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Introduction

Isaac N. Mazonde

The subject of Intellectual Property Rights (IPRs) and the related theme of indigenous knowledge systems have moved to the centre of academic discourse within the context of innovation and the commercialisation of knowledge. Specifically, wealth is no longer reckoned in terms of physical assets alone. In fact, in the knowledge economy that characterises the twenty-first century, intellectual property, or the product of the mind, have become more important than physical wealth in the form of buildings and other physical assets.

But again the developing world lags behind in taking advantage of the move towards the commercialising intellectual property. The traditional imbalance between the North and the South, which has for long manifested itself mainly through trade, is replicated even in tapping intellectual property given to residents of the developing world remain largely unable to define their intellectual property rights. Again, the West exploits Africa and the rest of the developing world by expropriating indigenous knowledge systems and patenting them in the West.

This imbalance formed the overarching reason for the workshop supported by the London-based international NGO, the World Association for Christian Communication (WACC). The workshop, held from 26 to 28 November 2003, at the University of Botswana, was aimed at offering academics and artists an opportunity to discuss intellectual property rights, laws and practices, and their implications for cultural creativity in Africa. It focussed on many issues, including copyright matters and how these affect Southern Africans and their work. Issues discussed also included the responses by African writers and artists to the increasing privatisation and commodification of creativity and cultural production by corporate business. The discussions were based on the different assumptions people held or still hold about ownership and control of knowledge, ideas and creativity underpinning different attitudes to the copyright debate. Special focus was rightly given to the Indigenous Knowledge Systems (IKS) regime and how it
is affected by the apparent approaches involving the commercialisation of community knowledge and outputs. A major outcome of the workshop was to raise awareness of the complexities of Intellectual Property Rights (IPR) in IKS contexts and to get artists, scholars and others, to think about how they can stop the IP exploitation they are subjected to by the West.

The papers included in this volume present a snapshot of IKS issues in the Southern, thereby providing the reader with a broad perspective of the problem, as well as providing a wider array of suggestions on the way to combat it. For example, some papers present the problems that are inherent in attempting to formulate intellectual property legislation over communally held resources in the public domain where plants with potential commercial value exist. Other papers focus upon equally indivisible properties such as traditional music that is associated with a tribe and not an individual. The point here is that the West has succeeded in patenting these aspects of the African heritage, and has then claimed intellectual property rights over them, at the expense of the owners of these assets.

While Information Technology (IT) has greatly enhanced communication across the world, and has made a clear contribution to development and the quality of human life, it has impacted rather negatively on copyright issues. The use of the Internet has resulted in copyright being infringed upon. This subject is taken up at some length in this volume. Fortunately, a way out of the problem has also been proposed.

What makes the volume invaluable is the way problems are raised and then solutions proposed. This approach makes this volume a major resource for scholars, practitioners and others working in the areas of intellectual property rights and indigenous knowledge systems.

Although the papers that appear in this volume generally indicate that southern Africa is still way behind in terms of putting in place a structure for harnessing intellectual property for its people and environment, the workshop itself had an impact on national legislation in Botswana. As a consequence of this workshop, the Botswana government has used the material to produce a chapter on indigenous knowledge in its revised intellectual property legislation that was enacted in 2005. This is indicative of the fact that this book forms a watershed in southern Africa’s initiatives towards commercialising intellectual property, and especially in creating a firm and viable basis for driving locally-based innovation that has a potential for expanding the region’s economy.

Finally, I must recognise the role played by Professor Francis Nyamnjoh, who initiated the workshop, and wrote the concept paper that Successfully became the basis for WACC support for this workshop. that is the basis of this book.