



The World Intellectual Property Organization and the sustainable development agenda



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ABSTRACT

The UN's Agenda for Sustainable Development is being taken up throughout the international system, including at the World Intellectual Property Organization (WIPO). This article examines WIPO's approach to the sustainable development agenda in light of its past approaches to development. In the first part of this article, I outline some of the longstanding major critiques of the discourse of sustainability, noting that these critiques anticipated the current lamentable status of a sustainable development agenda for WIPO. Next, I discuss the history of development agendas at WIPO in the context of WIPO's history and role at the centre of the global intellectual property system. I then ask what role intellectual property has to play in the SDGs. I conclude by suggesting that an adequate agenda for sustainable development is unlikely to be developed at WIPO and must, rather, come from outside.

1. Introduction

Intellectual property plays an important role in relation to many of the sustainable development goals (SDGs), including those related to food and agriculture, health, innovation, climate change, biodiversity, and technology transfer (New, 2015). The intellectual property system (the set of domestic and international laws and institutions that regulate intellectual property), as currently constituted, may sometimes work counterproductively to achievement of “development” by locking up agricultural innovation, inflating drug prices, stalling follow-on innovation, rewarding the invention and sale of polluting technologies, reducing biodiversity, and preventing technology transfer (World Intellectual Property Organization, 2006, para. 52). A sustainable development agenda, it has been argued, would help to ensure that the international intellectual property (IP) system contributed to a just and sustainable future. But will it?

An agenda of international development was been embraced by international institutions such as the UN, the World Bank, the International Monetary Fund (IMF) and even the World Intellectual Property Organization (WIPO) since 1950s and prior (Escobar, 1995, pp. 3–5). Agendas of international development have since been adopted in various iterations; in September 2000, the UN's Millennium Declaration laid out eight Millennium Development Goals (MDGs) with targets and deadlines to reduce global poverty by 2015 (United Nations, n.d.). The United Nation (UN)'s sustainable development goals (SDGs), adopted in 2015, are intended to carry forward the UN's development agenda past the 2015 target set for the completion of the MDGs. The SDGs offer a revised vision of development for the UN that places expanded emphasis on environmental sustainability, while also adding a new focus on economic growth, industry, and institutions.

Many view the UN's sustainable development agenda as ripe for foresight research (Glover, Hernandez, & Rhydderch, 2016;

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Kuribayashi, Hayashi, & Akaike, 2018; Tully, 2016). However, Futures Studies has remained more skeptical of the vision and discourse of sustainability in which the sustainable development agenda is rooted. In this article, I argue that such skepticism is warranted, drawing on Escobar's critique of the discourse of sustainability first published in this journal. Foresight research has been used in the field of intellectual property (Elahi et al., 2014; Ramos, Mansfield, & Priday, 2012), as have other forms of futures research (Cubitt, Hassan, & Volkmer, 2010; De Beer, Mogyoros, & Stidwill, 2014). The future of the WIPO development agenda, a predecessor of the current sustainable development agenda, has been examined using foresight research (De Beer & Bannerman, 2010). I argue that a more critical examination of the WIPO sustainable development agenda—one that has been foregrounded in research published in the *Futures* journal—is needed (Cubitt et al., 2010; Escobar, 1996; Sardar, 2010). Visions of the future, and agendas that would map the future out, are rooted in the past (Sardar, 2010). Therefore, this article examines WIPO's approach to the sustainable development agenda in light of its past approaches to development and in light of past critiques of the discourse of sustainable development (Escobar, 1996).

The international intellectual property system consists of those international institutions that, first, set minimum standards for national intellectual property laws and, second, operate an international bureaucracy supporting the international operation and enforcement of intellectual property laws. It consists primarily of the World Trade Organization, WIPO, and other bilateral and plurilateral agreements that encompass intellectual property norms.

In an ideal world, a sustainable development agenda for the international intellectual property system would include a “universal call to action” to ensure that the international intellectual property system contributes to ending poverty, protecting the planet, and ensuring “that all people enjoy peace and prosperity” (United Nations Development Program, 2016). This agenda would include a plan under which the global intellectual property system would protect the planet, providing clear goals and targets for its contributions. In the field of patent law, the sustainable development agenda would be measured by rising patent registrations for green technologies as a proportion of all patent registrations, and rising open, affordable, or compulsory licencing of green technologies. In the field of copyright, the success of the agenda would be measured against the rising production and broadening dissemination of information and knowledge dealing with green and sustainable themes, rising open licencing and affordable access to those materials, and the availability of copyright works in sustainable formats. In the field of trademarks, it would be measured in rising numbers of trademark registrations and renewals by certified green organizations, and reduced trademark registrations and renewals by big CO2 emitters. The agenda would measure rising royalties flowing to Indigenous peoples, growing numbers of benefit-sharing agreements, and the broadening political salience and authority of Indigenous peoples within WIPO and beyond.

Under this agenda, the intellectual property system would contribute to ending poverty by ensuring that the proceeds of intellectual property are distributed widely across boundaries of class, gender, and racialization. It would include equality targets for equalizing the flow of royalties and access to knowledge across boundaries of class, gender, and racialization. It would track the sustainability of culture and cultural practices.

Early moves towards a sustainable development agenda for WIPO, discussed in section four below, point to an agenda that looks nothing like this. The sustainable development efforts emerging at WIPO are, in fact, the exact opposite: they do not embrace change, but instead use the UN Sustainable Development Agenda to justify existing long-standing practices which are tethered to global environmental degradation. What's more, this was entirely predictable.

1.1. Outline

In the next part of this article, I outline some of the longstanding major critiques of the discourse of sustainability—critiques that anticipated the current lamentable status of the sustainable development agenda for WIPO. Next, in part three, I discuss the history of development agendas at WIPO in the context of WIPO's history and role at the centre of the global intellectual property system. In part four, I ask what role intellectual property has to play in the SDGs. I conclude by suggesting that an adequate agenda for sustainable development is unlikely to be developed at WIPO and must, rather, come from outside.

2. Sustainable development: a critique

“Sustainable development” is the idea that economic growth should be pursued in a manner that takes on broad environmental and social concerns, using environmental and social resources in ways that are sustainable. The problem of how to pursue growth and environmental sustainability has received attention within the UN system since the *United Nations Scientific Conference on Conservation and Utilization of National Resources* in 1949. The goal of sustainable development was elaborated into 26 principles during the 1972 *United Nations Conference on the Human Environment* in Stockholm, which called on “governments and peoples to exert common efforts for the preservation and improvement of the human environment.” The 1992 *United Nations Conference on Environment and Development (UNCED)*, or the Earth Summit, further entrenched the goal of sustainable development within the UN system (Waters, 2008).

Critics of the sustainable development agenda, and sustainability discourse in general, have for years predicted that sustainability discourse would become, under the current global order, merely an instrument for the legitimization of continued environmental degradation and economic and social inequality. These critics call on us to ask whether sustainable development is, in fact, a productive discourse. Will it help to animate a global intellectual property system that is more equitable and just?

Supporters of the Sustainable Development Agenda laud its much-needed emphasis on environmental sustainability (Radtke, 2015; “Worthy of support”, 2015). Detractors, however, see the discourse of sustainability as an ideology that promotes a number of false ideas. First, such a discourse suggests that capitalism and economic growth are compatible with sustainability. “[T]he

sustainable development discourse,” Escobar notes, “purports to reconcile two old enemies—economic growth and the preservation of the environment—without significant adjustments to the market system” (Escobar, 1996, p. 328). The discourse of sustainability is:

intended to create the impression that only minor corrections to the market system are needed to launch an era of environmentally sound development, hiding the fact that the economic framework itself cannot hope to accommodate environmental concerns without substantial reform. The sustainable development strategy, after all, focuses not so much on the negative consequences of economic growth on the environment, as on the effects of environmental degradation on growth and the potential for growth. It is growth (*i.e.* capitalist market expansion), and not the environment, that has to be sustained. (Escobar, 1996, p. 330)

Second, the discourse of sustainability suggests that we live in a world that can be planned, managed, and measured effectively—and that industry and existing international institutions are capable of, or have an interest in, instituting sustainable modes of development. Escobar notes, “The notion that nature and the Earth can be “managed” is an historically novel one. Like the earlier scientific management of labor, the management of nature entails its capitalization, its treatment as commodity. [...] In the sustainable development discourse, nature is reinvented as environment so that capital, not nature and culture, may be sustained” (Escobar, 1996, p. 328).

Critics argue that the discourse of sustainability buttresses these false ideas while legitimizing and preserving a fundamentally unbalanced international system. “Sustainability” articulates a web of discourse, a set of relationships, and a mode of production that does not fundamentally challenge existing relationships with each other, or with nature—relationships that are not sustainable.

Beyond discourse, and on a material-epistemic level, the *Agenda for Sustainable Development* constructs the UN as a centre of calculation (United Nations, 2015). Centres of calculation are, according to Bruno Latour, places where knowledge is accumulated and where models and measurements are constructed and globalized (Braithwaite & Drahos, 2000, p. 482; Jöns, 2011; Latour, 1984, 2003). They are often located at centres of governance or empire (Jöns, 2011). Those at the centres of calculation often feel they possess ‘a right and entitlement to “know the Other,” and to access marginalized populations for [their] research’ (Brown & Strega, 2015, p. 4). They control knowledge and power, perhaps most fundamentally, by situating some as knowledge producers, and others as objects of knowledge (Brown & Strega, 2015, p. 5), producing a purported God’s eye view of the world (Haraway, 1988). By so doing, they “re/produce the world as seen by those who rule it” (Escobar, 1996, p. 64). As Michael Barnett and Martha Finnemore have observed, international organizations act as the “missionaries’ of our time, [a]rmed with a notion of progress, an idea of how to create the better life, and some understanding of the conversion process” (Barnett & Finnemore, 1999, p. 699). As Jöns notes, centres of calculation have “contributed to the marginalization of [non-Europeans] and their knowledges as ‘other’, subordinate and less ‘enlightened’” (Jöns, 2011, p. 160). Through the *Agenda for Sustainable Development*, the UN is extended as a place where power accumulates by virtue of the UN’s role in setting goals, measuring them, in producing categories, hierarchies, and asymmetric power geographies (Brown & Strega, 2015, p. 4). What is to say that the *Agenda for Sustainable Development* is any different?

3. Development and Intellectual Property

The mantra of ‘development’ has been taken up throughout the international intellectual property system, particularly at WIPO. While the World Trade Organization has addressed issues of development in several ways, WIPO’s efforts to establish an approach to intellectual property and development have a longer history and a broader scope.

WIPO and the World Trade Organization have often emphasized the role of strong intellectual property laws in promoting economic development, particularly through encouraging foreign direct investment (Gervais, 2014; Idris, 2014; Maskus & Fink, 2005; Yu, 2016). The role of intellectual property in economic and social development has, at the same time, been the subject of much dispute (Baker, Jayadev, & Stiglitz, 2017; Chon, 2005; Henry & Stiglitz, 2010). Baker et al. note:

it has become increasingly clear that the intellectual property provisions of the WTO are not well-aligned with the needs of developing countries and that they serve corporate interests in developed countries disproportionately. These conflicts become more pronounced over time. For example, in the case of extending patent protection to global pharmaceutical companies at the expense of the health of the poor, or extending copyright for books well past the time needed to compensate the author, thereby limiting access to books and educational materials in developing countries. (Baker et al., 2017, p. 7)

In the case of the World Trade Organization, the preamble of the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (the *TRIPs Agreement*) suggests that intellectual property serves developmental objectives, recognizing “the underlying public policy objectives of national systems for the protection of intellectual property, including developmental and technological objectives.” At the same time, it recognizes that member states may “adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development” (Article 8) (Chon, 2005, p. 2834). Although development is recognized as an objective under the *TRIPs Agreement*, a larger part of the focus on development in the international intellectual property system has fallen to WIPO, which has a longer history and a greater role in advising and providing technical assistance to developing countries (Bannerman, 2012, p. 7; Helfer, 2004, p. 25).

WIPO has functioned at the core of the international intellectual property system since the late nineteenth century when its institutional predecessor, the United International Bureaux for the Protection of Intellectual Property (*BIRPI*) was established. BIRPI, and now WIPO, housed the intellectual property conventions that still form the foundation stones of the global intellectual property system—foundation stones upon which virtually all current international intellectual property instruments are built, including the *TRIPs Agreement*. Now with 192 member states, WIPO acts as secretariat to numerous core intellectual property conventions, and as a policy forum for multilateral intellectual property reform. It provides services and infrastructure at the core of the international

intellectual property system.

A formal development agenda for WIPO was proposed in 2004 by the governments of Argentina and Brazil, which saw WIPO as falling short in its contributions to international development and to the overall goals of the UN system, in light of its status as a UN agency ([World Intellectual Property Organization & United Nations, 1974](#)). A Development Agenda for WIPO, agreed by member states, was formally established in 2007. It connected loosely to the UN's MDGs, stating simply that "WIPO's norm-setting activities should be supportive of the development goals agreed within the United Nations system, including those contained in the Millennium Declaration" ([World Intellectual Property Organization, 2007](#)).

While it was WIPO's first formal and explicit Development Agenda, this was not WIPO's first foray into development. WIPO and its predecessors have adopted various "development agendas" in the past, being themselves part of the nineteenth-century "development" of international law and institutions, to a new "development agenda" that emerged when newly independent countries began to join international organizations in the 1950s and 60s. At that point, the international intellectual property system was faced with demands for exceptions and changes to the international patent regime to facilitate access to technologies, and exceptions to the international copyright regime to facilitate access to copyright works, in developing countries ([May, 2007](#), p. 22). These new concerns changed what "development" meant inside the international intellectual property regime.

My own past research in copyright shows that a broad "development agenda" originally dominated the international copyright system. In the 1880s, when the international copyright system was established, the word "development" was used in BIRPI meetings in reference to the creation and perfection of intellectual property rights in and of themselves. Second, in the 1880s, "development" meant the generation of international law and institutions, as well as national intellectual property laws and institutions. Third, in the case of copyright, "development" involved fostering literature, the arts and culture ([Bannerman, 2016](#), Chapter 2).

Eventually, the "development agenda" of international copyright deepened, and narrowed ([Bannerman, 2016](#)). As a result of decolonization and the rising concern of international organizations with postwar reconstruction and development, concern with development became more central in international institutions ([Escobar, 1995](#)). WIPO joined the UN system in 1974, and this meant grafting concepts of development from the UN system onto WIPO. The agreement to join the UN mentions several development priorities, including the promotion of technology transfer "to accelerate economic, social and cultural development" ([Bosch, 1992](#); [World Intellectual Property Organization & United Nations, 1974](#)). The UN discourse of development, when transplanted onto the intellectual property system, was accompanied by a shift to a near-unitary emphasis on economic development, and by the relative erasure of concepts of development that had previously competed in the discursive ecosystem of international intellectual property ([Bannerman, 2016](#); [Escobar, 1995](#)). This shift to economic measures has been noted not just in relation to copyright or the World Trade Organization, but throughout the intellectual property system ([Chon, 2005](#)).

The dominance of economic measures of development, when used to the exclusion of broader concepts of development and social welfare, can, as Chon notes, "have brutal consequences" ([Chon, 2005](#), p. 2831). This narrowing of WIPO's "development agenda" came with significant ramifications. An exclusive focus on economic development, as seen in the neoliberal free trade paradigm under which the World Trade Organization was founded in 1995, shifted the focus of policymaking away from the distributional consequences of intellectual property policies in ways that, on a global scale, have been catastrophic, restricting access to medicine and patented technologies ([Chon, 2005](#)).

3.1. Centre of calculation

Throughout its history, since the founding of WIPO in 1970 and its establishment as a UN organization in 1974, WIPO has situated itself at the core of the UN as a centre of calculation, enthusiastically taking up the mantra of development. This history, as we have seen, began earlier, with the establishment of WIPO's predecessor, the United International Bureaux for the Protection of Intellectual Property (BIRPI) in 1893. BIRPI began the work of constructing itself as a centre of calculation—the global centre of knowledge about intellectual property once it was established in 1893. BIRPI gathered statements and proposals relevant to international intellectual property issued by international societies, established newsletters that circulated news about intellectual property law in each of its member (and many non-member) countries, and it computed and disseminated statistics related to international intellectual property in member states ([United International Bureaux for the Protection of Intellectual Property, 1887](#)). Expert and standing committees were formed; an international database of intellectual property laws was established, along with a website, fact-finding missions, and innumerable international studies of comparative intellectual property law. As a centre of calculation, WIPO produces trademark and patent classification systems and statistics, comparative charts and studies of intellectual property systems around the world, patent landscapes, maps charting intellectual property statistics, maps indicating the contracting parties to its various conventions, maps indicating World Intellectual Property Day events, and databases that map out its technical assistance programmes. WIPO has grown not just as a centre of calculation, but also a centre of surveillance, giving states and the private sector, as well as (to a more limited extent) Indigenous peoples and other civil society groups, the ability to monitor all the remote parts of the international intellectual property system.

In 2004, a development agenda for WIPO was originally proposed by developing countries as a front-on challenge of WIPO's "lip service" to development—a challenge arising from the perception that, at WIPO, "development meant increasing a developing country's capacity to provide protection to the overwhelmingly developed country owners of IP rights" ([World Intellectual Property Organization, 2004a, 2004b](#), para. 201). In it, developing countries called for recognition that such protection had costs as well as benefits for developing countries, and demanded that the "costs [of the intellectual property system to developing countries] should not outweigh the benefits" ([World Intellectual Property Organization, 2004a, 2004b](#), p. 1). Developing countries demanded, and arguably won, a more central role for development at WIPO.

However, the Development Agenda, as formally established in 2007, ultimately expanded WIPO's functions as a centre of calculation without necessarily shifting the overall dynamic or benefits of the international intellectual property system. The formal Development Agenda for WIPO has requisitioned studies, databases, and monitoring systems relating, directly or indirectly, to the Development Agenda itself, centralizing these studies and calculations at WIPO. The Development Agenda reproduces core-periphery knowledge relations, situating WIPO and developing country intellectual property offices, which are increasingly integrated into the core international system of intellectual property administration (Drahoš, 2008) as producers of knowledge, while situating developing country populations as targets of education and as objects of study and governance.

4. The World Intellectual Property Organization and the sustainable development goals

When Argentina and Brazil proposed a development agenda for WIPO in 2004, their proposal called on WIPO to broaden from its focus on intellectual property as a tool for economic "development"—to return to a broader concept of development that encompassed not just economic growth, but that also considered the social, cultural, and distributional consequences of the international intellectual property system (World Intellectual Property Organization, 2004b). Might a sustainable development agenda for WIPO, and the international intellectual property system as a whole, accomplish this goal?

A sustainable development agenda for WIPO would surely encompass a broader understanding of development. The establishment of the UN's SDGs in 2015 as part of the 2030 Agenda for Sustainable Development (United Nations, 2015) is, in some respects, an effort, like the prior MDGs, to broaden the discourse and mandate of development beyond purely economic measures. Only three of the seventeen SDGs deal directly with economic or industrial development; others focus on education (4), gender equality (5), inequality (11), and peace and justice (16), among others.¹

The Agenda for Sustainable Development provides little guidance for how the international intellectual property system should take on board these goals. There is almost no reference to intellectual property in the SDGs themselves. Further, while the *Global Indicator Framework for the Sustainable Development Goals* sets specific targets for every SDG, enrolling UN organizations from the International Labour Organization to the World Health Organization in the implementation and measurement of the SDGs, there are no SDG indicators related to intellectual property—perhaps because of the ambiguous relationship between intellectual property and many SDGs—particularly health, education, and food security (United Nations, 2019).

WIPO's approach to development has shown few signs of broadening to match the larger mandate of sustainable development. In assessing its own potential and actual contributions to the SDGs, WIPO views its role primarily as relating to SDG9: Industry, Innovation and Infrastructure, and specifically to fostering innovation, declaring, "Innovation is at the heart of WIPO's mission. SDG 9 is the most central to WIPO's mandate" (World Intellectual Property Organization, 2018, p. 2). In 2019, it noted:

Of all the SDGs, Goal 9 is most closely aligned with WIPO's mission, which is to lead the development of a balanced and effective international intellectual property (IP) system that enables innovation and creativity for the benefit of all. *Innovation is also essential in achieving* SDG 2 (zero hunger), SDG 3 (good health and wellbeing), SDG 6 (clean water and sanitation), SDG 7 (affordable and clean energy), SDG 8 (decent work and economic growth), SDG 11 (sustainable cities and communities), and SDG 13 (climate change). In a wider policy setting, innovation can also assist in achieving SDG 1 (no poverty), SDG 8 (decent work and economic growth), SDG 14 (life below water), and SDG 15 (life on land). Other SDGs are also achievable *within an innovation policy framework*, notably SDG 5 (gender equality), SDG 8 (decent work and economic growth), SDG 10 (reduced inequalities), and SDG 12 (responsible consumption and production). (World Intellectual Property Organization, 2019, p. 2 emphasis added)

WIPO has viewed surprisingly few of its activities as contributing *directly* to the SDGs that relate to education, hunger, protecting biodiversity, combating climate change, or ensuring human health (World Intellectual Property Organization, 2016a, 2016b). While retaining SDG9 as its central goal, it suggests that its role in forwarding other SDGs is *via* its role in promoting innovation. For example, it promotes SDG6, Clean Water and Sanitation, and SDG 3, Good Health and Well Being, by promoting intellectual property's connection to innovation in water desalination or vaccine production (World Intellectual Property Organization, 2018, p. 7).

Intellectual property is, theoretically, centrally linked to fostering innovation and industry. Some have raised doubts about the effectiveness of intellectual property in fostering innovation, noting that intellectual property can equally lock up innovation, preventing follow-on innovation (Boldrin & Levine, 2010). However, there is no doubt that, in policy discourse, a central goal of intellectual property is to foster innovation.

Intellectual property has been called a tool for reducing poverty (SDG goal 1) (Idris, 2014). On the other hand, ill-designed intellectual property policies have been criticized for exacerbating poverty and failing to reduce inequality (Goal 10); instead, as critics note, intellectual property institutions can produce or re-produce the inequalities between rich and poor countries through a system that transfers royalties from poorer countries to the rich (May, 2015, p. 169; Story, 2012).

Intellectual property, whether in its current form or with recommended reforms, has an important role to play in combatting hunger, food security, and the global food system (Goal 2)(Blakeney, 2009; Oguamanam, 2006; Rajotte & Tansey, 2008; Tansey, 2002). Intellectual property can impede free access to, or the ability to reuse and exchange, patented seeds; can incentivize (or fail to incentivize, or even block) research on agricultural productivity and nutritional innovation; and can foster innovation in, fail to foster innovation in, or raise the prices of, agricultural technologies (Rajotte & Tansey, 2008, p. 165).

¹ Goal 8 deals with economic growth, 1 with poverty, and 9 with infrastructure and industrialization.

Intellectual property also has a central role in the international pharmaceutical and medical systems. Intellectual property can foster, or stand in the way of, good health and well-being through patents on innovative medicines and medical products that encourage (or lock up) research and development (Goal 3) (Abbott, 2002).

Copyright is fundamentally linked to the goal of education—of encouraging the production and dissemination of educational materials and works of the mind (Goal 4) (Chon, 2006). Copyright law can make educational materials inaccessible, particularly in developing countries (Chon, 2006). Here, free and open access to copyright works, as well as compulsory licences, have been suggested as solutions (Chan, Kirsop, & Arunachalam, 2011; Willinsky, 2006).

Intellectual property, or its reform, also has a role to play in combatting climate change (Goal 13) and fostering sustainable environments, consumption, and production through patenting or the open sharing of patented green or sustainable technologies (Goals 6, 7, 11, 12, 13, 14 and 15) (Henry & Stiglitz, 2010; Rimmer, 2011, 2014).

Even gender equality (Goal 5) could be served by intellectual property laws, or their reform, in ways that would more justly recognize women, and ensure women's access to copyright works and the fruits of innovation (Bartow, 2006; Greene, 2007; Halbert, 2006). It has been observed that “no more than 15 % of all inventors and that at the current rate it will take another 140 years for women to obtain parity with their male inventor counterparts” and that “only 30.5 % of international patent applications filed under the Patent Cooperation Treaty include a female inventor” (Michelle K. Lee and WIPO data as cited in Rimmer, 2018, p. 18). WIPO has recognized that “more work is needed to ensure that both men and women can equally access and use the IP system and profit fully from their creative and innovative assets” (“Gender Equality and Intellectual Property,” n.d.). Anne Bartow, on the other hand, emphasizes the ways in which women benefit from lower levels of copyright, such as when fair use exceptions to copyright allow women to create alternative cultural works outside of the mainstream cultural industries that reinforce patriarchy and sexist stereotypes about women (Bartow, 2006).

Intellectual property could also be centrally linked to goal 8: Decent Work and Economic Growth, seen as a “power tool for economic growth” and an instrument for fostering well-paying white collar jobs. At the same time, intellectual property law grants rights to employers rather than employees (Fisk, 2009). Intellectual property affects labour mobility (whether intellectual property central to one job or employer can be ported to another), and has contributed to the growth of platform economies and the rise of the gig economy, with profound implications for employment and labour relations (Bannerman & Orasch, 2019, p. 61; Srnicek, 2017)

As a set of national and international legal institutions, the intellectual property systems also, theoretically, serves goal 16: Peace, Justice and Strong Institutions (emphasis added) by establishing and expanding a system of international law. At the same time, the global intellectual property system is also viewed as an “ideology. . . exported to the South” – a system that, while appearing just, hides the inequalities and injustices that it actually perpetuates (Drahos, 2016; Story, 2017).

Although there are broad connections between intellectual property and the SDGs (see generally Rimmer, 2018), WIPO narrowly interprets its role in achieving the SDGs primarily in terms of its contributions to SDG 9: “Industry, Innovation, and Infrastructure,” and specifically to the goal of fostering innovation (World Intellectual Property Organization, 2018, p. 2). WIPO brands itself as an organization that promotes innovation, not intellectual property, sidestepping the obvious problem that intellectual property can contribute, but can also detract, from achieving many of the SDGs (see Discussion papers on the theme of the high-level political forum on sustainable development, submitted by major groups & other stakeholders, 2017, pp. 3, 18). Instead of addressing the clear fact that intellectual property can produce “benefits as well as costs,” in evaluating its contribution to the SDGs, WIPO labels all of its major activities in promoting and extending the intellectual property system worldwide as, by virtue of the purported (and disputed) role of intellectual property in fostering innovation, contributing to sustainable development (Boldrin & Levine, 2010; World Intellectual Property Organization, 2004b, 2018).

The international intellectual property system is at the centre of—implicated strongly in—the sustainable development goals. Why does WIPO not propose to measure the contribution of intellectual property to drug prices, to the production of green technologies, or to economic and cultural equality? It may be because such measurements might not produce a “God’s eye view” compatible with the current missionary ideology that powers the international intellectual property system, and that sustains the currently unequal relations of knowledge and technological production and access. Such measurements might produce a vision of progress, an idea of how to create the better life, that is radically different from the one which sustains our current system.

In sum, the sustainable development agenda, as adopted by WIPO, confirms and legitimizes the existing norms and practices of the international intellectual property system. Norms and practices that have for decades acted as the legal foundation for globalizing forms of privatization, industrial expansion, extraction, and exploitation are entirely untroubled in WIPO’s implementation of the sustainable development agenda.

5. Conclusion

It is clear that intellectual property plays an important role in relation not just to economic growth, but also in relation to health, social and cultural well-being, and equality. It plays an important role in relation to many SDGs, including those related to food and agriculture, health, innovation, climate change, biodiversity, and technology transfer (New, 2015; Rimmer, 2018). The intellectual property system’s proponents point to the role of intellectual property in innovation: in producing new agricultural, health, and environmental technologies and knowledge. However, as the original proponents of a development agenda for WIPO noted, the intellectual property system as currently constituted may sometimes work counterproductively to achievement of development, by locking up agricultural innovation, inflating drug prices, stalling follow-on innovation, rewarding the invention and sale of polluting technologies, reducing biodiversity, and preventing technology transfer.

Like the Development Agenda before it, a sustainable development agenda for WIPO simply serves to legitimize and extend

WIPO's existing practices. Worse than the WIPO Development Agenda before it, which did have the effect of better incorporating the voices of developing country representatives in WIPO, and of incorporating elements of "balance" into WIPO's work, early signs are that a sustainable development agenda, so far, is producing no challenge to dominant intellectual property norms.

The intellectual property system is connected to the full range of SDGs, from fostering health, to education, to combatting climate change. Just as the original proponents of a development agenda for WIPO suggested, intellectual property can have costs as well as benefits for development—and for sustainability. In a number of ways enumerated in this paper, current intellectual property laws may detract from the Sustainable Development Agenda. It is important that WIPO, and actors beyond WIPO, examine the full set of goals to which intellectual property is connected, and recognize these costs in order to come to a correct assessment of the role and potential contributions—as well as detractions—of intellectual property to sustainability. Reforms for real sustainability will come not from an institution entrenched and invested in a twentieth-century view of intellectual property and its existing norms and ideologies, fixated only on the positive role that intellectual property may play in the Sustainable Development Agenda. Rather, reforms for real sustainability are more likely to come from challengers, outside WIPO. What is desperately needed are the sorts of "sustainable development agendas" that will likely never appear at WIPO, the UN, or within the international intellectual property system. In the future, alternative webs of association and discourse, new alliances and groupings, and, perhaps most ambitiously of all, new models, measurements and institutions, might articulate "sustainability" in new ways.

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