually hosted by their research institutions or universities. There are many research journals that are designated as **hybrid open access** because they contain a mixture of open and closed access articles. Such journals are subscription journals, but some of the contributions are open as their publication has been paid for by the authors institution. **Bronze** OA articles are free to read on the publisher page but lack a clearly identifiable license.

<sup>150</sup> <https://openaccess.mpg.de/Berlin-Declaration> (Last accessed February 6. 2020)

<sup>151</sup> <https://www.coalition-s.org/about/> (Last accessed February 6. 2020)

<sup>152</sup> For a discussion of the issue see: *Enquiries into Intellectual Property's Economic Impact. Chapter 7 "Legal Aspects of Open Access to Publicly Funded Research."* [www.oecd.org/sti/ieconomy/Chapter7-KBC2-IP.pdf](http://www.oecd.org/sti/ieconomy/Chapter7-KBC2-IP.pdf) (Last accessed September 21, 2020)

More information is available at [http://oad.simmons.edu/oadwiki/OA\\_by\\_the\\_numbers](http://oad.simmons.edu/oadwiki/OA_by_the_numbers) (Last accessed February 7. 2020)

<sup>153</sup> <https://www.doaj.org> (Last accessed February 7, 2020) More information is available at [http://oad.simmons.edu/oadwiki/OA\\_by\\_the\\_numbers](http://oad.simmons.edu/oadwiki/OA_by_the_numbers) (Last accessed February 7. 2020)



They may not be reused in any form. Journals, which publish open access without charging authors article processing charges are sometimes referred to as **diamond** or **platinum** OA. Such publishers are often financed directly or indirectly from external sources. The so-called cOAlition S demands that:

[...] the public must be granted a worldwide, royalty-free, non-exclusive, irrevocable license to share (i.e., copy and redistribute the material in any medium or format) and adapt (i.e., remix, transform, and build upon the material) the article for any purpose, including commercial, provided proper attribution is given to the author.<sup>154</sup>

This implies the use of the most extensive Creative Commons license CC BY (4.0). There is, however, an opening for the use of license CC BY-ND, which does not allow adaptations and changes to the material. It does not however accept license CC BY-NC, which does not accept commercial use of the published results.

There are in total six CC licenses. They permit the exploitation of the licensed material to varying degrees. The six licenses contain four main restrictions and terms:

1. Requirement for the licensee to be named when the licensed work is utilised. This condition is common to all six CC licenses.
2. Non-commercial use only. This condition means that only non-commercial use is granted, while the licensee itself has reserved the right to use the material commercially. This condition is found in three of the six CC licenses.
3. No right to adaptation. This condition means that the licensee is only permitted to make available the licensed material in its original form, but not permission to adapt it. This condition is found in two of the six CC licenses.
4. Requirements for the licensed material to be shared under the same terms. This requirement of reciprocity means that if processing of the licensed material is made available to the public, the recipient must be given the same permission to utilise the adaptation resulting from the original CC license. This condition is found in two of the six CC licenses.

Thus, the six licenses consist of different combinations of these terms:

1. Naming (CC BY) (Term 1)
2. Naming-Share under the same terms (CC BY-SA) (Terms 1 and 4)
3. Naming-No adaptation (CC BY-ND) (Terms 1 and 3)
4. Naming-Non-Commercial use (CC BY-NC) (Terms 1 and 2)
5. Naming-Non-Commercial - Share at reciprocal Terms (CC BY-NC-SA) (Terms 1, 2 and 4)
6. Naming-Non-Commercial-No adaptation (CC BY NC-ND) (Terms 1, 2 and 3).<sup>155</sup>

There is considerable disagreement among academic authors as well as publishers over the implications of applying creative common licenses, particularly the most radical of these - CC BY. It has been argued that the opening up for commercial use may represent an undermining of the authors rights with regards to the possibility, for example, of including articles in commercial teaching aids, or being used in marketing or otherwise.

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<sup>154</sup> <https://www.coalition-s.org/addendum-to-the-coalition-s-guidance-on-the-implementation-of-plan-s/principles-and-implementation/> (Last accessed February 8, 2020)

<sup>155</sup> This overview of the different CC licenses builds on a discussion of rights and licenses in open access publishing by Torger Kielland. Kielland, Torger (2019) *Rettighets- og lisensspørsmål ved åpen publisering*. <https://www.unit.no/en/node/1022> (Last accessed February 8, 2020)

This is use over which the author has no control, and for which the author will not receive remuneration. It is not reasonable for anyone, except the author him/herself or someone to whom she/he has granted a license, to be able to exploit a publication commercially. Furthermore, the right to adapt a work violate the authors moral rights.

To cover their costs, open access journals usually charge a fee from their authors or their institutions called an article publication charge (APC), which allows the article to be available freely online. Many journals do not charge a fee at all, as referred to above, the costs of running the journal is borne directly or indirectly through sponsorship from external (grants) or internal (the research institutions themselves) funders. However, publication charges vary considerably. A study from 2015 estimated open access journals APCs in the following manner: High: \$1,451 or more; Medium: \$601 to \$1,450; Low: \$201 to \$600; Nominal: \$8 to \$200.<sup>156</sup>

## Transformative Open Access Agreements

The solution to the demands from public research funders, universities and research institutions to implement an open access system has been that university and research consortia have signed so-called “big deals” with the big STM and academic publishers such as Elsevier, Springer Nature, Taylor & Francis, and Wiley. These deals imply that institutions and consortia pay the cost of publishing, instead of subscriptions, but maintain the right to access the publications from the publishers. These agreements have been called transformative open access agreements. The costs are being estimated on the basis of the APCs, that the research consortia will pay for the articles that the researchers at the member institutions publish in the journals controlled by the different publishers. The largest such transformative agreement hitherto signed was the one in January 2020 between the German Projekt Deal and Springer Nature, representing over 700 academic and research institutions and their authors. The cost for each article in this Publish and Read (PAR) agreement is estimated to be 2.750 euro per article, to be paid from central subscription funds.<sup>157</sup> It is expected that there will be more than 13,000 German articles published annually under this agreement.<sup>158</sup> A similar agreement between Taylor & Francis, Unit (the Norwegian Directorate for ICT) and Joint Services in Higher Education & Research had a value of 20,000 million NOK (2 million euro).<sup>159</sup>

The agreements have come under criticism for being too expensive for the research institutions and mainly benefitting the big publishers. Only dominant publishers have so far entered into such agreement, smaller university presses and academic publishers in countries with small languages will suffer in the competition. An analysis by the European University Association compared country-level subscription costs against publication volumes under “big deals” signed with Elsevier, Springer Nature, Taylor & Francis, Wiley and the American Chemical Society (ACS). Overall, subscriptions paid to all publishers in the 26 surveyed European countries in 2017 totalled 597 million euro (517 million pounds), of which 451 million euro was spent with the big five. The report concluded that:

These findings spotlight staggering differences in the prices per article under different agreements. These differences question whether publishers set prices according to a

<sup>156</sup> <http://walt.lishost.org/2015/03/the-open-access-landscape-1-background/> (Last accessed February 8. 2020)

<sup>157</sup> <https://www.projekt-deal.de/springer-nature-contract/> (Last accessed February 8. 2020)

<sup>158</sup> <https://www.universityworldnews.com/post.php?story=20200117073909800> (Last accessed February 8. 2020)

<sup>159</sup> <https://khrono.no/forlag-plan-s-publisering/norge-signerer-avtale-med-nok-en-forlagsgigant-om-apen-publisering/409732> (Last accessed February 8. 2020)

common principle across Europe, especially if traditional subscription agreements are flipped to a publish-and-read agreement priced on a per-article basis.<sup>160</sup>

Furthermore, there is a question regarding how authors that are not affiliated with any of the institutions covered by the agreements will be able to cover the costs of publishing their articles in open access journals. Plan S has also been criticised for potentially side-lining authors from the global South, who will not be able to enter into agreements such as those referred to above, and would not be able to pay the processing fees. Among those concerned about the situation are academic authors in South Africa. At a round table discussion in October 2019 Professor Robin Crewe, senior research fellow in the Centre for the Advancement of Scholarship, University of Pretoria, said that the author-pays model for open access proposed by the plan is already limiting the publishing prospects for South African scholars, as they are not able to publish in their preferred journals because they cannot afford the APCs. Thus, they have to publish in journals that either do not charge fees or are cheap. This implies that one effect of Plan S is the marginalisation of academics from the Global South.<sup>161</sup>

## Other educational tools

Since 1995 UNESCO has been at the centre of organising what is called the World Book and Copyright Day, every 23 April. The date was chosen for a number of reasons, but primarily because it was the day of the death of the great Spanish author Miguel Cervantes, and also of William Shakespeare in 1616. (Strictly speaking, the two authors did not really die on the same day as Spain used the Gregorian calendar, and England the Julian calendar). Since 1995, 23 April has been a day of promotion of reading habits and book policy initiatives around the world. But as an event it is more symbolic than practical in its nature. The practical aspects of reading promotion involve much more extended activities than annual celebrations of the book as a special medium.

Reading campaigns around the world are either organised by voluntary organisations,<sup>162</sup> by libraries, often in cooperation with ministries of education and culture, or directly by the educational ministries. Such campaigns are primarily aimed at children and young readers. According to the International Literacy Association such a campaign should fulfil the ten criteria of, what the organisation has termed, the Children's Right to Read.<sup>163</sup>

1. Children have the basic human right to read.
2. Children have the right to access texts in print and digital formats.
3. Children have the right to choose what they read.
4. Children have the right to read texts that mirror their experiences and languages, provide windows into the lives of others, and open doors into our diverse world.
5. Children have the right to read for pleasure.

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<sup>160</sup> <https://www.timeshighereducation.com/news/big-variation-across-europe-cost-publishing-big-five> (Last accessed September 22, 2020) Restricted to subscribers. The full 2019 *EUA Big Deals Survey Report* is found here: <https://eua.eu/resources/publications/829:2019-big-deals-survey-report.html> (Last accessed February 8, 2020) And the quote is from page 19 of

*Decrypting the Big Deal Landscape Follow-up of the 2019 EUA Big Deals Survey Report* <https://eua.eu/resources/publications/889:decrypting-the-big-deal-landscape.html> (Last accessed September 22, 2020)

<sup>161</sup> <https://www.universityworldnews.com/post.php?story=2019112805442788> (Last accessed February 9, 2020)

<sup>162</sup> The most important international NGO in the area is the International Literacy Association, which is recognised by UNESCO. [www.literacyworldwide.org](http://www.literacyworldwide.org) (Last accessed March 11, 2020)

<sup>163</sup> <https://www.literacyworldwide.org/get-resources/childrens-rights-to-read> (Last accessed September 21, 2020)



6. Children have the right to supportive reading environments with knowledgeable literacy partners.
7. Children have the right to extended time set aside for reading.
8. Children have the right to share what they learn through reading by collaborating with others locally and globally.
9. Children have the right to read as a springboard for other forms of communication, such as writing, speaking, and visually representing.
10. Children have the right to benefit from the financial and material resources of governments, agencies, and organisations that support reading and reading instruction.

Characteristics of national plans for enhancing reading may be those that are found in the Portuguese governments national reading plan, which has as its aim to raise the level of reading skills of the Portuguese people.<sup>164</sup> To that end this plan, and many other similar plans around the world, has as its objective to promote reading as an essential element in individual development and national progress. The plan aims at creating social environments that are favourable to reading. One way is to create instruments that enable the definition of increasingly more precise targets for the development of reading. This includes enhancing the skills of those involved in reading campaigns, particularly teachers within formal as well as informal teaching environments, and strengthening public and school libraries. Researchers hope that by evaluating activities that stimulate pleasure in reading among children and young people, it will lead to better results in studies evaluating literacy.

Similar plans for promoting reading exist all over the world as literacy is regarded as an essential element in development policies. The benefits of literacy are not only of an economic nature but can also have a significantly positive impact on the quality of the intellectual and spiritual life of individuals and help all segments of society to become true participants in the development of their countries. Thus, literacy and reading campaigns alongside other forms of extracurricular and informal programmes involving the teaching of reading skills, and the distribution of reading material, are essential corresponding activities to universal primary education. Unlike strict formal education, readership promotion programmes involve the efforts of other segments of society, rather than educational authorities, such as publishers, booksellers, librarians, educators, authors, translators and other segments of the population.<sup>165</sup>

## Literature Policies for Children

Children's literature is a dynamic part of international publishing, as well as an important element of literary policies in many countries. However, many of the policy initiatives in the area of children's books have been regarded as part of a wider educational policy, rather than as an area of literary policy in its own right. Nevertheless, for the purpose of this book, education and promotion of reading skills will be looked at, as being the most important literary policy tools regarding children's literature. Books for children offer their readers many avenues for pleasure, reflection, and emotional engagement. Not only is reading literature important for developing the cognitive skills needed to be able

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<sup>164</sup> <https://en.unesco.org/creativity/policy-monitoring-platform/national-reading-plan-0> (Last accessed March 11, 2020)

<sup>165</sup> For a rather old, but useful introduction the organisation of reading campaigns see: Staiger, Ralph C. and Claudia Casey (1983) *Planning and organizing reading campaigns A guide for developing countries*. Paris. UNESCO

to succeed in a school or work setting, but it is valuable for other reasons as well. It provides children with opportunities to respond to literature. It teaches them to appreciate their own cultural heritage as well as those of others. It contributes to the development of emotional intelligence and creativity, as well as social skills. And not least, reading literature fosters fantasy and imagination and it is entertaining.

Books for children and youth constitute a large part of the European book market. In 2015, children's publications accounted for 12.2 percent of sales in the European publishing industry.<sup>166</sup> In China the market for children's literature is growing, in 2017 children's books contributed to about a third of the growth in the total market for books.<sup>167</sup> The significance of publishing for children may be illustrated by the fact that a number of the biggest blockbusters in the world can be said to originate from children's books, and they have entered the book market as a series of books. Harry Potter and the Twilight-series are obvious examples. This is also an area in which there is a significant market for backlist publications.

When it comes to international publishers, the children's book sector is characterised by a strong concentration. The largest international publishers account for 73.6 percent of total sales on the international market. The tendencies towards concentration are increasing, and the development of attractive products, not least on multimedia platforms, requires increasing investments. As with other parts of the book industry there are tensions within the subgroup of children's literature. This illustrates how important products for children are in a wider entertainment industry where books also belong. Commercial products likewise contribute to the pleasure of reading.

Every year there is a special trade fair for children's books held in Bologna, and reading material for children features prominently at many international book fairs, for example in Beijing and in Sharjah. The children's book market includes both specialised and general books. There are several publishing houses that specialise in children's books, and most of the large general publishers also have separate divisions for children's and young adult books. The most salient challenges for publishing children's books, now and in the future, will be related to two factors: Firstly, how to preserve interest in the market for traditional children's books on paper, and secondly, how to develop new electronic products and platforms that will preserve the strength of children's literature, at the same time as deflecting competition from other media products aimed at children. Examples of this are apps developed in parallel to printed books. There are factors to indicate that the children's book market is particularly vulnerable to fluctuations in prices and distribution channels, and that the competition from large commercial multinational and multimedia groups is going to be strong. In this context, products with audio, live video and interactive features will be given the most attention. In the next round, the question will be whether this will lead the market for children's literature to turn away from the bookshop and toward online solutions.

From a literary policy point of view, however, it is not the entertainment industry aspect that is important, it is the promotion of reading as an integral part of schooling and day

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<sup>166</sup> <https://www.publishersweekly.com/pw/by-topic/industry-news/financial-reporting/article/72238-european-publishers-sold-23-3-billion-in-books-in-2015.html> (Last accessed March 14, 2020) The URL for this article has since been changed.

<sup>167</sup> <https://www.publishersweekly.com/pw/by-topic/international/international-book-news/article/76297-children-s-books-in-china-2018-the-continuing-story-of-the-children-s-book-market-in-china.html> (Last accessed September 22, 2020)

to day life, as well as an activity that brings the world of adults and the world children together. Consequently, an active policy for support for children's literature as part of a broader policy is essential. In a global context it is worth remembering that in 2015, an estimated 617 million children and adolescents of primary and lower secondary school age worldwide, more than 50 percent, were not achieving minimum proficiency levels in reading and mathematics. Some 750 million adults, two thirds of them women, remained illiterate in 2016. Many developing countries still lack basic infrastructure and facilities to provide effective learning environments. To promote reading is essential for development, and books for children are an integral part of this policy.<sup>168</sup>

## Platforms for Reading

It is important to discuss the future of the culture of writing and literature. How will it survive, in what form, and within which cultural-industrial framework? The technology of digital screens has changed the role of handwriting, it has killed the letter, the postcard, and the diary, and has given us email, blogs, homepages, and unlimited web-based archives. It has also enabled a book to be readable in both printed and digital form. In this context the issue of the relationship between reading on different devices are of great importance and has created widespread debate. The Stavanger Declaration of 2019<sup>169</sup> signed by members of the European Research Initiative E-READ, "[...] calls for caution when introducing digital technologies to education and urges for further research on pressing issues regarding screen technologies and cognition."

The researchers behind the initiative point out:

In today's hybrid reading environment, paper and digital technologies each offer different advantages for different purposes. In order to properly manage the digital transformation, we need to gain a better understanding when to use which to best advantage. [...]

Teachers and other educators must be made aware that rapid and indiscriminate swaps of print, paper, and pencils for digital technologies in primary education are not neutral. Unless accompanied by carefully developed digital learning tools and strategies, they may cause a setback in the development of children's reading comprehension and emerging critical thinking skills.<sup>170</sup>

The more we read, the better we can read, and the more consciously we read. This is a good prerequisite for mastering ever-growing heaps of reading material. But it is also an argument for the importance of developing multifaceted reading cultures.

In 2016, results of a research project called the World's Most Literate Nations looked at what it called 'literate behaviour characteristics'. The score was not only based on reading ability, but also on whether reading was a fundamental element of society, overall. The five countries that topped the list were Finland, Norway, Iceland, Denmark, and Sweden—five Nordic countries. Among the variables explored were the library system,

<sup>168</sup> <https://en.unesco.org/news/617-million-children-and-adolescents-not-getting-minimum-reading-and-math> (Last accessed March 15, 2020)

<sup>169</sup> <https://ereadcost.eu/stavanger-declaration/> (Last accessed February 5, 2020)

<sup>170</sup> Quoted from Press Release in relation to the launch of the Declaration. See also: <https://www.faz.net/aktuell/feuilleton/buecher/themen/stavanger-erklaerung-von-e-read-zur-zukunft-des-lesens-16000793.html> (Last accessed September 22, 2020)

the education system, the number of newspapers and books published per capita, and access to computers and the internet. Those responsible for the survey pointed to the fact that Nordic countries represent societies where reading was considered a necessary social good.<sup>171</sup> This is also the foundation of successful literary politics and policymaking.

## A Historically Close Relationship

The purpose of this overview of educational systems and the relationship to publishing is to point out how educational policy decisions and historical changes have served as one of the most important tools for the development of literary policies and markets. Educational publishing is of course closely linked to general publishing, but is also different. An example of this is that there are so many big specialised publishers in the field. Within the world of learning, books have always been important. School books and other forms of teaching material and research publications have evolved as an integrated part of both pedagogical techniques and of promoting knowledge and new insights. They maintain these important aspects and are faced with challenges that are fundamentally dependent on educational policy decisions.

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<sup>171</sup> [www.theguardian.com/books/2016/mar/11/finland-ranked-worlds-most-literate-nation](http://www.theguardian.com/books/2016/mar/11/finland-ranked-worlds-most-literate-nation)  
(Last accessed March 11. 2020)

## Chapter 6

### Infrastructures in Literary Policies

The fourth and last category of literary policies is concerned with the engineering of the physical environments and the material infrastructure around literature. We tend to forget about the physical environment when we write and read: the acts of turning pages, carrying and holding a book and storing it in a bookshelf are integrated elements in the social practice of reading. It is possible to add more infrastructure to it: the chair or the park bench we sit on, the glasses on our noses, the silence we more or less actively seek, and the people we tolerate being with, when we read. There are infrastructures of production and distribution as well. The book is written and edited by hand or type, on paper or on screens, transformed and transported to print shops, printed and brought to market by physical packaging or digital transmission.

The digital changes undergone have made society increasingly aware of the material infrastructures and the organisations, the professions, and the institutions needed to make it work; print technology, book binding, transport and delivery services, bookshelves, light and reading furniture. Tablets and screens, ebooks and scrolls, smart phones, are all appearing as distinct media of literature different from physical books. They are available as long as there is electricity, a software to organise a digital bookshelf and an internet connection to purchase, borrow or stream online. So, there is still a lot of infrastructure, physical materiality and engineering around literature, but not necessarily a lot of policy tools that create or regulate them? Oh yes, they exist, and expect more tools to be invented in this area in the future. Where to start?

### The infrastructure of the book

The first policy tool to mention is related to the medium itself. A book, as we know, is defined as a codex, which is connected to the “technological advancements” in the years 300 to 400 AC of binding together sheets of paper or papyrus, usually by stacking the pages and fixing one edge to a spine. It was a success! The codex had more or less completely replaced the scroll in the western, Christian world by the 6th century and continues to be a most effective medium for the distribution and reading of literature around the world.

The political measures needed for it to prevail are few, and mostly connected to identification and archive purposes. Consider the ISBN-organisation that emerged in the 1960s and was published in 1972 as international standard ISO 2108. The ISBN standard is used in 200 countries as a product identifier for text-based monographic publications used by publishers, booksellers, libraries, internet retailers and “... other supply chain participants for ordering, listing, sales records and stock control purposes, and identifies the registrant as well as the specific title, edition and format.”<sup>172</sup> The ISBN standard is a pivotal building block in all literary policies and in the work of understanding

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<sup>172</sup> <https://www.isbn-international.org/content/what-isbn>  
(last accessed September 22. 2020)

how they function. Without it, the gathering of comparable trade information and statistics on literature around the world would be impossible. A parallel international standard exists for identifying newspapers, journals, magazines and periodicals of “all kinds and on all media, both print and electronic”.<sup>173</sup> It should be mentioned that Amazon through its Kindle Direct Publishing (KDP) system does not operate with an ISBN number. As stated on Amazon web site: “An ISBN isn’t required to publish an ebook with KDP. Once your content is published on KDP, Amazon will assign it a 10-digit ASIN (Amazon Standard Identification Number), which is unique to the ebook, and is an identification number for the Kindle Book on Amazon.com.”<sup>174</sup>

Through these standards, the book is enshrined as an object and an entity in literary policies as well as maintaining a status of being a confined medium in a world where everything solid is constantly threatened with ‘melting into air’. The profound digital transformations in media technology and the emerging patterns of digital media consumption are metaphorically softening the glue in the spine and is unbinding the book. The idea of the literary work as a unique entity is under pressure. Anthologies are being ripped apart, chapters, parts and integrated essays are falling out of their editorial frames. And snippets and ‘look into’ services are giving content away for free, making it unclear when and if it was ever a sales transaction and how claims to copyright apply. The idea of the book as an oeuvre, as a stable medium and material entity in the mediascape is under constant attack. We believe there is a reluctant withdrawal taking place in the different genres and institutions of literature, where the entity of the book is being given up to shorter text formats for digital screen reading. The fiction novel and large parts of the nonfiction trade literature is still able to continue to capitalise on the symbolic power of the book. While in academic and educational literature, access to articles is increasingly replacing the monograph or the classic scholarly anthology.

## The emerging infrastructures of publishing

This development is creating a new informational infrastructure which has no international standard and is not public, but privately owned, and is dynamically developed to create new business opportunities. As a consequence, there may be a trend where the traditional role descriptions of publishers, booksellers, editors and readers are being contested, and the control and ownership of metadata become an important asset in international competition.

It is worth mentioning here, that the Norwegian Publishers Association and the Bookseller Association have been instrumental in setting up a collectively owned database for sales and library loans in Norway, the so called *Bokbasen*. The database is more than 90 percent owned by the four largest publishers in Norway and offers its services indiscriminately to all booksellers, publishers and libraries in Norway. Attempts have been made by international corporations to buy Bokbasen, which would mean a total corporate takeover of 35 years of metadata on Norwegian publishing.<sup>175</sup> Access to such metadata is essential for the industry, and *Bokbasen*’s services and data are not reserved for the major publishers, booksellers, and distribution companies in Norway, even though they own *Bokbasen*. It is likely that the way the metadata is available through *Bokbasen* to

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<sup>173</sup> <https://www.issn.org/understanding-the-issn/what-is-an-issn/> (last visited March 4. 2020)

<sup>174</sup> [https://kdp.amazon.com/en\\_US/help/topic/G201834170](https://kdp.amazon.com/en_US/help/topic/G201834170) (Last accessed May 28, 2020)

<sup>175</sup> <https://www.bokbasen.no> (Last accessed February 13. 2020)



everyone on equal terms makes it more difficult for digital platforms such as Amazon, Google, or Apple to gain a dominant position in the Norwegian literary market. *Bokbasen* has also been a precondition for developing an ebook web service *Bokskya* (the Book Cloud), which makes it possible for all buyers of Norwegian ebooks to store their files in one place, regardless of the format or where they bought the file.<sup>176</sup>

Regulation ambitions in this area of media and digital information control in liberal capitalist societies are at the moment few. A key concept for regulators and political bodies in the EU is transparency. Attempts are presently being made from the EU to demand more transparency from platform's strategies and use of data. In February 2019, new legislation came into place that required more transparency from online platforms in platform to business-relations.<sup>177</sup> The new legislation require online platforms to, amongst others:

- Explain the reasons for removing goods or services from search results or delisting them.
- Provide a description of the parameters determining the ranking.
- Put an end to several unfair trading practices listed in this regulation ("blacklist" introduced in a new article).
- Set up an internal complaints-handling system (small platforms would be exempted) and facilitate out-of-court dispute resolution.
- Ensure effective enforcement of the regulation. Give a right to business users to terminate their contracts if platforms impose new unacceptable terms and conditions.

Businesses will be able to sue platforms collectively, if they fail to deal with complaints properly. However, it was admitted by the EU parliamentarian that steered the legislation through the EU Parliament, Christel Schaldemose (S&D, DK), that the challenge was to protect consumers, not only businesses. The Final Act was agreed by the Council on 18 June and signed 20 June 2019.<sup>178</sup>

Transparency issues in cultural transactions are also regulated in the EU Directive on copyright and related rights in the Digital Single Market.<sup>178</sup> According to the opening statement no. (3):

In order to achieve a well-functioning and fair marketplace for copyright, there should also be rules on rights in publications, on the use of works or other subject matter by online service providers storing and giving access to user-uploaded content, on the transparency of authors' and performers' contracts, on authors' and performers' remuneration, as well as a mechanism for the revocation of rights that authors and performers have transferred on an exclusive basis.

and in (34)

For the purpose of those licensing mechanisms, a rigorous and well-functioning collective management system is important. Directive 2014/26/EU provides for such a system and that system includes in particular rules on good governance, transparency and reporting, as well as the regular, diligent and accurate distribution and payment of amounts due to individual rights holders.

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<sup>176</sup> For more information (in Norwegian), see: <https://www.bokbasen.no/> (Last accessed September 22, 2020)

and <https://support.allbok.no/hc/no/articles/360011127799-Hva-er-Bokskya-> (Last accessed September 22, 2020)

<sup>177</sup> <https://www.europarl.europa.eu/news/en/press-room/20190214IPR26425/online-platforms-required-by-law-to-be-more-transparent-with-eu-businesses> (Last accessed March 4, 2020)

<sup>178</sup> <https://eur-lex.europa.eu/eli/dir/2019/790/oj> (Last accessed March 4, 2020)

Transparency is also mentioned as important for informed dialogue and effective sharing of experiences and mechanisms (50), authors' rights and remuneration (68, 75 and 76), collective bargaining (77) and a dispute resolution procedure (79 and 81). The major articles related to transparency are Article 19, 21 and 27. This way of regulating information flows and transparency is a way of building the infrastructure of future publishing and digital uses of literature. However, the internet is dynamic and difficult to monitor, and how legislation like this will be able to maintain order and stability in the literary institutions remains to be seen.

Ownership is another key. The digital cultural economy is heavily dominated by enormous conglomerates and concentrations of capital and power centred around brand names and companies like Google, Apple and Amazon, whose platforms are competing with oligarchic effects within a wide range of products and service markets. When media regulations were attempted in connection with 'old' types of capitalist media corporations, ownership control was one of the measures considered. Many countries have limits to how big a share of stocks a corporation might own in the total media market and have set up public service organisations to balance and counter commercial effects in media content production and distribution. In the digital world, we still have a way to go before similar measures will be advocated, although the idea of 'breaking up' the big companies has been suggested.<sup>179</sup>

If companies could be broken up, a possibility would be to take hold of the dynamic, algorithmic changes that are now an inherent and secret part of the market infrastructure, and thus make them more transparent and publicly owned.

## Public availability and reading cultures

There are several literary policy tools, like the fixed book price regimes, that help to make books available in bookshops and libraries. As described in previous chapters publishers, booksellers, and distributors have over the years made agreements among themselves to ensure that books are available or at least possible to order in all or most bookstores, disregarding which publisher has published the book and in which bookstore the customer is. A well-functioning market is of course the best guarantee for public availability, and a well-functioning postal service can bring books to readers in a day or two, nation-wide. With the coming of digital distribution and ebooks, the physical infrastructure of availability is both improved, and destabilised. We do not really know yet whether emerging digital infrastructures will be able to replace and/or improve the reading cultures of the last century.

Frequency and location are therefore still important parameters for the distribution of books and the building of reading cultures. Ask two questions: Firstly, how many selling points, literary houses and libraries are there per inhabitant in a given country? Secondly, how are selling outlets distributed geographically? A concentration of selling outlets, libraries and literary houses should be expected to be found in the larger cities around the world, as that is where the largest markets of readers are. However, the ability to actually reach out and build reading cultures in the districts and the peripheries is an important ambition, usually anchored in national cultural and educational politics. Thus, the best indicator of a functioning

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<sup>179</sup> <https://www.digitaltrends.com/opinion/antitrust-break-up-facebook-amazon-google/>  
(Last accessed March 4. 2020)

infrastructure and the most important policy tools for distribution and building of reading cultures, are probably those that work to support bookstores and libraries in the peripheries.

A positive effect of local policy tools for bookstores seems to have been found in China recently. According to Chinadaily.com, China had 225,000 bookstores and sales outlets for books at the end of 2018, a 4.3 percent increase from the previous year. Private bookstores played a significant part in the development. As of October, 85 of over 160 outlets of the Sisyphe Bookstore were opened in 2018 alone, and Yanjiyou, another popular brand, opened 53 bookstores from January to November, according to *People's Daily*.<sup>180</sup> According to the report, the revitalisation of bookstores in China was largely due to national guidelines on supporting the bookstore industry issued in 2016. This spurred 28 provinces, autonomous regions and municipalities, to release policies to boost the industry, as for instance in Beijing, where 50 million yuan of subsidies is reported to have been given to 151 bookstores.

Support for bookstores also existed in Sweden for a period. A subsidy scheme was introduced in 1985 in order to improve the ability of bookstores to distribute a wider range of titles and keep bookstores alive around the country.<sup>181</sup> The reason behind the legislation was the sharp decline of bookstores in Sweden in the years following the introduction of free pricing on books in 1970. The legislation was however soon changed and abolished, although for a while taken over by a funding scheme in the Swedish Arts Council. The reduction of VAT on books in the 1980s was also meant to help. Today, however, Sweden is reported to have 296 selling points and a particular steep decline has been observed in the last 10 years.<sup>182</sup> The situation in Norway is a telling testimony to the importance of the positive effect of the fixed price regime. Despite having half the population of Sweden, there are today 480 bookstores in Norway.<sup>183</sup> According to recent calculations (summer 2018), selling points per capita in the Nordic countries are reported to be as follows: Norway 7,400, Denmark 12,000, Iceland 12,000, Sweden 18,000 and Finland 17,300.<sup>184</sup>

Similar information from around the world on physical bookstores give a varied picture: Switzerland has a bookstore density of 20,000, Germany around 14,000 (approximately 6000 bookstores), and France 13,000 (approximately 5000 stores). In Canada, where Amazon is the lead supplier, and online book sales make up 47 percent in the English-language-market, the per capita number is 50,000. From Turkey it is reported that there are 8000 certified book selling points which means that there is one per 10,000 inhabitants. The Philippines is reported to have only 200 bookstores, which is almost hard to believe with a population of approximately 106 million.

Ownership is an important element in all distribution markets. Most selling places in Turkey are considered to be independent bookstores, but some of them are reported to actually be owned by publishing houses, such as those owned by Dost, Arkadas, Ada, Palme and

<sup>180</sup> A report released by China's Books and Periodicals Distribution Association showed that the total sales revenue of publications in the country reached 370.4 billion yuan (\$54.76 billion) last year, up 5.9 percent year-on-year, while 158 billion yuan was from retail, which enjoyed an 11.3 percent growth. See: <http://www.chinadaily.com.cn/a/201901/21/%20WS5c450b12a3106c65c34e57e8.html> (Last accessed September 22, 2020)

<sup>181</sup> See: "Förordning (1985:525) om statligt stöd till bokhandeln" [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/%20forordning-1985525-om-statligt-stod-till\\_sfs-1985-525](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/%20forordning-1985525-om-statligt-stod-till_sfs-1985-525) (Last accessed September 22, 2020)

<sup>182</sup> <https://www.boktugg.se/2019/06/11/bokhandelsdoden-102-farre-butiker-i-sverige-pa-tio-ar/> (Last accessed March 4, 2020)

<sup>183</sup> <http://www.bokhandlerforeningen.no/> (Last accessed March 4, 2020)

<sup>184</sup> <https://snl.no/bokhandel> The number for Iceland has been produced for this report. (Last accessed March 4, 2020)

Seçkin. The larger publishing houses like Isler, Palme, Krimizi Kedi, and others have their own bookstore chains. The share of online sales is around 15 percent and rising, and online shops are reported to have an increasingly important role in the market due to their ability to give big discounts. Amazon entered the Turkish market in 2017.

Hans M. Zell gives fragments of hope for African publishing and book policies in his updated report from 2019. His focus is on publishing and the need for 'national book development councils' to come forward and be more prolific. There is ample need for support, and instead of introducing legislation and institutions to help the publishing industry, many African states have imposed high VAT rates on books and have also engaged in setting up state operated businesses, thus competing with or closing the market, instead of creating a sound framework for the entrepreneurs and businesses already there.<sup>185</sup>

The number of physical bookstores around the world is expected to decline as online sales become more and more attractive to buyers and readers, particularly for sales taking place outside the major cities.<sup>186</sup> However, a positive change in the physical infrastructure of literature distribution and consumption around the world involves houses of literature, literary festivals, and other public arenas of literature dissemination that have emerged over the last 15 years. The way in which literature is launched and discussed has clearly changed, a development that has often been supported with the aid of public support schemes and the incessant work of idealistic cultural-political organisations and enterprises around the world.

The establishment of 'houses of literature' gives a much-needed breath of fresh air for literary dissemination and the beginning of a new public literary tradition. For many literary houses, the German house of literature tradition serves as the model where a fairly large house, usually centrally located in a major city, is renovated and rebuilt with libraries, cafes and, most importantly, an auditorium with a stage for authors, critics and scholars to discuss a literary work.

There are also literary festivals all over the world, and they are in themselves good examples of collaborations between local initiatives, organisations in the literary industry, and government support schemes, both state and municipal, along with private support from local and national foundations. Today, literature dissemination is a living and global phenomenon with an almost continuous flow of festivals. Everywhere, authors get up and read to audiences and participate in debates on stages of houses of literature, at libraries, and at festival venues. Events take place both within hectic festival days and throughout the year. Panels with critics, authors, and other pundits abound, events are often well attended, and some may even be live streamed. This has changed how publishers and authors think about marketing and sales. Authors are visible in a totally different way than before. They may talk about books and the writing processes, but also share personal stories, their knowledge, as well as their passion for the topics they write about.

There are many indications that writing-based literature is becoming a medium for a larger and more orally transmitted literature. The book must still exist, and preferably as a bound, physical book. But without the launch, without the discussions, without the tour, the book may well

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<sup>185</sup> Zell op cit.

<sup>186</sup> <http://www.worldcitiescultureforum.com/data/number-of-bookshops-per-100.000-population> (Last accessed March 4. 2020)

be gone and forgotten. Writing and publishing a book has become a way of giving oneself a stage, in the houses of literature and at the festivals. At the same time, talking about books and literature is a way of expanding the reception; a way of entering a dialogue with readers. It is a way of drawing on international dimensions and a way of making other authorships and books present in readings and discussions of new literary works. Two well-known British literature festivals are the Edinburgh International Book Festival<sup>187</sup> and the Hay Festival in Wales.<sup>188</sup> In India, the Jaipur Literature Festival is a focus of writers from all over the world.<sup>189</sup>

To conclude on this point, it is worth noting how infrastructural tools for dissemination of literature and the creation of reading cultures relate to the work that is being done for making literature travel across borders. The enormous, physical space inhabited by the International Rights Centre at the Frankfurt Bookfair is a strong reminder of the importance of trade and right sales. But even more, it is a testimony to the importance of physical space and the ordering of time schedules and professionals to meet and interact at the fair. To make it work, there is an infrastructure of scouts and in-house reporting, as well as an international literary public sphere, supplied by famous outlets and magazines, such as: *Times Literary Supplement*, *New York Review of Books*, *The Paris Review*, *London Review of Books*, *Asian Literary Review*, *The Write Mag*, *Johannesburg Review of Books*, *Jornal de letras*, *artes e ideias in Portugal*, and *Le Magazine littéraire*<sup>190</sup> and *Lire* in France, just to mention a few.<sup>191</sup>

This is a point where literary policies may turn into media policies. In many countries around the world we are witnessing a decrease in the 'old media's ability to bring literary critique and information. However, new forms of critique and communication are emerging on digital platforms, and it is not wise to be an absolute pessimist on behalf of professional critique and literary discourse. But academically trained professionals are now more often met with competition from lay and amateur critics, and their privileged access is not so obviously defended anymore. In this situation, politicians and governments often end up with doing less, rather than more, and leaving it to the market and the professions themselves to work out the new parameters of literary critique. More populist parties might even see a symbolic gain in advocating proactively against 'old' cultural privileges, making it harder for literature and the arts in general to retain a professional status. That now everyone has the opportunity to do something extraordinary, it is not only the domain of "privileged" authors and artists.

For many countries, central to the outreach of national literature are the governmental organisational bodies meant to promote national cultures abroad or across social and cultural cleavages within a national territory.<sup>192</sup> In old empires and new nations alike, these bodies, like the British Council in the UK, the Goethe Institute in Germany, Instituto Cervantes in Spain, Instituto Camões in Portugal and Istituto di Cultura in Italy will often emerge from initiatives taken by foreign ministries and be connected to the infrastructures of diplomacy and embassies around the world. Culture and literature have for some time now been seen as a foreign policy tool and a "soft power" option to reach foreign policy goals. Seen from the perspective of publishers and authors, it is often a welcomed support to international outreach.

<sup>187</sup> <https://www.edbookfest.co.uk/> (Last accessed February 18. 2020)

<sup>188</sup> The quotes were found in an official blog for «the New Deichman» library in Bjørvika, Oslo, spring 2020. For more details on the new library, visit [www.deichman.no](http://www.deichman.no)

<sup>189</sup> <https://jaipurliteraturefestival.org/> (Last accessed February 18. 2020)

<sup>190</sup> Folded in May 2020 as a victim to COVID 19.

<sup>191</sup> There are lists to be found of magazines and online services for various regions, languages and literatures like this one, on African literary magazines: <https://africanliterarymagazines.singlestory.org/a-list-of-african-literary-magazines/> (Last accessed September 21, 2020)

<sup>192</sup> See for instance measures in Syria, reported to UNESCO's monitoring service in 2016 (!). <https://en.unesco.org/creativity/policy-monitoring-platform/promotion-books-syrian-general> (Last accessed March 4. 2020)



But turning culture into a foreign policy tool is also problematic, in the way it instrumentalises literary expressions and creates artificial amplifiers and filters to the free movement of culture. As already mentioned, many nations, trusts and companies offer subsidies for translation and the international travel of authors. In order to function in a balanced and neutral manner they need to be equipped with an organisational set up for the handling of arms' length principles.

## The Libraries

A webpage from IFLA, the International Federation of Library Associations, displays the numbers and distributions of libraries around the world.<sup>193</sup> It shows what an impressive infrastructure for the promotion of literature and reading the libraries are, employing 1.6 million full-time staff and 845,860 volunteers in 2.6 million libraries, where there are every year 6,296.5 million physical visits and 9,350.3 million physical loans being handled. Most countries around the world have built up a library policy from national legislation and acts linked to cultural heritage preservation and the need for general access to information in society. An international point of reference is the UN Declaration on Cultural Diversity,<sup>194</sup> often reflected and cited into acts, mandates, policies and procedures for libraries and lending practices around the world. Asian cities has an impressive number of libraries, loans and employees, although per capita measures often bring European cities higher up.

Internationally, the main agenda for librarians is how to transform libraries into digital service platforms for the lending of all kinds of media and material. Thus, IFLA has an ongoing discussion with WIPO on copyright legislation and a keen eye on the exceptions from copyright in the recent EU directive on copyright. But if the libraries reach their ultimate goal of making everything published digitally available, authors, artists and all kinds of copyright holders will go out of business.<sup>195</sup>

France has 16,300 physical libraries, one for every 4000 inhabitants and an initiative for digital lending called Prêt numérique en Bibliothèques (PNB) carried out by the bookchain Dilicom and publishers. In this initiative, offers are made by publishers in a wide range of reading modes and lending modes; the reader can read online or download a digitally formatted and DRM-protected book (usually ePub or PDF). 'Friction' is constructed so that lending is restricted, as is the case in the physical world of printed books; the number of simultaneous accesses, the number and duration of loans are defined locally in the libraries. Ebooks can also be purchased through booksellers on the same digital platform and audiobooks will be available soon.

An important element in the infrastructure of libraries, is the legislation that orders all publishers to submit books (and other media) to a national library depot. This used to be a law to ensure that national libraries would have copies stored safely away, so that the national literary heritage would be preserved. Today, in the digital realm however, this legislation also provides the national libraries with digital copies that can be stored in databases and transformed into digital formats open for streaming or lending schemes. For national libraries to use legal deposit copies for streaming would be in breach of copyright. An important element determining how this will be utilised by libraries in the future is the exceptions for

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<sup>193</sup> <https://librarymap.ifla.org/> (Last accessed September 21, 2020)

<sup>194</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CulturalDiversity.aspx> (Last accessed September 21, 2020)

<sup>195</sup> <https://publishingperspectives.com/2012/12/the-war-between-publishers-and-libraries-over-ebooks-an-overview/> (Last accessed May 28, 2020)



research and data mining in the EU directive and national legislation.<sup>196</sup> It is important to emphasise that the presupposes that libraries must acquire a license.

The world of libraries is broad and diverse, but also a relatively stable social institution. They are often divided into public libraries, national and county libraries, academic and research libraries, school libraries, and mobile units (library buses) and owned and run by both private, public and civil society organisations. Although some libraries are experiencing a decrease in loans and library visitations, the digital uses of library services are generally increasing all over the world. Hence, the beneficial, societal role of digital services in public libraries are often strongly emphasised and ideologically supported by politicians and governments. If not covered by proper licensing agreements this may undermine the rights of authors and publishers.

In many cities, this new ideology around digital technology and the role of libraries has manifested itself in new library buildings with signal architecture, loaded with mythological ideas about libraries as creative spaces and public meeting points. Buzz words are for instance that libraries will be vibrant and highly visible public spaces, combining lending and media availability with free and open working areas, as well as coffee shops and restaurants, thus developing, 'a new arena for activities around the traditional functions,' and 'emphasising reading stimulation' as well as 'facilitating a more even societal distribution of goods such as literature, culture, and high-quality information.'<sup>197</sup> Libraries are becoming landmarks for a new media culture that also accommodate audio-visual media. Books, however, are still and for the time being, the libraries' primary medium.

## A concluding reflection on infrastructural tools

The infrastructures of literary trade, distribution, communication and discourse are growing in importance as we turn from a well-known, physical infrastructure for printed books, to a more invisible, algorithmic digital infrastructure. In the digital realm, less is regulated, and more is possible. Digital infrastructure can be built to meet the needs of people with reading and learning disabilities and can make immediate facilitated editions of literary works without any help from a human translator. As algorithms and artificial intelligence move into publishing, the power of professional knowledge will shift hands from editors and critics to programmers and social media-based promoters and influencers.

In the future, the role of governments and public bodies will transgress old boundaries for cultural trade and industry. As is seen in the area of education, governments are willing to use public money to install free and publicly available solutions for the distribution of literature and educational and scientific texts. Since production costs and distribution costs are relatively small, we expect states to believe themselves as promoters of free, collective goods while they offer governmental subsidies to the production of content and the distribution of textual material for free to all citizens. By doing this, they might however disrupt business models and the fragile income streams for authors, publishers and bookstores. In many countries, the educational publishing sector is the financial backbone in a national publishing industry, cross fertilising their ability to also publish general trade literature. Thus, governmental activity that in itself might seem as obviously good and beneficial to all parties, might have detrimental long-term consequences, particularly in small countries and language markets.

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<sup>196</sup> The EU-directive is restrictive on this point and meant to prevent this to happen. However, recently in Norway, the unique situation of Covid19 was used as a pretence to do exactly this, in order to accommodate for the need of researchers and students who needed access to recently published books, when the libraries closed down.

<sup>197</sup> The quotes were found in an official blog for «the New Deichman» library in Bjørvika, Oslo, spring 2020. For more details on the new library, visit [www.deichman.no](http://www.deichman.no)



## Chapter 7

### The Case for Active International Literary Policies

The preceding chapters have described the diversity and complexity of the literary policy toolboxes found around the world. Focus has been on the properties of the tools, the variations found in different markets, states and regions, and on demonstrated or anticipated effects of different tools. In this last chapter three questions will be addressed that were raised at the beginning of this book:

1. Are there any basic universal literary policy tools that everyone should strive for?
2. Are there any existing tools that might be modelled as best practice?
3. Are there any tools that should be looked for and developed, as possible models for the future?

### Cultural Policy Models

In their seminal article “The Arm’s Length Principle and The Arts: An International Perspective - Past, Present and Future”, Harry Hillman Chartrand & Claire McCaughey propose four models for how the state relates to the arts and cultural policies.<sup>198</sup> They call them the Facilitator State, the Patron State, the Architect State and the Engineer State.

*The Facilitator State* funds the arts by providing a form of indirect support to culture by giving tax reductions and other forms of financial encouragement to private and corporate donors for their financial patronage of the arts. Thus, it is possible to argue that this policy system is a result of the cultural market being the main element. An example of this model exists in the US, though also direct state support for the arts exists in the form of The National Endowment for the Arts (NEA), which is a federal authority that provides funding for artistic and literary activities.<sup>199</sup> However, the NEA is not uncontroversial and is continuously under attack from conservative quarters.

*The Patron State* funds arts through arm’s length arts councils, consisting of government appointed trustees. The council provides support on advice from artists and their organisations in a form of peer reviewing. Often the criteria for funding are based on standards of excellence. The UK is often mentioned as the prime example of this form of cultural policy system. However, also in relation to this type of cultural policy support, private foundations and donors play an important role and so does public support and initiatives that bypass the arts councils.

*The Architect State* as an ideal, supports culture and the arts through direct funding from ministries of culture, and involves cooperation between politicians, cultural bureaucrats and artists organisations. It thus may be said to have elements of a corporative system. French cultural policy is often mentioned as an example of an architectural cultural state.

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<sup>198</sup> Chartrand, Harry Hillman & Claire McCaughey (1989) “The Arm’s Length Principle and The Arts: An International Perspective - Past, Present and Future”. In Cummings Jr, M.C. & J. Mark Davidson Schuster (eds.) (1989) *Who’s to Pay? for the Arts: The International Search for Models of Support*, Washington DC. Americans for the Arts. It is important to bear in mind that the authors deal with ideal types which are not really found in their pure form in reality. The models also apply best to *national cultural policies* in a strict sense of the word, not to fields of literary politics in the manner we have analysed them in chapter 2.

<sup>199</sup> <https://www.arts.gov/> (Last accessed February 24. 2020)

The focus is to disseminate culture to broad sections of society, and culture may be regarded as a parallel to other welfare policies.

The fourth type *The Engineer State* implies that the state controls all cultural institutions either directly or indirectly. This was the model in the Soviet system, and is still to a certain degree practiced in countries where there is strict state control over cultural expressions and products, and where there exist stronger or weaker forms of censorship.

Advanced European cultural policies such as those in the Nordic countries may be regarded as a fifth ideal which is a sort of mixture between the Patron State and the Architect State and it may be called the *Democratic Welfare Cultural State*. This system involves cooperation between public institutions, civil society organisations and market forces. In this system there are often discussions whether the market, if left to itself, would ensure that the whole literary spectrum would be available. If there is no invisible hand in the market ensuring the individual's right to participate in culture, a cultural policy must intervene and regulate the market. However, when the state intervenes in cultural policy, it must also be restrained. This is again where the principle 'at arm's length' enters as an institutional option.

It is evident that any action taken by a particular region or country, will be shaped by the traditions and ideologies pertaining to these roles. They carry different strengths and weaknesses regarding innovation, transaction costs, unintended consequences and efficiency. A political mobilisation to change a role is probably more difficult than to adapt a policy tool to local contexts and traditions. Instruments of cultural policies should largely be developed in cooperation between civil society organisations, the state, and actors in the cultural market. In relation to literary policies this would mean that publishers, booksellers and authors organisations as well as other institutions related to the use of literature—such as educational institutions, libraries, should enter into negotiations with the state over how to organise support for a well-functioning literary system.

## The basic tools

Literary policy tools are regarded as part of three policy areas; cultural politics, business politics and knowledge politics. Thus, when reflecting on best practices within literary policies, these are situated in a wide context of extensive policy measures. Literary policies deal with much more than just book policies in the strict sense of the book as a medium. Literary policies may be said to pertain to basic values in modern society and have a strong historical component related to how they have been implemented differently around the world. Literary policy tools are also interwoven. However, the legal (normative) tools are the foundation of the others. Without the essential protection of freedom of expression and a strong defence of authors rights and copyright, other tools would be less effective. The chapter on legal tools referred to the International Covenant on Civil and Political Rights (ICCPR), as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both concern essential legal aspects of literary policies. In addition, attention is drawn to The UNESCO Universal Declaration on Cultural Diversity (UDCD). The two covenants are closely related. It has been argued that they are like a coin with two sides.

There is, however, a significant difference between the two. The ICCPR is more assertive while ICESCR is more passive. And UDCD is often weaker. In the ICESCR it is stated that, subject to the “maximum of its available resources” and “with a view to achieving progressively,” signatories are bound by the Covenant. While ICCPR put it that state parties “undertake to respect and ensure compliance.” The purpose of the ICESCR is more promotional rather than mandatory. It is designed to promote economic and social welfare, not to hinder it. The enforcement machinery of ICESCR is not as strong as that of ICCPR. The UDCD does not really imply anything but a recommendation. The three documents may nevertheless be said to encompass three different sets of rights, the first deals with liberty and participation in political life and for our purpose ensures freedom of expression, arts, science, and teaching. The second is of an economic, social and cultural kind, and in our context deals with the right to education, and the rights of the author regarding moral and material interest. The third set of rights pertains to among others group, cultural, communication and language rights, and are of particular importance to extended literary policies.

Now, not all states are signatories to the two covenants and not all have implemented them wholeheartedly and without reservations. It is argued that the rights mentioned in the Covenants and the UNESCO declaration are important for enacting policies that promote and strengthen literature across borders. Freedom of expression and the related rights of arts, sciences, research and teaching are regarded as essential and basic tools. A literacy policy that is not founded on such rights is worthless.

Literature has historically been an essential prerequisite for the development of public discourse and enlightenment. The core values of freedom of speech and accessibility are directly related to the desire that literature should also be diverse and broad, not dominated by one type of literature or a particular author. According to the UN documents that are referred to above, a democratic state is required to ensure that there is no censorship. Furthermore, a democratic state ought to be responsible for ensuring diversity and freedom of expression in all cultural and media policies, thereby strengthening democracy and enabling political and cultural participation.

An essential element of the legal tools is authors rights and copyright. These rights must be respected and extended. It is important that publishing contracts safeguard the rights of all authors and are transparent.

The *economic tools* described in this report are more tangible and give immediate effects, but they are also the most controversial in the on-going political debate. They give the impression of being measurable: how much is good literature worth? Will it be better off with more support—or maybe with less? An important side effect is that economic policy tools keep the discussions about the value of literature current and continuous in the political sphere, and they show that both the state and the market can play important roles. How the state functions in this context actualises the at arm’s length principle, and determines how the state relates to the various actors in the literary field.

The *educational tools* are cultural, cognitive and communicative, while the *technological infrastructure* tools are durable, physical and material. It is not possible to select one

tool as the most important or most effective in all contexts. It is possible, however, to hypothesise that there will be an added positive side effect if several instruments are effective and working in symphony. It is particularly important that the balance between the role of educational authorities and the publishing industry is maintained as regards educational and scientific publishing so that the delicate balance between authors and producers of teaching material uphold their influence in open field.

## Best practice?

The second question this book set out to answer was whether there are any tools in some states and regions that should be thought of as models for others. Here it is worth pointing to the need for improved legal protection for authors' rights and policy measures that serve to protect the interests of authors and publishers also on the new digital platforms. However, a restriction is recommended on state activity: It is of concern how there are strong, government supported initiatives afoot in the area of providing open access to research that may undermine the moral rights of academic authors.

In the chapter on legal tools arguments are offered for the strengthening of authors' rights and support the conclusions of the new EU Directive on copyright and related rights in the Digital Single Market, not least the opening up for extended collective licenses as is mentioned in the Directive as quoted in the footnote.<sup>200</sup> Particularly with regard to developments on the use of new platforms for secondary and tertiary use of literary material, it is important to strengthen collective management of authors' rights. In this context there are strong arguments for how important it is to have strong civil support in this area, particularly authors associations and collective management organisations.

It is important to promote the library system and particularly the policy tool of public lending rights to both compensate authors for the use of their books, as well as to provide increased legitimacy for extended national public library systems, which is regarded as essential for an enlightened literary policy particularly in the new digital society where libraries will be much more than "the house where books stay," but centres for literary dissemination and debates. They serve as the fundamental element in the wide range of infrastructural literary tools. However, it should be pointed out that publicly supported library systems should not take over tasks and roles that are better served by market and civil society actors in the fragile ecological literary system. Libraries should not become wide scale publishers nor take on the role of organisers of festivals, which have been part of civil society initiatives.

An excellent economic tool is reduced or preferably no value added taxes (VAT) on books — either on paper or electronic formats. Reduced or no VAT on books has the advantage of being a

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<sup>200</sup> Mechanisms of collective licensing with an extended effect allow a collective management organisation to offer licences as a collective licensing body on behalf of rightholders, irrespective of whether they have authorised the organisation to do so. Systems built on mechanisms such as extended collective licensing, legal mandates or presumptions of representation, are a well-established practice in several Member States and can be used in different areas. A functioning copyright framework that works for all parties requires the availability of proportionate, legal mechanisms for the licensing of works or other subject matter. Member States should, therefore, be able to rely on solutions allowing collective management organisations to offer licences covering a potentially large number of works or other subject matter for certain types of use, and to distribute the revenue resulting from such licences to rightholders, in accordance with Directive 2014/26/EU. (CELEX 32019L0790 EN TXT)



policy measure that supports the entire literary system, from author to publishers, to bookshops and libraries and readers. It makes books cheaper and thus encourages people to buy and read more books, or buy and listen to more audiobooks. Thus, this is an economic tool that in the long run will have an effect on cultural and educational policies in a broad perspective. It will also strengthen the literary system as a central element of the creative industries.

Under economic tools, fixed price systems versus free price systems were discussed. The conclusion drawn is that the fixed price system, preferably in the form of book laws, is the tool that best serves the interest of securing a diverse and strong literary system. In countries with fixed book prices, quality and diversity is maintained, and the number of booksellers and distribution units is greater than in countries with free price systems.

In the field of education, fixed book prices help to ensure the scope and strength of educational environments at all levels. Average book prices do not seem to be higher in countries with fixed prices than in countries with free pricing. Furthermore, authors' rights appear to be better protected in a fixed price system.

## Policy tools for the future?

Starting with the values: Literature is of great value to a society, but it needs to be acknowledged and kept alive. Literary policies are based on the premise that the book and other forms of written expressions are not just commodities but have a special value to society. Public support for writing cultures and literature must be more extensive than serving as a minimal correction of market failures. It implies a contribution to safeguarding fundamental values related to democracy and respect for human rights as well as furthering freedom of expression and information and cultural diversity. In the future there will be a need for stronger protection for minority languages, stronger focus on reading and writing abilities, and a stronger moral and economic support for the role of literature in society.

It has been discussed how books historically have been the foundation for educational systems all over the world, and new tools will be needed as part of future knowledge policies. Besides maintaining the importance of reading and writing skills as the basis for all forms of education, literature must be better integrated in the current shift towards digitalisation. This means, among other things, that literature, writing and reading must be seen as crucial in all learning objectives and what may be called in-depth learning—from primary school through to university. Tools that secure abilities to read, write and understand long texts, beyond snippets and screen-formatted texts are needed. Both existing local and national publishers, as well as ed-tech (education and technology) start-ups, should be encouraged to take part in the innovation. The quickly changing technological environment in education presents challenges for publishers as well as for authors that develop new teaching materials for changing educational environments. Established publishers of educational literature and digital product developers in the emerging ed-tech industry should interact in this endeavour.

The need for a balanced use of policy tools must be stressed when it comes to the digital turn. For instance, there is an ongoing debate about whether students learn better through

paper-based reading than digital reading. Nevertheless, it is important to find the best ways to utilise the advantages of both paper and screen technologies for education across age groups and educational institutions. The Stavanger Declaration emphasises that:

[...] paper remains the preferred reading medium for longer single texts, especially when reading for deeper comprehension and retention, and that paper best supports long-form reading of informational texts. Reading long-form texts is invaluable for a number of cognitive achievements, such as concentration, vocabulary building and memory.<sup>201</sup>

Similarly, it is feared that the shift to Open Access publishing will bring a side-effect of more international publishing in English languages, and weaken national languages, particularly in small states. Thus, designated policy tools are needed that can inspire academics to also continue to publish in their own, national languages, and also to continue to address their local audiences and public spheres, not only their fellow academics.

While literature for children is part of a much wider literary sphere than its educational functions, it is nevertheless relevant to emphasise how important literacy and reading campaigns for children are for fostering living literary cultures. This is a task both in national context, but also internationally, as supported by the UN Sustainable Development Goal 4; Quality Education. This means more than formal training, more than anything it involves the learning of reading and writing. To achieve this, reading outside a formal educational setting is essential, and there is no better way to accomplish this than to write, publish, and disseminate entertaining books in the mother tongue of children all over the world. Also here, paper and print might be worth preserving and supporting, when everything else is getting digital and audio-visual.

Lastly, it is clear that the movement of literature between cultures will only increase, and will continue to contribute to an enlightened international public sphere. Support for translations should therefore be included for all literary genres in the future—not only fiction, but also scientific and non-fiction books. Furthermore, international and national literary policy programmes should support international and regional literature festivals and book fairs that serve as meeting points for authors, publishers, and not least a wider literary public sphere.

## Final Words

This book has been written from a perspective of how important literature is regarded as the foundation for an enlightened, diverse and not least engaging form of communication that cannot be replaced by other means. Reading skills are an important component of a multifaceted and multimedia communication situation. There are different reading strategies and different texts. If we only read texts we like, or texts that have been recommended by people we know and like, we only read what confirms ourselves. The purpose of reading, in addition to relaxation and entertainment, has always been to give impetus to new thoughts. Reading is more than consumption. Reading is participation in society, in the knowledge and feelings of a wide humanity of thinkers, writers and readers. In reading, we seek not only confirmation, but the experience of discovering something new, surprising, provocative and foreign.

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<sup>201</sup> <https://ereadcost.eu/stavanger-declaration/> (Last accessed March 13. 2020)

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# Ambitious Literary Policies.

## International Perspectives.

*Ambitious Literary Policies. International Perspectives* is an analysis of the shape and configuration of literary policies worldwide. Which instruments have been created in order to promote and advance reading and writing and the medium of the book in the development of modern global societies? What challenges are reading, writing and publishing facing? How can active literary policies, both in the field of cultural policy and knowledge policy, develop literature in today's evolving multimedia society?

Literary policies vary substantially between states and regions according to differences in political systems, traditions for governance and histories of cultural policy making. The book attempts to identify and systematise and analyse these variations with a view to inspire political initiatives and reforms worldwide. The aim of the book is to improve the understanding of how politics can shape authorship, practices of publishing, and literary markets. It provides an overview of literary policy tools and measures currently in place around the world.

This book is a call to arms for the need to develop active literary policies.

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