

Book review

International Copyright and Access to Knowledge, Sarah Bannerman, Cambridge University Press*

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How the Access to Knowledge (A2K) movement has historically worked within the framework of international law is the main focus of this work. Over 10 chapters, Sara Bannerman is able to give a context for international copyright/intellectual property law to show how the rights of so-called 'developing countries' have been largely ignored over the course of the entire history of this area of international law. The scope of the work is narrow and easily comprehensible to the neophyte, but also beneficial to those looking for a historical context to the global intellectual property mechanism's disinterest in change. Essentially, the work covers all the ground in this area of international copyright law and A2K. Bannerman takes the reader on a topic-by-topic journey of discovery as she charts her way through this history.

The book is separated into three parts: 'Ideas', 'Interests' and 'Institutions'. A brief examination of each of these sections will be conducted in turn. Ideas refer to the 'sources of knowledge', as Bannerman puts it.² The 'Interests' section discusses groups involved in and/or with the legal institutions surrounding international copyright. The last section, 'Institutions', takes a brief look at the history of international copyright institutions themselves and how they are situated today alongside other international law institutions.

Part one is separated into five chapters. The first (chapter 2) lays the groundwork of the rest of the section on 'Ideas'. The latter four (chapters 3–6) each discuss access to knowledge, but also access to information, in four different areas. Each of these starts with an anecdote about that specific area of access to knowledge. In this way, the reader has an example in mind of what the author then discusses. The choice of anecdotes appears to also reveal her opinion on these matters, or why she finds these topics interesting. In fact, by the end of the text, it becomes apparent that all of these chapters with their anecdotes corroborate her view that these international institutions do not satisfy the needs of access to knowledge in the world.

The first (3) discusses access to scientific knowledge. It is introduced with the story of Aaron Swartz who broke into a network closet at Massachusetts Institute of

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2 Bannerman 10.

Technology, where he began to download a massive amount of articles from JSTOR to his own laptop, presumably to share them with the world as open access files. This example is used to introduce a discussion on the deficiencies of access to academic knowledge in ‘developing’ countries, especially when it comes to academic information about the sciences. The author then summarises the history of the various international agreements that we encounter in the remainder of the book: the Berne Convention, the Universal Copyright Convention, the failed Stockholm Protocol, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and the World Intellectual Property Organization (WIPO) Copyright Treaty. She finds an A2K hero in Louis-Joseph Janvier, a delegate from Haiti who attended all the meetings of the Berne Convention in 1886 and returned in 1896 for the revision of that document.³ However heroic this delegate from a small country, it is noteworthy that the interests of small or developing countries (i.e. not the ‘Western powers’) have rarely been well represented or advocated for in the history of these agreements. Bannerman also notes the dismal state of affairs for A2K in developing countries that continues today. She even cites an A2K problem in a ‘developed’ country where a medical student was unable to access a scientific article written by a member of the faculty at the university in which he was studying.⁴

Chapters 4, 5, and 6 continue in the same vein. Chapter 4 explores access to education, libraries, and traditional knowledge. Framed by a quote from Malala Yousafzai, the Nobel Peace Prize-winning advocate for girls’ education, the chapter details the obvious global problem of access to education, focusing on different levels of access, from girls from Malala’s Pakistan, to educational materials in schools and universities around the world. A lot of the discussion boils down to how payment will be offered to creators and publishers of educational materials. The rights of open access to copy or use quotations from educational works are also discussed.

Chapter 5 provides a succinct account of access to news. Memorably, an interesting question is raised: is there copyright in news? The answer is that some pieces of information may be used openly, but others cannot. The history of how much (i.e. the length in words or lines) of an extract from a news source can be quoted has been discussed in the formation and amendments of the aforementioned international treaties. The rights of modest-size news providers in smaller countries with local languages are considered, as well as a potential monopoly of information by platforms like Google or major news sources like the Associated Press and the post-imperialist Reuters.

The ‘Ideas’ section is wrapped up with a discussion of ‘access to translation’ in chapter 6. Here, another great struggle in the history of these international treaties is described and former and currently colonised nations are examined in great detail. As regards the nature of these countries, the author discusses the receipt of works and information into a translated language from their major coloniser ‘educated’ countries. In this context, the author goes on to discuss the dominance of those languages of the more powerful, ‘developed’ nations. The state of translation copyrights, after a history of the discussion on fine points of law by international bodies, has still left English as a major source language, with 49 per cent of translations worldwide. However, despite the continuing dominance of the Western imperialist states, the WIPO does operate with the majority of speakers of different languages in mind. However, in Bannerman’s view, that

3 Ibid 36, for more detail.

4 Ibid 47–8. The example comes from Tim Anderson, *6 Reasons Open Access Matters to the Medical Community* (The Right to Research Coalition 2011).

does not mean that international legislation created by WIPO favours individuals within countries with more limited access to knowledge.

The second part of the book is concerned with 'Interests' of nations, organisations and groups involved in access to knowledge and the international framework for making changes to international copyright. Chapter 7 looks at 'the role and inclusion of developing countries in international copyright'. This chapter, in essence, reiterates much of the information already covered in previous chapters, but it observes how developing countries have in the past, and also currently, played a role in governing international copyright to benefit themselves. Of interest, the chapter speaks about the WIPO's development agenda. Bannerman sees the positive aspect of this agenda, which 'has caused WIPO to engage more fully with questions of development'.⁵ However, she laments that this development agenda only receives about 4 per cent of the annual budget of WIPO. Also, to Bannerman, WIPO is not as experienced in engaging development in the way the UN is, and can thus fail developing nations.

Continuing on with the section on 'Interests', chapters 8 and 9 discuss NGOs and the role of indigenous peoples, respectively. Of NGOs, Bannerman notes that WIPO welcomes a different class of organisations under the NGO umbrella than do other supranational legal bodies do. At WIPO, the term NGO 'applies to any organization that is independent from government, including private sector organizations'.⁶ For her, this is a two-edged sword, one side favouring her argument, the other not. On the one hand, this means that certain groups may be able to come in and advocate for developing nations, including groups that further A2K. However, the counter argument is that powerful corporations may end up having a lot of influence in decision-making.⁷ One particular high point for the influence of NGOs and A2K was with the formation of the Marrakesh Treaty that enforces benefits to people with disabilities such as blindness. Besides that treaty, Bannerman feels underwhelmed by WIPO's incorporation of NGOs in favour of A2K, including the rejection of the Pirate Party as an observer at WIPO.

In the last part of the 'Interests' section the role of indigenous peoples is also discussed. In this chapter (9), the overall conclusion of the work begins to emerge. The role of indigenous peoples in international copyright could almost be seen to encapsulate the position of minority or developing country opinions in world copyright discussions: they have often been left out, and even today do not receive enough attention. Even though indigenous peoples have alternative views of property rights, the main world powers ignore them. However, as more attention is garnered by these 'minority' voices, A2K progresses. Bannerman here quotes Anthony Taubman, who says: 'Ideas, concepts and concerns that were perhaps considered tangential or barely relevant to the IP system a little more than a decade ago are now central to work being done by . . . WIPO . . . and the WTO'.⁸

All of what has been said by Bannerman up to this point in the book is next put into a wider context as regards the institutions that govern international copyright. Thus, in chapter 10, the only chapter on the 'Institutions' topic (though, these international institutions have been mentioned in previous chapters), she wraps up this volume by

5 Bannerman 153.

6 Ibid 166.

7 Some names, for example, Proctor & Gamble are noted: ibid 211.

8 Ibid 196, citing, A Taubman, 'Preface: Indigenous Innovation: New Dialogues, New Pathways' in Peter Drahos and Susy Frankel (eds), *Indigenous Peoples' Innovation Intellectual Property Pathways to Development* (Australian National University Press 2012) xvi.

describing some of the powers of the institutions. Much of this chapter is devoted to a post-colonial examination of signatories to treaties like the Berne Convention. Significantly, she notes mechanisms surrounding these treaties that have essentially been grandfathered in countries that broke away from imperialist states (like Tunisia and Morocco which had little choice but to adopt decisions of the French delegate), but had decisions made and treaties signed for them while under colonial rule. Alongside that, she also notes the obstacles to leaving these treaties which means that such nations, with very little influence, are bound by and locked into them with an extremely difficult route to either escape them or change their position in relation to them. Although some countries have been able to avoid being part of the international treaties that would otherwise not benefit them, it seems Bannerman still prefers strong international law that benefits all nations, but especially those developing nations.

Ultimately, the book acts an excellent reference for those interested in the struggles and achievements of international copyright law and A2K in general. It is a perfect starting point for individuals wishing to research more heavily into this topic. What it does not do is explicitly express alternative modes of international law that better accommodate 'developing' nations. Instead, it merely calls for the potential destruction of the institutions discussed in this volume if they cannot accommodate to a higher priority the principles of A2K. In this way, the reader is left wondering where to go next. What would be the next coherent step in reforming these treaties or is starting over the better option? Such researchers have an opportunity to use this work as a springboard for potential constructive solutions that are not covered here. However, the work is satisfying overall as the topic is discussed at length in what appears to be a most comprehensive fashion.