

The Copy/South Dossier: Issues in the economics, politics, and ideology of copyright in the global South

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A Review Article by Ruth Rikowski

This is an important, albeit a very unusual document, with its basic message being that copyright on the whole is undesirable, that it only really benefits the rich, whilst those in the South greatly suffer from the vast array of copyright legislation and agreements that is in existence today. This powerful message is conveyed right from the outset. Following on from the contents page, for example, there is a picture of a librarian holding up a placard saying:

"DELINQUENT: LIBRARIAN – I am a criminal because I photocopied ten books we needed for the school library"

The dossier is a very detailed and informative report, and is divided up into five main sections, which are called 'research propositions'. Thus, it covers many different subject areas, including the global intellectual property system and how it is privatising the commons; the privatisation of the public domain and how it is imposing western/Northern assumptions on cultural production; the impact of the copyright system, as a western construction, on the public domain; how copyright economically benefits the North but not the South; barriers to the use of copyrighted materials in countries of the South and resistance from the South to the global copyright system.

The main aim of the dossier is stated clearly at the beginning, where it says that it:

...is addressed to readers who want to learn more about the global role of copyright and, in particular, its largely negative role in the global South (p.3).

The document has been written by the Copy/South Research Group, who researched and debated the issues over a 12-month period, and various workshops were held at Kent University, which enabled this debate to take place. It is not a policy document as such, although it does discuss policy questions. Neither does it express just one point of view. Instead, the intention is to open up the debate. However, it does all this within a clear framework and a definite position which all those involved in the project hold to in broad terms. Thus,

Ultimately, this dossier seeks to provide an avenue into the serious discussions that must be held regarding copyright and development at the global level. We consistently look at copyright as a western idea being imposed on the global South (p. 10).

The dossier is concerned that not enough consideration has been given to copyright issues in the South, and it seeks to redress this balance. It challenges the notion that copyright can be beneficial to those in the developing world, but that instead:

... a 'one-size fits all' approach is detrimental to many. It is important to recognize that many countries in the global South face poverty so severe that copyright protection is (or should be) far from an important item on their political agendas. Rather, literacy and education, poverty reduction, access to clean water and affordable food, and a variety of other needs are all more important than protecting the TRIPS-established property rights of foreign companies (p. 10).

The following organisations all gave financial support to the project: The Open Society Institute, Budapest, Hungary; HIVOS, The Hague, The Netherlands and The Research Fund of Kent Law School, Canterbury, Kent, UK.

The dossier asks some very important questions (some of which are inserted in a very bold way, on full pages in blue), including: 'Are we really living in an information society when most information has been privatized?' and 'Why is copying called stealing even though the original does not disappear?'

I was particularly interested to see that a consideration of the World Trade Organisation's agreement on ***Trade-Related Aspects of***

Intellectual Property Rights (TRIPS) is included in the report. This is an area that I have examined in some detail in my published works, focusing in particular on the implications of TRIPS for libraries and information (see Rikowski 2003 a-c; 2005 a-c; 2006 a-b). I have also given various talks on the subject. I also place TRIPS within an Open Marxist theoretical perspective, arguing that through TRIPS intellectual property rights are being transformed into international tradable commodities.

The dossier says that:

...TRIPS and its component parts, such as the Berne Convention, have simply reproduced the types of economic inequalities associated with the earliest stages of colonialism and imperialism (p. 8).

Furthermore, that TRIPS:

...is a fascinating story of how intellectual property-oriented industries of the Northern part of the world sought – and have largely obtained – worldwide IP dominance (p.34).

The dossier makes the point that, through TRIPS, intellectual property rights have been "... transformed from an obscure national concern of a handful of governments into a global trade-related issue." (p.36) Furthermore, that whilst it has meant more free trade for the global North, it has brought continued poverty for the global South. Thus,

There is growing national, international and regional resistance to TRIPS and the impact of copyright on cultural services and cultural life with numerous organizations active throughout the global South resisting the expansion of TRIPS (p. 154).

Various agreements and acts that are connected to copyright in different ways are covered in the dossier. This includes a consideration of **Free Trade Agreements (FTAs)**, for example, which are also about further liberalisation of trade and complements many of the World Trade Organisation (WTO) agreements. FTAs are trade agreements between one or two or more states/countries (bilateral agreements or multilateral agreements) rather than between a large number of different countries, as is the case with the WTO.

Consideration is also given to the **Digital Millenium Copyright Act (DMCA)**, which is an element of copyright related free trade agreements. The dossier says that the DMCA:

... can prevent any copying or access to works, even copying that would be completely excused under copyright law as a 'fair use' or 'fair

dealing'. DMCA is unbalanced as it basically provides considerable power to the copyright content provider at the cost of the consumers' access to information, especially with reference to their 'fair use' rights (pp.38-9).

Thus, it seems that the DMCA is even more unfair than other copyright legislation in many respects.

I was very interested to read the sections on **commodification** and **consumerism**. Commodification, in particular, is an area that I have examined in some detail in my various published works – and in particular, in a chapter in the forthcoming book that I am editing on Knowledge Management (Rikowski, 2006a). The report considers why songs are composed and books are written, arguing that there are at least two reasons for this. Firstly, that they express the creative urges of individuals and form part of the common heritage. And secondly, that commodities are produced from these creations, for the purpose of exchange. The dossier argues that copyright laws are concerned with the second reason – i.e. with the commodification process. But surely both aspects are needed in order for global capitalism to flourish in general, and for copyright law to operate effectively in capitalism, in particular. However, the report does then say that these two facets do not in fact conflict, pointing out that:

...we need to appreciate that when intellectual property-based goods pass through the domestic and increasingly global channels of commercial production and distribution, they are stripped of the persona with which they were individualised when they were made. They are retailed merely as capital goods and usually as the property of some corporate or other commercial entity; they are not under the control of a single individual (p.55).

Thus, various works are created by individuals, but are then somehow 'stripped' of the personal, creative element; instead the creative works are transformed into commodities and sold in the market-place. In my published works I argue that what is actually going on here is that value that is created from labour (and largely from intellectual labour in this case) is embedded in the commodity. Profits are derived from this value (value that can only ever be created from labour), thereby ensuring the continued success of global capitalism, whilst labour continues to be exploited, alienated and objectified.

In regard to 'Consumerism', the dossier notes that:

In the current era, the link between consumerism and copyright is becoming ever firmer; as media theorist Herbert Schiller explains, "cultural production, in its basic forms and relations", is becoming

*"increasingly indistinguishable from production in general" (p.56)
(Schiller, 2000, p.62).*

The report also looks at the ***differing traditions of cultural creation in the South***, suggesting that some of this can and does lie outside of the commodification process, and it gives some examples in this regard. The Masai warriors of East Africa, for example, are like the Pathans it says, and they do not seek to commodify knowledge and profit from its ownership. Furthermore, that in Arab tradition since the pre-Islamic period, poetry was usually subject to public competitions and performances without any financial incentives available. The dossier considers various indigenous societies in general and how they need to protect their knowledge, tradition and ceremonies in various ways, and this is another area that I have focused on in some of my published works (see for example, Rikowski, 2005a-b). However, the dossier makes it clear that:

...existing intellectual property regimes, and copyright in particular, reinforces the market power of cultural products owned and packaged by large corporations and, in the process, seriously damages creativity and diversity in production in the Arab world (p.64).

This situation obviously extends to the developing world in general. Furthermore, I would argue that whilst, at the current time, some of this traditional knowledge (TK) might well lie outside of the commodification process, the aims within capitalism will always be to commodify more and more areas of life, and in this regard nothing is sacred in capitalism.

I found it particularly fascinating to read about copyright issues and indigenous populations in regard to the German rock group, 'Enigma', because over the last few years I have very much enjoyed the music of this band. Apparently, Enigma's hit *Return to Innocence*, which sold over 5 million copies world-wide, was not their original work. Instead, it originated from a group of more than 30 indigenous singers from Taiwan, who were invited by the French Ministry of Culture to perform Taiwanese-tribal songs at various concerts across Europe. The French Ministry of Culture liked the songs and recorded them. The dossier explains what subsequently happened, emphasising that under current copyright what transpired was legal "...if morally abhorrent." (p. 66)

The dossier suggests that perhaps what is needed is agreement on how knowledge is used and profits shared, saying that:

If we agree that the problem with intellectual property is that it excludes people, then the goal is to avoid reproducing this type of exclusion. The solution we seek is protection from being excluded. Extending the concept of property rights to group rights does not

make the underlying concept of property any better. The value that should be endorsed consistently across all forms of knowledge is that of non-commodified sharing. It is pernicious to put exchange value over use value and the copyright system puts exchange value over all other values (p.70).

Yes, indeed, we need to look beyond the commodification process – but this is impossible whilst we live in capitalism, I would argue, because the logic of capitalism is the commodification of all that surrounds us (even though this is impossible in reality). To suggest that this might be a possible solution means that one is approaching this topic in rather a simplistic and romantic way, in my view. It is good to see the reference to ‘value’ here though – obviously a Marxist concept, and also to see the difference between exchange value and use value being highlighted so clearly. Certainly, the copyright system gives priority to exchange value. As I also emphasise in my globalisation book (Rikowski, 2005a), TRIPS places trade and the trading of intellectual property rights, above all other considerations, and it is about transforming intellectual property rights into tradable commodities, which are then exchanged in the market-place – i.e. they have an exchange value. The meaning of value, and the different forms and aspects of value (including use value, exchange value, surplus value and added value) are examined in some detail in a chapter in the forthcoming book that I am editing on Knowledge Management (Rikowski, 2006a) and are considered at a more basic level in a chapter in my globalisation book (Rikowski, 2005a).

There is also an interesting section on the ***criminalising of copying and piracy***. It is noted that this has been accompanied by a whole array of private bodies and interest groups that have been created by copyright-holding corporations:

... who have taken it upon themselves to act as both self-appointed police and ‘moral educators’ (p.72).

The dossier says that these groups put fear and guilt into people and:

... parents are told that their children need to be watched, in case they turn into hardened criminals in the privacy of their bedrooms; copiers are dubbed ‘thieves’, and consumers of copied material are accused of helping fund terrorism and organised crime (p.72).

Once again, this is particularly worrying for those people in the developing world that desperately need to be able to photocopy certain material for educational purposes etc. Disabled people can also greatly suffer in this regard.

There is a section (Section 4) about how **copyright laws and various international conventions and agreements block access to and use of all types of copyrighted works for those in the South**. This includes a consideration of the barriers that have been created to access in the South to educational materials, technical information and knowledge created in the North and the cultural, social and political consequences of the one-way flow of copyrighted works such as books and movies from the North to users in the South. It notes the important role of the librarian in this regard, emphasising that:

...attempts to co-opt librarians and information workers in defence of existing copyright regimes should be resisted, at the very least because such a role has the potential to clash with their primary duty to their clients (p.104).

The dossier also looks at **open source, free software and the creative commons**, emphasising that open source and free software enables "...us to rethink our ideas of property rights..." (p.167). Furthermore, that free software:

... constitutes clear and incontestable evidence that the contention that the production of quality software depends on the enforcement of strong copyright, and that innovation depends on patents is wrong. Free Software signs strong copyright away in order to fuel production and innovation and has produced a better product in the process (p.167).

The **power of conglomerates** in general, on a global basis, is emphasised throughout the dossier. In regard to media conglomerates, it says, for example, that they:

...spend large amounts of money and commit significant resources to making sure that the rules and the playing field are designed in such a way as to favour their continued survival and profitability (p. 27).

Meanwhile, it refers to Western cultural conglomerates in the following way:

The main problem is that Western cultural conglomerates are exploiting cultural productions being derived from non-Western cultures while, at the same time, controlling cultural markets all over the world (p.79).

The dossier also makes its views about organisations such as World Intellectual Property Organisation (WIPO) very clear. It wants to see WIPO abolished and replaced with a new organisation.

As more and more activists are beginning to realise, the focus needs to become not on how to take over WIPO – an unlikely scenario indeed – or how to reform it, but rather on how to abolish it and start building a new organisation from the ground up (p.87).

I very much agree with the main arguments presented in the document, and these arguments are supported with a wealth of very useful and important information, but what is unfortunately missing, as far as I am concerned, is a deeper, more theoretical analysis on the whole subject. So, we do not like the copyright regime as it is currently constituted, and those in the South do, indeed, suffer in particular from it. But why is it constituted this way? Why is there all this copyright legislation and directives that benefits the North but not the South? What is needed is a deeper analysis, in order to be able to uncover, explain and understand what is going on here. This takes us on to the need to analyse global capitalism in general, as far as I am concerned, and in order to do this effectively, we need to return to Marx, and adopt a Marxist analysis to the whole topic. Others might want to start from a different theoretical perspective, but adopting a theoretical analysis is necessary if we are really going to start to begin to understand what is going on here, and start to try to change the tide. Hopefully, this is something that can start to be rectified in the near future.

In conclusion, this dossier provides a very thorough and detailed investigation in regard to copyright issues in the South. It is packed with valuable information, and some of these areas have been highlighted in this review article. I very much agree with many of the main points that are being made throughout the dossier, and greatly appreciate all the work that has been undertaken in this regard. However, I also feel very strongly that the work needs to be placed within a theoretical framework, to ensure that its impact is lasting and so that hopefully, we can actually start to change the situation on a permanent basis. This is also necessary in order to ensure that the report is not interpreted by some as just being a 'big moan' (which is a danger that the left often has to face). Undertaking this analysis and starting to change society will take a long time, but we can begin the process. As such, this dossier has provided a very valuable contribution to the literature in this area. Also, as it is free, there are no copyright restrictions on it and it can be distributed widely, this should mean that many different people will have the opportunity to read it, benefit from it, and start to give further consideration to this important topic.

There is a useful Glossary of Copyright Terms and an index at the end of the book.

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