



# **love to share**

Intellectual Property Rights, Copyright,  
and Christian Churches

ISBN 978-2-8254-1519-1

This work is licensed under the Creative Commons **Attribution Non-commercial No Derivatives (by-nc-nd) Licence**.



To view a copy of this licence, visit  
<http://creativecommons.org/about/licenses/>.

All biblical quotations are taken from New Revised Standard Version Bible, copyright © 1989 National Council of the Churches of Christ in the United States of America. Used by permission. All rights reserved.

Produced by the World Association for Christian Communication and the World Council of Churches



Cover and Interior Design by Aaron Maurer

# table of contents

Foreword by the World Council of Churches	v
Foreword by the World Association for Christian Communication	ix
Introduction	1
Chapter 1 – The Current Context	7
Chapter 2 – Theological Framework	15
Chapter 3 – Issues Challenging Churches	29
Chapter 4 – Public and Private Sectors	35
Chapter 5 – Looking for Alternatives	41
Chapter 6 – Guidelines for Action	47
Appendix	
Some Helpful Websites	53
Glossary	54
List of Writers	57



# foreword by the world council of churches (wcc)

This booklet deals with the tension between protecting the rights of creative artists, including authors, musicians and communities, and upholding the rights of others to share in the cultural and spiritual riches produced through their creativity. It addresses the ecumenical family on themes of caring and sharing. God, the creator of all that exists, freely gives us the world – God’s masterpiece – so that it may be protected and shared by all. In the same way, we seek to share in the artistic creations that God has inspired, reconciling recognition of authorship with aesthetic delight.

The ecumenical community and worldwide networks of communicators face common issues, rules and questions regarding intellectual property rights. Since the age of the apostles, Christian communities and, later, established churches have shared their resources and communicated them in love and trust. Liturgies, rituals and songs have been translated into different languages and hymns have been created, compiled and shared by the faith community.

## love to share

Even before its Vancouver Assembly in 1983 with its emphasis on common worship, wcc has been working in this direction, collecting material and transcribing and translating songs and prayers from different traditions and styles. A Worship Resource Center was created to receive prayers, songs, liturgical settings, videos, cds and other materials from the regions and the churches. The wcc's purpose continues to be preparing these resources to be used freely by churches and making more visible and accessible those resources coming from oral traditions of Africa and other regions. In terms of musical resources, means of introducing new hymns from the global church were developed to help churches go beyond their old, familiar repertoires. A great number of ecumenical songbooks began to be published around the world and have become a common treasure.

The title *Love to Share* refers to two dimensions of our topic: love and sharing. We know the ever-present impulse to share what we like or have created ourselves or even things we think are good for us as well as for others. We have experienced the phenomenon of people and communities sharing out of an abundance of love, giving "according to their means, and even beyond their means," as Paul described the generosity of the churches in Macedonia (2 Corinthians 8:1-7). In this booklet, we are trying to find a balance between ethics and economics, private and public, spiritual and material.

One important issue was not included in this first attempt to explore the subject: the Bible and its derived works related to public and private ownership of its text. We hope the Christian community will address this issue in an appropriate way in the future.

We are convinced that this text and its discussion will contribute to a better understanding of intellectual property and copyright, not only with regard to worship resources but also other spiritual goods that God has inspired and enabled us to create and which must be shared in grace.

## foreward

Our warm thanks go to Prof. Marcio de Moraes and Prof. Clovis Pinto de Castro, President and Vice-President of the Methodist University of São Paulo (UMESP) as well as Mr. Luciano Sathler, Vice-President for Distance Learning (UMESP) and Vice-President of World Association for Christian Communication (WACC) Latin America and his team who looked so well after all the local arrangements and took care of every little detail. The UMESp also hosted the meeting on the campus thus making a very significant financial contribution to the publication of this booklet.

Rev. Samuel Kobia  
*WCC General Secretary*





# foreword by the world association for christian communication (wacc)

Communication, information and knowledge are essential to contemporary society and are the starting point for public dialogue about the ideas and vision needed to shape the concept of sharing in our globalized world. Communication rights are, therefore, a crucial element in enabling societies and communities to tackle injustice and inequality and to forge new and better ways of organizing just social relationships where sharing becomes a norm. Intellectual property rights, knowledge-sharing and pluralism are communication rights issues. WACC is, therefore, pleased to be part of creating this booklet that underlines the need to share. This concept of sharing is inherent in WACC's vision of communication described below.

In 1986, WACC defined its understanding of the importance of such values in the form of its *Christian Principles of Communication*. WACC recognized five crucial components of good communication:

- *Communication creates community.* Genuine communication cannot take place where there is division, alienation, isolation

## love to share

or barriers that upset or prevent social interaction. True communication is facilitated when people are able to share experiences and knowledge regardless of race, colour or religious conviction and where there is acceptance of and respect for one another.

- *Communication is participatory.* Participatory communication can challenge the authoritarian structures in society, in the churches and in the media, while democratizing other spheres of life. Participatory communication can also give people a new sense of human dignity, a new experience of community and the enjoyment of a fuller life.
- *Communication liberates.* Communication enables people to articulate their own needs and helps them to act together to meet those needs. It aims to bring about structures in society that are more just, more egalitarian and more conducive to the fulfillment of human rights.
- *Communication supports and develops cultures.* Communicators have a responsibility to cultivate a symbolic environment of mutually shared images and meanings that respect human dignity and the religious and cultural values at the heart of other cultures.
- *Communication is prophetic.* Prophetic communication stimulates critical awareness of the various 'realities' constructed by the media and helps people to distinguish truth from falsehood, to discern the subjectivity of the onlooker and to dissociate the ephemeral and trivial from the lasting and valuable.

WACC is delighted to participate in the publication of *Love to Share* because it believes that accessing and sharing information and knowl-

## foreward

edge resources lies at the heart of equitable intellectual property rights, respect for the moral rights and integrity of created works and genuine plurality. Such values are at one with WACC's *Christian Principles of Communication* and are the *raison d'être* of the challenge to promote a culture of fair and just sharing among churches and their wider audiences. We strongly recommend *Love to Share* for reflection and action by our networks around the world.

Randy Naylor  
*WACC General Secretary*



# introduction

Many churches, individuals, and Christian and ecumenical organizations are facing challenges when dealing with issues of intellectual property (IP) rights and copyright:

- Churches are struggling with the complexity of copyright laws and the restrictions they face when they want to use liturgical resources in a worship setting or publish non-profit worship material.
- It is difficult to find resources that can be freely shared through the Internet.
- It is hard to know how to use worship material from other countries in an equitable and just way.
- It is not easy to know where to go to find advice or to avoid being trapped by IP laws.

## love to share

One of the difficulties of working globally is dealing with differing understandings of intellectual property and how to harmonize these understandings so that we can have a common view in the ecumenical movement. One concrete example of how these differing understandings create challenges is the case of a church or organization developing a worship resource for an ecumenical gathering and encountering different understandings of copyright from the copyright holders.

This struggle is made harder because of the larger context of globalization, where the rules of the market dominate and a culture of commodification is everywhere. While it is important to understand the logic of the market and the laws and regulations that apply to intellectual property, there are other issues that need to be taken into consideration.

The current century is one of knowledge. Nations' ability to convert knowledge into wealth and social goods through innovation will determine their futures. The increasing commodification of information poses challenges for all. Because of this, issues of IP are becoming critically important all around the world. It is crucial that the church develop a feasible model to protect community and private interests.

At the same time, authors and communities who are creating worship resources are concerned that the integrity of their work is not being respected, that works they created to be shared by the whole Christian family and not for private profit have become the property of individuals and companies that commodify these works and make money from them.

In biblical times, the Christian community as described in Acts 4:32-35 was not able to dissociate its community vision from the market. As Christians today we face this same dilemma.

## Purpose of This Publication

This document aims to give some direction and guidelines in this task of searching for alternatives to the current situation. It is an effort to raise questions and clarify some possible solutions and alternatives.

The purpose of this document is

- to raise awareness among churches and wider audiences about intellectual property as it relates to liturgical and Christian education resources and their use
- to invite people to reflect, discuss and act effectively on intellectual property issues and use of liturgical resources and
- to promote a culture of sharing that protects the individual creators/authors and encourages Christian communities and their publishing houses worldwide to act in a fair and just way.

In this light it is important to remind ourselves that the *United Nations Universal Declaration of Human Rights* includes an article directly related to sharing and protecting in public and private interests. Article 27 states that “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” and that “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.” (See the glossary for a definition of moral rights.)

## History of This Document

The catalyst for this document was a casual meeting and conversation between World Council of Churches (wcc) and World Association for

love to share

Christian Communication (WACC) members during the World Summit on the Information Society in Geneva, Switzerland, in 2003. Through these conversations emerged a joint interest in IP rights and a partnership was proposed to work on this issue.

For WCC, an issue that arises often during the preparation for church meetings is the unclear ownership of worship resources and the unfair use of some resources coming from the countries in the South

### **Moral vs. Material Rights**

The Bern Convention, a key element of international copyright law, differentiates between **moral** and **material** rights or interests.

**Moral** rights refer to the right to claim authorship. These are also known as the *right of authorship*, *right of respect*, *right of integrity* or *right of paternity*. Moral rights also grant authors the right to object to any distortion, mutilation or other modification of a work or any other derogatory action in relation to the work that would be prejudicial to the author's honor or reputation.

National copyright law in some countries follows the civil law tradition and provides additional **moral** rights not contemplated in the Bern Convention. These include the right to decide whether a work should be made available to the public (*right of disclosure*) and the right to withdraw copies from circulation (*right of withdrawal*).

Material or economic rights refer to the rights of the author to authorize and to receive remuneration for such acts as copying, broadcasting or performing their works.

Geidy Lung  
*Senior Legal Officer, Copyright Law Division*  
*World Intellectual Property Organization*  
*Geneva, Switzerland*



by editors/publishing houses in countries in the North. A related issue is how the different views on copyright can be bridged within the churches in the North and South, between artistic creators and users, between publishing houses and congregations, etc., and whether we can work towards an alternative model based on sharing rather than on selling and buying. For WACC, interest in IP rights stems from its long history of work on communication rights, which began in the 1970s at the time of the report of a UNESCO commission, the McBride Commission, which identified communication as a human right.

The first step in the partnership was a joint WCC-WACC consultation on copyright that took place in Faverges, France, from 6-11 September, 2005. The consultation brought together 15 authors/creators, publishers, liturgists and church musicians as well as five special lecturers from organizations, such as the World Intellectual Property Organization (WIPO) and Creative Commons, and four WCC staff.

While working on the draft of a programme for the consultation, it became clear that the outcome should be as practical as possible and that the first step as a follow-up of the meeting could be a joint publication by WACC and WCC on the subject. To create this publication, a draft group met from 26-30 April, 2007 in São Bernardo do Campo, São Paulo, Brazil. This small group representing WCC and WACC drafted the text for this publication, which was released to churches in 2007 to be shared in various ways through WACC and WCC networks and on the Internet:

[www.feautor.org](http://www.feautor.org)  
[www.oikumene.org](http://www.oikumene.org)  
[www.waccglobal.org](http://www.waccglobal.org)

The Faverges consultation also fostered the idea for a new website and database for liturgical and Christian education content called Open

love to share

Source Religious Resources (OSRR/Feautor).<sup>1</sup> The OSRR/Feautor project seeks to create a webspace for sharing and developing religious resources—everything from religious education materials to worship elements and music. (See [www.feautor.org](http://www.feautor.org))

## Content of This Publication

This document has six chapters covering the following:

- the context of globalization—the backdrop against which IP rights discussions are taking place worldwide
- the role of theology in the debate on property and biblical understandings and models of property
- challenges facing the church, told in the form of anecdotes and stories
- the different role of public and private sectors in the IP debate
- alternative models for promoting a culture of sharing within the current legal framework
- guidelines for action with suggestions for authors/creators, churches and publishers.

In conclusion, we hope that churches and individuals will respond to this document and the issues it raises. To engage in a lively conversation, send your responses to the OSRR/Feautor website ([www.feautor.org](http://www.feautor.org)).

1. On 28 January, 2006 a meeting was held at Luther Seminary in St. Paul, Minnesota, United States, to begin to develop the Open Source Religious Resources website and build a community for its implementation. A further meeting was held 29-30 April, 2006 in São Paulo, Brazil. In November 2006 a request for proposals in Spanish or in English was circulated and proposals were received. In March 2007 the Carlos Ruben Jacobs group of Argentina was chosen to build the site. It is anticipated that the full launch of the site will take place by the end of 2007.

# chapter ①

## The Current Context

### Globalization

The subject of intellectual property and copyright must be understood in the context of new challenges brought by globalization. Inherent in globalization is an increased promotion of privatization over public and community domains. It is a process that promotes private property over communal property. Inherent in globalization is a tendency towards increasing privatization of common and public goods. Globalization has different dimensions:

1. From an economic and financial perspective, globalization can be understood as an integration of markets, following the dominant model provided by the integration of financial markets. Money ceases to be simply a symbol enabling the exchange of goods but itself becomes a commodity. To be able to function, financial markets require freedom of movement (currency freedom), which in turn requires “free markets”—markets free from any sort of control other than that of the market itself.
2. Technological developments can lead to great advances and greater human well-being, both in the lives of individuals and in society.

## love to share

At the same time, they can be exploited by various powers to satisfy their particular interests. Paradoxically, the new technological tools (computers, the world wide web, satellite television, etc.) can encourage greater community and care for common goods. At the same time, they also promote the dangerous commodification mentioned earlier. In addition, they separate people into those who have access to these tools and those who do not. Globalization and social exclusion have gone hand in hand throughout history. It is still so today.

3. There is another meaning of globalization that it is important to remember: its cultural dimension. An attempt is being made to gain universal acceptance of an exclusive free market approach, which claims that the only possible future for humankind consists in following the path laid down by the free market economy. There is an increasing belief that things have value only when sold in the market. Christian communities, on the other hand, have been globally oriented for a long time, have often lived in the faith that people have value and things are valued as part of God's great creation.

This chapter, therefore, focuses critically on today's global context in which the centrality of money and money standards—especially economic growth aimed at accumulating capital—drive every country, people and corporation in the world. Owning property for use seems to be overtaken by owning property because of its value for the purpose of accumulating wealth. The boundless accumulation of money creates the illusion for people that by accumulating an infinite means of sustenance and pleasure, they can live forever. The striving for more property is therefore based on the desire for eternal life. Chasing after this illusion, the individual destroys community.

## A Culture of Consumption

In the same way, intellectual property is increasingly turning into a commodity for sale in a globalizing market. Yet it has not brought happiness to those who own it because in the system pleasure is based on having more. Under globalization, capturing and focusing people's desires to have more reinforces a culture of consumption. This is now a world in which the value of a human being is measured by his or her ability to consume. The unregulated market is used as a mechanism to create endless desires in people to consume more products produced for exchange. To encourage this, a culture of competition in the market is promoted as paramount.

This culture, however, contrasts sharply with a culture of solidarity and friendship preferred by people of faith. In this culture intellectual property is something to be shared. It is worth stating that there are still many communities, such as indigenous communities, who share their intellectual property. Sharing intellectual property under globalization has begun to surface thanks to the discovery of the Internet. Creative Commons is one mechanism that allows a more open sharing of intellectual property globally. (See Chapter 5)

## Distinguishing Right and Wrong

In his book *George Soros On Globalization*, George Soros offers a critique of the market fundamentalism that drives the global economy. Soros, a financier, philanthropist and critic of the global capitalist system, notes that when it comes to the global distribution of resources, globalization has caused a misallocation of resources between private goods and public goods. He contends that markets are amoral, allowing people to act in accordance with their interests without passing moral judgments on those interests. Yet society cannot function without some distinction between right and wrong. According to Soros, fi-

2. Soros, George, *George Soros On Globalization*, Public Affairs, New York, 2002

## love to share

financial markets that are speculative need a visible hand to guide them and keep them from going off the rails.<sup>2</sup> A similar concern related to the topic of intellectual property is how to create ways of sharing IP despite the growing tendency of globalization to enhance the privatization of public goods. Advocating an alternative culture of sharing in the midst of globalization is a big challenge to churches.

Currently, the patents that protect private intellectual property are not designed to contribute to stimulating creativity and inventiveness because they are based on an artificial construction of knowledge and innovation. Under the Trade Related Intellectual Property Rights (TRIPS) managed by the World Trade Organization this construction is protected without safeguarding issues of equity and ethics. Knowledge is isolated in time and space and is not connected to the social fabric or contributions from the past. Knowledge is thus seen as capital, a commodity, and as a means of exclusive market control. As capital, it gives the owner a competitive edge; as commodity the patented information is sold and franchised to others on terms that are often onerous, and as an instrument of exclusive market control, the patent ensures that no one else can enter or even manufacture in the market. Patents enforce dominant and exclusive control.<sup>3</sup>

Globalization reinforces this scenario and deprives the sharing of knowledge as a public good. Under this system even cultural products have been co-opted and commodified, not for the benefit of the community but for the benefit of individuals who control the commodity. In his paper "Intellectual Property Rights and the Third World" Dr. R.A. Mashelkar, Director General of the Council of Scientific and Industrial Research in New Delhi, India, notes the following concern: "The process of globalization is threatening the appropriation of elements of the collective knowledge of societies into proprietary knowledge for the commercial profit of a few." Dr. Mashelkar adds that action is urgently needed to protect these knowledge systems through national

3. Shiva, Vandana, *Protect or Plunder? Understanding Intellectual Property Rights*, Zed Books, London, 2001, p.18

policies and international understandings linked to intellectual property rights, while providing for them to be developed and properly used for the benefit of the holders. “New models and new thinking on IP will have to be envisioned to accomplish this.”<sup>4</sup>

In this process of globalization, poor countries of the South have been negatively affected, and there is an increasing transfer of resources from the South to the North. This transfer includes intellectual property and works of art that continue to be copyrighted in the North without adequate compensation to communities and authors/creators in the South. This trend needs to be reversed by applying ethical principles, which churches are well placed to raise.

### Challenge to Churches and Christians

This context has always been the one in which Christians are challenged to live their faith by promoting a culture of sharing. One lesson from the history of the ecumenical debate about any issue is that we cannot and should not try to translate fundamental convictions of Christian faith into universally valid and applicable political and economic models or blueprints for society. Economic systems have to be contextual, taking account of the vast differences in historical, social and cultural situations. One point was clear in the ecumenical movement as far as sharing life is concerned—we need to recognize that the real value of life cannot be expressed in monetary terms and that life and all that is essential to sustain it cannot be commodified. There is a belief in the inherent dignity of every person and a priority of creating the conditions for a dignified life. One way of realizing this dignity is to recognize and protect creators of intellectual property, both individuals and communities.

4. Mashelkar, R.A., *Intellectual Property Rights and the Third World*, 29/03/2007, found at <http://csir.res.in/csir/external/heads/aboutcsir/leaders/DG/dgspeech5.htm>.

## love to share

In the case of intellectual property, there are signposts that can guide churches as they move from principle to practice when dealing with how to share:<sup>5</sup>

1. *There is an essential goodness to the created order and the responsibility for it has been entrusted to humanity.* In other words, God created all that we have and said it was good.
2. *Each human being and all humanity have an innate value and freedom.* This means the freedom of the individual has to be kept together with the responsibility for other members of the human community and creation as a whole.
3. *God's concern, and the covenant in Christ, is with all humankind, breaking through whatever barriers we build between us.* Often economic or market structures divide rather than unite, thereby denying that God's love reaches out to all. God reaches out in Christ to all humanity, freely offering love and relationship without demanding that prior conditions are met.
4. *The overarching standard for inter-human relationship and behaviour is God's justice, discovered through a "preferential option for the poor."* Any economic policy or system must therefore be tested from the perspective of how it affects the situation of the poor.

## An Economy of Sharing

Ideally, community sharing of intellectual property happens within an economy of sharing that is being discussed by the ecumenical family at different levels. Some churches are discussing such an economy by reflecting and acting on the Alternative Globalization Addressing People and Earth (AGAPE) process.<sup>6</sup> The World Alliance of Reformed Churches (WARC) is debating the Accra declaration,<sup>7</sup> which was critical

5. See *Christian Faith and the World Economy Today: a Study Document from the World Council of Churches*, WCC Publications, 1992, pp. 13-15.

6. *Alternative Globalization Addressing People and Earth (AGAPE) - A Background Document*, WCC, Geneva, 2006.

7. The formal title of what is known as the Accra declaration is "Covenanting for Justice in the Economy and the Earth" and was agreed by the World Alliance of Reformed Churches General Council 30 July to 13 August, 2004



of economic globalization. The Lutheran World Federation is debating such an economy under the concept of *koinonia* and churches in Latin America have raised the issue of an economy that brings to all the fullness of life. In discussing the issue of community sharing of intellectual property, churches could evoke the spirit of El Escorial, the 1987 consultation on sharing life in a world community. The consultation produced guidelines on sharing material and non-material gifts.<sup>8</sup>

This whole discussion—about intellectual property, copyright, how to protect authors, how to compensate communities that were the originators of many of the creative arts and how to stop others from copyrighting such works with impunity—depends on the ecumenical understanding of sharing God’s gifts in the context of globalization. Despite the difficulties of swimming upstream to enforce this new way of sharing intellectual property, churches must persist. In this effort, it may be helpful to recall what wcc General Secretary Sam Kobia said to encourage churches to campaign on just trade in the world: “We as churches are called to advocate and be agents of transformation, even as we are entangled in, and complicit with, the very system we are called to change.”<sup>9</sup>

8. *Sharing Life: Official Report of the WCC World Consultation on Koinonia: Sharing Life in a World Community*, El Escorial, Spain, 1987, WCC Publications, Geneva, October, 1989, pp. 1-3.

9. *Global Week of Action on Trade, Action Guide*, WCC and EAA, April 2005, p.2



# chapter ②

## Theological Framework

### Theology and the Debate on Property

There was a time in the history of human thought that theologians were the ones who reflected on the technical and operational aspects of the economy. Today, few theologians construct economic theory or propose economic policy. The economy has been emancipated from the dominion of theology.

But theology has something to say about the economy precisely because this academic discipline is fundamental to human life and social relations. Since economic theory and practice are rooted in anthropological, ethical and even theological assumptions, theology must help to unpack and critique these assumptions. Social and economic systems are possessed by a “spirit” that animates them, motivating individuals and groups to consolidate and reproduce the dominant system. In his book *The Protestant Ethic and the Spirit of Capitalism*, Max Weber notes, “The question of the motive forces in the expansion of modern capitalism is not in the first instance a question of the origin of the capital sums which were available for capitalistic uses but, above all, of the development of the spirit of capitalism.”<sup>10</sup> Georg Lukács, in his famous

10. Weber, Max, *The Protestant Ethic and the Spirit of Capitalism* (trans. Parsons). Scribner’s, New York, 1958. p. 68

love to share

book *History and Class Consciousness*,<sup>11</sup> also notes that, in its essence, the power that moves every society is a spiritual power.

At this level, anthropological and theological assumptions about economic theories and systems animate the spirit that moves society far more than theology or the core practices and texts of the Christian churches. Christian theology's specific contribution to this conversation is to reveal that the modern social sciences are not particularly well equipped to describe the spirit of our age. We must enter into conversation with diverse scientific disciplines without losing sight of the specific contribution offered by theology; the point is not to make theology a second-rate source of economic reflection, nor to reduce churches to economic and political entities.

## Critiquing Capitalism

Among the several challenges facing theology and the churches in this field, two are worth highlighting. The first is the need to critique the spirit that moves capitalism. In capitalism, the unlimited desire for wealth is transformed into a fundamental virtue in social life. Unlike pre-modern societies that sought to limit this desire (see, for example, the Ten Commandments), capitalist societies find in the incessant search for more riches the essential spirit of the society and the path by which people are made fully human. The more individuals earn and the more ostentatiously they consume, the greater their value as people.

In the dominant capitalist culture, consumption has become the measure of a life well-lived, of happiness, and of one's essential value as a human being. Thus, the desire to possess more than others has come to be considered both a right and a duty. Society no longer proposes appropriate limits for consumption but rather becomes the arena in which people pursue unlimited consumption. In this culture of consumption, rivalry has become the fundamental reference point in the

11. Lukács, Georg, *History and Class Consciousness* (trans. Rodney Livingstone). The Merlin Press Ltd., Great Britain, 1971

## theological framework

relations between people-consumers. The other side of this coin is that the poor, as failed consumers, are considered to be sinners, sub-humans, beings lacking in the fullness of human dignity. They are considered as “demons” that must be cast out of society.

This logic offers no way to distinguish between property whose function is to assure or sustain the dignity of human life and property that serves to accumulate more property and capital. Indeed, human dignity becomes identified with one’s capacity to accumulate more property and to consume more. All of human existence becomes a process of ever-increasing accumulation and consumption.

With the disappearance of this fundamental distinction, we also witness the inversion of the relationship between human rights and property rights. Such essential human rights as the rights to life, work, health, liberty and citizenship are no longer considered to have priority over the market but rather to be the product of participating in the market through the unfettered exercise of the inalienable right to private property. That is, individuals are considered to be humans, bearers of human rights, by virtue of their participation in the market, by virtue of being consumers and accumulators. Property becomes the foundation for human rights.

### The Market and Private Property

This leads us to the second challenge: private property and the laws of the capitalist market become the absolute good. The market and private property—two sides of the same coin according to capitalism—are considered to be absolute values that are beyond questioning, the root values by which everything is measured and prioritized.

A theological critique of this must not fall into the error of applying similar logic and completely denying the value of private property and

## **Everything Comes from God**

Pablo Sosa, a Methodist pastor and songwriter from Argentina, presented the opening theological reflection at the September 2005 WCC/WACC consultation on copyright in the form of a liturgy. He chose as his text Mark 12:13-17:

Then they sent to him some Pharisees and some Herodians to trap him in what he said. And they came and said to him, "Teacher, we know that you are sincere, and show deference to no one; for you do not regard people with partiality, but teach the way of God in accordance with truth. Is it lawful to pay taxes to the emperor, or not? Should we pay them, or should we not?" But knowing their hypocrisy, he said to them, "Why are you putting me to the test? Bring me a denarius and let me see it." And they brought one. Then he said to them, "Whose head is this, and whose title?" They answered, "The emperor's." Jesus said to them, "Give to the emperor the things that are the emperor's and to God the things that are God's." And they were utterly amazed at him.

Pablo focused on the ecumenicity of God: everything comes from God; everything will return to God. This is a vision shared by many traditional and indigenous cultures all over the world. Songs, poems, and prayers are created and shared orally from generation to generation and come to form part of a people's cultural treasure. The names of individual composers or authors might be lost but the communities clearly recognize such cultural riches as their own. Indeed, the artists understand that their creative expressions are gifts they have received from and are returning to their communities. Communities find in such riches their sense of identity and belonging.

Today one finds a similar phenomenon in Pentecostal churches and the praise music movement. Thousands of "anonymous" songs are considered to be inspired by the Holy Spirit through scripture. Some authors refuse to claim copyright protection for such work or to put their names on the text, claiming that credit should go exclusively to the Holy Spirit.

## theological framework

Of course, not all artists share such values. Many Christian artists earn a living honorably by performing and selling their art. And many others are deeply immersed in the commercial system; religious publishing and the many genres of religious music are now multi-million dollar industries!

It is only if we understand how and why art comes into being and its role within a community that we can find new ways to connect liturgical resources and intellectual property rights. Copyright law, for example, was created to defend the legal and moral rights of artists. Although this system is imperfect and can be hijacked by corporations that seek to control creative work for mercenary ends, it nevertheless provides us with a framework in which we can work to try to create more just relationships.

of the market. This tendency to employ “metaphysical” critiques—to deny absolutely—is quite common in ethical and religious discussion. After all, theologians claim to speak in the name of the divine and to propose divine projects. Human history, however, clearly teaches us that we can never escape the ambiguity and contradictions that characterize the human condition.

Another difficulty with the critiques offered by religious traditions is that most of these traditions were born and elaborated their ethical principles in pre-modern contexts, where far simpler economic models were in play. In societies with complex economies such as ours, it is no longer possible to order the production and distribution of economic goods (consumer goods, production, raw materials, energy, technologies, etc.) without the market and forms of private property. The challenge is to hold socially defined goals, such as practising solidarity with the poor, in tension with the mechanisms of the market.

love to share

## The Jerusalem Community and Property

To further the discussion of the tension between a radical critique and the ambiguities present in any social system, it is helpful to reflect briefly on two biblical texts frequently cited on the issue of property. The first is from Acts:

Now the whole group of those who believed were of one heart and soul, and no one claimed private ownership of any possessions but everything they owned was held in common. With great power the apostles gave their testimony to the resurrection of the Lord Jesus and great grace was upon them all. There was not a needy person among them, for as many as owned lands or houses sold them and brought the proceeds of what was sold. They laid it at the apostles' feet and it was distributed to each as any had need (Acts 4:32-35).

A first question we must bring to this text is: Does the author of Acts propose holding all property in common as the Christian alternative, applicable to all of society? That is, is this the social project that Christians offer as an alternative to the capitalist system of private property and the market?

We don't think so. The model presented in Acts presupposes the existence of a larger community and economic system, based on buying and selling. If there were no market, where would the early Christians have sold all that they possessed? How would they have exchanged their possessions for the money they turned over to the disciples to be distributed according to each person's need? We doubt that the early Christian community saw itself as an alternative social model to be lifted up to Israel, much less to the Roman Empire. If they did see themselves



as presenting a viable alternative model, they would not have been able to redistribute wealth within their community without the existence of the market outside their community. Not only were they dependent on the market as a place where they could sell all that they had but also as a space where they could buy the money and goods needed for distribution to the families of their community that were in need.

### The Rich Young Ruler

The same logic applies to the text in Mark 10:17-22, where Jesus counsels a rich young ruler who sought to live a more radically faithful religious life: “You lack one thing; go, sell what you own, and give the money to the poor, and you will have treasure in heaven; then come, follow me.” Again, the text presupposes the existence of a market where this young man can sell what he has and where the poor can purchase the goods they need for survival.

We are not arguing that Jesus and the Christian community in Jerusalem had nothing to say to the economic system of their time. We just want to show that critiques and alternative models are not as simple as they might seem. In the case of Acts, what motivated people to sell all they had and hold all property in common was their faith in the resurrection of Jesus and their firm conviction that the end times were at hand. In the case of Mark, Jesus’ call to sell all comes when the young man expresses his desire to move beyond simple compliance with religious regulations and move toward holiness. In both cases, the idea of property as a source of life for the poor and of holding all in common is a radical sign of life and a foreshadowing of the fullness of God’s reign. This foreshadowing critiques the absolutist character of the empire of the time and opens perspectives for other possible social systems.

We must understand the proposal in Acts in relation to the tension between this early Christian community and the dominant economic,

## Sharing Property: Some Theological Understandings

The sharing of property is held up as an ideal in the ecumenical community but such sharing has been more characteristic of indigenous and traditional societies than of industrialized societies. Our conversation about sharing intellectual property must take this into account.

These varied understandings of property are also found in the Bible. In the parable of the rich man who stores his wealth in granaries (Luke 12:13-21), Jesus reminds his audience that the accumulation of wealth is pointless in the face of one's inevitable death. But in the parable of the talents (Matthew 25:14-30), Jesus seems to promote this same accumulation.

Some Christians have held that the accumulation of wealth is a manifestation of God's blessing. They see prosperity as evidence of God's favour. But other Christian teaching, rooted in ancient traditions, condemns the accumulation of wealth as the product of greed.

Some Christians emphasize that all of human creation is a gift from God to be shared for the benefit of all. Others celebrate individual responsibility, calling prosperous individuals to share their wealth for the common good.

During the 1966 wcc Conference on Church and Society held in Geneva, two theological views surfaced. One proposed reforming society by building safeguards into the existing economic system to protect the poor. The other proposed tearing down the oppressive status quo and building something better. The conference concluded that both positions are deeply rooted in our Christian heritage.

Throughout history, Christians have developed different theological concepts to discuss the relationship between faith, wealth, and property.

Lutherans emphasize the concept of *koinonia*, proposing that people who have been transformed by God's grace would live out their faith by creating a community of sharing.

## theological framework

The Reformed tradition celebrates God's covenant with humankind, affirming God's just rule in defence of the poor as well as God's sovereignty over all of creation.

As wcc has studied economic and cultural globalization, it has promoted another theological model: *agape*, from a Greek word for unconditional love for others. This position affirms that humankind and all of creation have their common origins in God; we all belong to God. Property, in this view, cannot be reduced to a commodity. Creation cannot belong to human beings; rather, human beings belong to creation. Grace is how God sustains and renews creation. Discrimination, exclusion and the unequal distribution of wealth and power deny God's presence in the *agape* community and violate the commandment to love God and neighbour.

Another model focuses on the Eucharist. To partake in holy communion is to challenge communities to remain united in witness, liturgy, service and communion. This model holds that worship, reflection and action build a bridge between the liturgy of worship and the liturgy of daily life.

These are just a few of the many theological models that can contribute to our understanding of how and why we must share intellectual property.

social and religious system of that time. The model lived out by the Jerusalem Christians cannot be understood as a proposed model but rather as an expression of the tension they experienced as they sought to live out a prophetic witness in their particular social environment. Their actions should be understood as God's judgment on the economic model of that time and not as an ideal to be held up for emulation.

The author of Acts makes it clear that the social and economic model of that community was not sustainable over time. The Acts account narrates how Barnabas accepted the invitation to turn over his wealth

love to share

to the community (4:36-37) and, shortly thereafter, how Ananias and Sapphira committed fraud (5:2), demonstrating the ambiguity that plagued this community. While the community remained small, problems could be resolved through a meeting of all the members. But as the community grew, the problem of administration arose (6:1-6). Widows of Jewish heritage received preferential treatment and Greek widows suffered discrimination in the distribution of goods. Eventually, a structural problem resulted: the community experienced hunger. Income or the generation of new resources were insufficient to meet the needs of all members of the community. An economic and social model focused only on just distribution is not sustainable over time if resources are not plentiful and constantly replenished.

This experience presents three types of problems: personal, administrative/organizational and structural. All three need to be considered in any organizational proposals, whether for institutions or for society as a whole.

The problems confronted by the Jerusalem community in no way invalidate the judgment pronounced by God on the system that prevailed in the larger community and that prevails in our community. More important for us is the desire of the Jerusalem community to flourish in fullness of life, despite the serious problems they faced within their own community and their willingness to explore alternative social and economic models as an expression of their faith in the resurrection of Jesus. This intimate relationship between their faith in the resurrection of the crucified Jesus and the way they organized their daily social and economic practices is fundamentally important for us today.

## Bearing Witness to the Resurrection

God continues to call the church to bear testimony to the resurrection of Jesus in a world of empire that continues to oppress and condemn

## theological framework

to death the poor and other victims. To announce the resurrection of the crucified Jesus is to demonstrate that God is not on the side of the powers of this world but rather on the side of those who struggle to defend the life of the weak.

This prophetic task has two aspects:

1. The judgment of God on the world—a critique of oppression and of all systems of death, the proclamation of God’s desire for fullness of life for humanity and for all of creation and a recognition of the limits and ambiguities that do not permit the implementation of the fullness of God’s will within human history.
2. Institutional and political models that incarnate this judgment in concrete actions are always incomplete. In this sense, Juan Luis Segundo comments that divine revelation does not consist of offering the correct answers to religious questions or of proposing correct social and economic models but rather of learning how to ask the questions that help us to become more fully human.<sup>12</sup>

The challenge we face is how to work within this framework while keeping clear the difference between these two aspects. How can we propose viable alternatives to the present intellectual property regime that both speak God’s judgment on the current world order and are operationally viable? Such a task places us firmly in the territory of human ambiguity where we must avoid the error of reproducing the logic of the market.

### Positions on IP Rights

There are several positions one might take on intellectual property in the ecumenical community.

12. Segundo, Juan Luis, *El dogma que libera: fe, revelación y magisterio dogmático*, Santander, Sal Terraei, 1989, p. 373

## love to share

The easiest position, in that it would simply embrace the inertia imposed by the market, would be to reproduce within the ecumenical world the prevailing rules and logic that control intellectual property. This would not require creating new rules or a new culture, and would also permit producers of creative content to continue to derive economic advantage from the existing regimen without experiencing theological problems or being bothered by a guilty conscience.

But this would be to abdicate our mission to bear prophetic witness to the resurrection of Jesus in our ecumenical activities. This position also eradicates the distinction between the role of property as a means to reproducing and sustaining life—in this case, the life of the ecumenical community—and property as a means to accumulate more property and financial resources. The production of Christian intellectual property, then, would simply follow the logic of the market: give consumers what they want as we seek to maximize profits without bothering to proclaim the Word. If we follow this model, there is no difference between the ecumenical community, commercial enterprises and all other institutions of civil society.

Another position would be to denounce, with prophetic fervour, all the dynamics of the marketplace and all legal protections for intellectual property. Despite its attractiveness to those who consider themselves to be radical critics of capitalism, this position presents two problems: it is not legally viable and, more importantly, it is bad theology. Christian theology that takes seriously the mystery of the incarnation must take into account the objective conditions imposed by the times in which we live.

We believe that we need to develop a position on intellectual property rights that recognizes the dynamic of the market and the dynamic of the ecumenical community. The ecumenical community must maintain a critical tension with the market. For example, a publication de-

## theological framework

veloped according to the logic of the marketplace must be careful to respect IP rights. At the same time, creative producers who seek to bear testimony to the resurrection of Jesus and proclaim God's good news cannot be limited by the rules of the marketplace. We must create new rules that clearly differentiate between products whose benefits follow the logic of sharing with all according to their needs and those created according to the logic of the market.





# chapter ③

## Issues Challenging Churches

When it comes to issues of intellectual property rights and copyright, there are a range of opinions and practices related to ownership of worship and Christian education resources. These are sometimes different in countries in the North and the South. This collection of anecdotes gives a sense of the practical challenges facing the church.

### Copyright Enforcement

In countries in the North, copyright regulations are being enforced, particularly in North America. This enforcement creates a chilling effect that stops churches from using copyrighted material without permission for fear of being sued. Here's the story of one church's experience:

*A church in Ontario, Canada, was threatened with a lawsuit by the owners of an image. The church used this image on its website for one week to promote a worship service. Several years later, the American owner of the image discovered*

love to share

*this use by using technology to search the Internet. The owner asked for USD 2,500 for use of the image and threatened a lawsuit if the church did not pay. In the end, the minister was able to negotiate a compromise where the church paid USD 300. The whole experience intimidated the church and left it feeling very anxious about using material from other sources.*

Churches in North America are becoming increasingly familiar with the laws and regulations related to copyright. These regulations pose real challenges:

*A music director in a small church in the United States must spend a large percentage of her time on copyright issues. To help with the issue of copyright, her congregation bought a licence through a licensing agency that allows the church to use hymns for an annual fee. As part of the licensing requirements, she must document the music used each Sunday. But not all the songs the director wants to use are covered by the*

### **The Holy Spirit Gave Me This Song!**

“The Holy Spirit gave me this song!” reported a Brazilian Pentecostal woman breathlessly as she launched into the music. Her professor of liturgy listened to the song and responded, “It is a very fine song. The rhythm is a *marcha-rancho* and it celebrates your Brazilian roots. Much of the music from Mardi Gras or Carnaval uses just this same rhythm!”

A worried expression furrowed the woman’s brow. “Will the Holy Spirit be offended by a *marcha-rancho*?” she asked. “I certainly didn’t want to write a song that is associated with Carnaval! What kind of music does God prefer?” “No, the Holy Spirit will not be offended,” assured her professor. “God is present in our culture. God is honoured when artists are true to their cultural roots.”

## issues challenging churches

*licence. To use them, she must contact the original copyright owners to seek permission, which takes time and costs additional money. Sometimes it feels like she spends more of her time and the church's money on copyright issues than on ministry.*

### Worship Publications

Church organizations publishing worship material face enormous challenges. Here are two stories that highlight the problems:

*In preparing worship resources for a global ecumenical gathering, World Council of Churches faced great difficulties when requesting permission to publish some of the resources. The fact that there is no common ecumenical understanding and agreements about copyright, for example, made it impossible to publish a German translation of one song. A German translation already existed but the copyright holder in the North would not accept its use because it was not authorized. The copyright holder did not want to grant copyright for a use that included the English text and other language translations. In another case, an excellent Spanish translation of a song existed but the copyright holder would not allow wcc to use this translation because it was not authorized. The copyright holder had its own translation but it was not singable. wcc ended up using the song with a bad Spanish translation. In this case the letter of the law became more important than the singability of the song.*

*A Brazilian theological professor encountered many problems related to copyright when publishing a hymn collection. He could not locate many of the copyright holders to request permission to use their material. In the end, he published original material. He also used songs where the author was*

love to share

*not known. But rather than calling them “anonymous” he decided to use the phrase “authorship not yet identified” to remind the user that there is an original author.*

## Author Identification

Often individual authors create a liturgical piece for the glory of God, not for individual recognition. But it is important for authors to add their names to their creations. That way they are free to share their work with the Christian community but they are also able to share in any commercial rewards. The following story shows what happens when an author did not claim authorship of his creation:

*The author of the “Song of the Prophet” probably is a Roman Catholic from Peru. This song has been translated into many languages and is published in some hymn books and collections, where it is credited as anonymous. There is no official document that proves the authorship of this. Today the author is a poor musician who is not benefiting from nor receiving recognition for the wide distribution of his song.*

## Copyright Is Not an Issue

In many countries in the South, churches and institutions freely use material without regard to copyright and their governments are not concerned with copyright issues. Here’s how a Guatemalan communicator describes the situation:

*Universities in Latin America would shut down without a photocopy machine. A standard medical text book might cost one to two months’ salary in Latin America. One way around this is to produce anthologies of the best works and copy these anthologies. No one has ever been sued in Guatemala for copyright offences.*

### **A David and Goliath Story**

It was a song that sold over an estimated 8 million copies world wide and was used as one of the theme songs promoting the 1996 Summer Olympic Games in Atlanta.

But the aboriginal couple from Taiwan who originally sang their tribe's "Jubilant Drinking Song" had no idea that the musical group Enigma was going to mix it with popular music to create the song "Return to Innocence."

Kuo Ying-nan and Kuo Hsiu-chu were in a cultural exchange program in France in 1988 when their performance of the song was recorded by a French cultural museum and made into a CD, which Enigma later obtained and sampled in "Return to Innocence" without giving credit or royalties.

It was only through an expensive lawsuit that the Kuos were able to gain recognition of their contribution to the song. Supported by many Taiwanese people, the Kuos sued the producer of Enigma and a number of recording companies for unauthorized use of their song without credit. The case was eventually settled out of court for an undisclosed amount of money. All further releases of the song were credited (including royalties) to the Kuos.

### **Traditional Communities**

Particular problems arise in the area of traditional works or works created in a community rather than by an individual.

*One example relates to the traditional liturgical text for the song "Sanctus et Benedictus." This text, which is a combination of two texts from the Bible, is in public domain and has been used by the Christian community for centuries and*

## love to share

*can be found in several other hymn books combined with different texts. By modifying one word, this text became copyrighted in English. Later, when the copyright holder was challenged about this, the holder agreed that it must be kept as public domain.*

Problems arise in relation to songs that originated in a community in an oral tradition when somebody from outside the community writes down the work and copyrights it, then benefits commercially from the copyrighted version. Sometimes this copyrighted version is the only one available to others wanting to use the song. An example of this is the song “Siyahamba,” which was collected in South Africa and copyrighted by a publisher in the North.

The situation of traditional communities is also a concern of the international community through the United Nations’ World Intellectual Property Organization (WIPO). A WIPO committee has developed draft provisions for the protection of Traditional Cultural Expressions (TCE). These provisions have no formal status but illustrate some of the perspectives and approaches that are guiding work in this area and could suggest possible frameworks for protecting TCE. Under the provisions, protection may include protecting TCE against unauthorized or illegitimate use by third parties. This includes commercial misappropriation and misuse that is derogatory or offensive.<sup>13</sup>

13. See the website [www.wipo.int/tk/en/folklore](http://www.wipo.int/tk/en/folklore)

# chapter ④

## Public And Private Sectors

This chapter looks at two sectors that are critical in debating the issue of intellectual property and copyright. What is public sector and what is private sector? How are the two sectors related as far as intellectual property is concerned?

### Public Sector

The public sector is understood as an arena where all people participate in creating common goods, such as culture and community knowledge or social goods, such as education and health. Other publicly owned goods include natural ones given to humanity freely by God such as water, air, land, plants and wild animals. The enjoyment of such goods is for all people. Management of these goods is vested on a country's democratically elected government, which is expected to protect such goods. These goods are referred to as public property. With regard to intellectual property there is a need to protect the public domain from individuals wanting to exploit it for their own profit. Due to a lack of effective global governance, it is still difficult to manage global common goods.

love to share

## Private Sector

The private sector, on the other hand, involves the production of goods privately. Artists, scientists and business people fall in this category. The goods produced privately are referred to as private goods and management of these goods is directly done by individuals or companies following the laws on private property. In other words, private property is implicitly protected by the public sector when it enjoys government protection.

Throughout history there has been creative tension between the private sector and the public sector. Sometimes neither of the two domains could work on its own without the other. History has dem-

### **Sharing Resources Across Cultures**

God's creativity is boundless. It works itself out through the creativity and cultures of different peoples whose integrity must be respected. Christian stewardship demands that we be careful with these gifts of God, which are not ours to do with as we wish. In terms of worship materials we are sharing precious gifts, not trading possessions.

*The United Nations Universal Declaration of Human Rights* in Article 27 declares the right of people to freely participate in their culture and also affirms the moral and economic rights of creators. Communities have the right to enjoy what they create and the culture they are a part of. These communities also have the authority to decide about the integrity of their creations and their use by others. The gifts of peoples (not just of individual creators) need to be recognized, respected and honored by following the wishes of communities concerning how we use their gifts, if they allow us to do anything at all.

This statement was developed at the wcc/wacc consultation on copyright in September 2005 in Faverges, France.



onstrated that it has been erroneous to play one sector against the other. This was the case during the era of communism, where the state suppressed the private domain in the name of promoting community ownership of property. This system worked against peoples' creativity and ingenuity in producing private goods, leading to a scarcity of resources needed by the people.

The opposite extreme was the institution of the Washington consensus—an economic reform package promoted for countries in economic trouble by Washington-based institutions that advocated the need to eliminate the role of the state in the market and the economy. The slogan was “private good, public bad.” This policy was spread around the world by the World Bank and the International Monetary Fund as a condition for countries that needed financial help. It became the norm for countries in the South to cut government expenditure and implement structural adjustment programmes (SAPs) by liberalizing their economies and promoting privatization. After 20 years of these policies, many governments in the South became so weak that they could not even guarantee human security for their citizens.

### Private/Public Partnerships

Today, these policies are changing. Global financial institutions are promoting a mix of private/public partnership where both domains need to complement each other for the benefit of all. Good governance and accountability for both are tenets required by both domains. There is really no clear line between the private domain and the public one. The terms private sector—which involves individual entrepreneurs, individuals, and companies—and public sector—which is community and public goods—are now misleading. Public producers can produce private goods and services and private producers can produce public goods and services. Most production processes are a mixture of both.

## love to share

For example, a private company buys the right to extract public natural gas. It sends the gas through a public pipeline to another private company with a public franchise, which sends it this time through a private pipe to a private brickwork. There it is mixed with private clay and public electricity to make bricks. These bricks are transported by a private truck on a public road to some public land, where a private builder is constructing houses for a public housing agency, which will in turn sell them to private citizens. To pay for this the buyers will use their own private savings in a private bank but will also take out a first mortgage derived from other peoples' private savings in a state bank and a second mortgage from a public housing agency, which is using for that purpose the commercial profits from its public housing operations. In such a scenario, how can we sort out the private from the public sector?<sup>14</sup> From this example we can see that there is a need to harmonize the two sectors. To overemphasize privatization is to shift community property ownership or public ownership to individuals or companies and the benefits accrued will mainly be enjoyed by them. To do the reverse will also lead to no progress for the private sector. Similarly in the area of recognizing private and public intellectual property, harmony between the two will benefit all.

There has been an increasing abuse of public goods by the private sector. As mentioned in Chapter 1 on globalization, there is an increasing commodification of the public and common goods for private gains. What needs to be done is to recognize and protect public goods just as private goods are protected by law.

## Churches Must Protect Public Sector

Churches are faced with a challenge of discerning how to protect cultural and social goods that are part of the public sector. It is imperative to determine the source of a cultural product by contacting artists, whose creativity reflects their social and cultural location. Some Chris-

14. van Drimmelen, Rob, *Faith in a Global Economy: Primer for Christians*, WCC Publications, Geneva, 1998, p.13

### **Guidelines for Global Music Publication**

We rejoice in the fact that for the last 25 years we have been singing and praying and worshipping with a variety of resources from all parts of the world, particularly within the World Council of Churches. We celebrate the richness of the diverse gifts and at the same time have realized the importance of respecting the integrity of each culture.

#### **Guidelines**

The following guidelines are aimed at those publishing global music:

1. The original language should be included in its entirety if possible.
2. The name of the language should be given.
3. Music should be in its original version or as close as possible if it is a transcription.
4. Explanatory notes help performance practice get closer to the sound of the original.
5. Adaptations should be done in consultation with and by permission of the original creator or the community from which the work comes.

These guidelines were developed at the WCC/WACC consultation on copyright in September 2005 in Faverges, France.

tian artists, for example in Orthodox churches, create their work to be used freely by the church, for the glory of God and for all God's people. There are also Christian artists who create their works to earn their living. These should be differentiated from artists whose intention is to produce for the marketplace purely for financial gain. These artists charge substantial fees to churches to host their concerts and sell their music to church audiences.



# chapter ⑤

## Looking For Alternatives

The Brazilian song “A Palavra” written by Irene Gomes says in its chorus line: “The word has not been made to foster division. The word is the bridge where love comes and goes.” Shouldn’t that be the case with every human intellectual creation? However, the present copyright legal system tends to emphasize the protection of an author/creator’s work rather than promoting a “bridge” to let ideas flow.

Nonetheless, there are some creative ways to protect authors/creators and to promote a culture of sharing texts, songs, paintings, videos and other artistic expressions. A variety of strategies and licences attempt to deal with copyright issues and the possibilities of sharing information:

- public domain—no rights reserved so the work may be freely used
- copyright—all rights reserved, therefore one must pay or ask for the author’s permission to use the protected content

love to share

- copyleft—permission to reproduce, modify and distribute the content as long as any resulting copies or adaptations are also bound by the same copyleft licensing scheme

## Creative Commons

More recently, there is also an initiative called Creative Commons, which gives a flexible range of protections. These protections allow others to copy, distribute, display, or perform a work if they give the author/creator credit, but in accordance with some restrictions related to commercial use, creation of derivative works, and the necessity to share the same licence.

Note that the Creative Commons initiative does not provide legal support to protect any given material. The idea is simply to let other people

### **The Voice and the Word**

St. Augustine drew a parallel between John the Baptist and Jesus. Jesus, he said, was the Word; John was the voice. Augustine observed that when he had a word in his heart and wanted to place it in someone else's heart, he used his voice. Once he had spoken his voice promptly disappeared. But the word, once spoken, lived forever, both in his heart and in the heart of the listener.

A creative producer's work is a voice, as well as a channel through which a voice is shared. John the Baptist became a bridge between one heart and another but he was also a bridge-builder.

Creative products, all forms of human creativity, are gifts given by the Author of all things. Initiatives like Creative Commons and the OSRR/Fe-auteur website [www.feautor.org](http://www.feautor.org) are important because they build bridges between the hearts of artists and the hearts of the people.

## looking for alternatives

know how you would like to have your work used. In other words, the licence and the social movement around Creative Commons aim at facilitating the circulation of content within the present legal system. For example, when you come across an image identified by the Creative Commons logo, you immediately know if copying and distribution of it are allowed and under which conditions. Therefore, and this is different from material identified with a copyright symbol, it is not necessary to ask the author/creator's permission to use the image.

To learn more about the use of Creative Commons licences, we refer you to the official website <http://creativecommons.org>. What follows is information about the licences, which gives an introduction to how they work.<sup>15</sup>

### What Is Creative Commons?

A Creative Commons licence is based on copyright. So they apply to all works that are protected by copyright law. The kinds of works that are protected by copyright law are books, websites, blogs, photographs, films, videos, songs, and other audio and visual recordings, for example. Software programmes are also protected by copyright but we do not recommend that you apply a Creative Commons licence to software code.

Creative Commons licences give you the ability to dictate how others may exercise your copyright rights, such as the right of others to copy your work, make derivative works or adaptations of your work, to distribute your work and/or make money from your work. They do not give you the ability to restrict anything that is otherwise permitted by exceptions or limitations to copyright—including, importantly, fair use or fair dealing—nor do they give you the ability to control anything that is not protected by copyright law, such as facts and ideas.

15. Quoted with permission from <http://creativecommons.org>

## love to share

Creative Commons licences are attached to the work and authorize everyone who comes in contact with the work to use it consistent with the licence. This means that if Bob has a copy of your Creative Commons-licensed work, Bob can give a copy to Carol and Carol will be authorized to use the work consistent with the Creative Commons licence. You then have a licence agreement separately with both Bob and Carol.

Creative Commons licences are expressed in three different formats: the Commons Deed (human-readable code), the Legal Code (lawyer-readable code) and the metadata (machine-readable code). You don't need to sign anything to get a Creative Commons licence.

## Learn about the Licences

The following describes each of the six main licences offered when you choose to publish your work with a Creative Commons licence. We have listed them starting with the most restrictive licence type you can choose and ending with the most accommodating licence type you can choose.

### Attribution Non-commercial No Derivatives (by-nc-nd)



This licence is the most restrictive of the six main licences, allowing re-distribution. This licence is often called the “free advertising” licence because it allows others to download your works and share them with others as long as they mention you and link back to you but they can't change them in any way or use them commercially.



### Attribution Non-commercial Share Alike (by-nc-sa)



This licence lets others remix, tweak and build upon your work non-commercially, as long as they credit you and license their new creations under the identical terms. Others can download and redistribute your work just like the by-nc-nd licence but they can also translate, make remixes and produce new stories based on your work. All new work based on yours will carry the same licence, so any derivatives will also be non-commercial in nature.

### Attribution Non-commercial (by-nc)



This licence lets others remix, tweak and build upon your work non-commercially, and although their new works must also acknowledge you and be non-commercial, they don't have to license their derivative works on the same terms.

### Attribution No Derivatives (by-nd)



This licence allows for redistribution, commercial and non-commercial, as long as it is passed along unchanged and in whole, with credit to you.

### Attribution Share Alike (by-sa)



This licence lets others remix, tweak and build upon your work even

## love to share

for commercial reasons, as long as they credit you and license their new creations under the identical terms. This licence is often compared to open source software licences. All new works based on yours will carry the same licence, so any derivatives will also allow commercial use.

### Attribution (by)



This licence lets others distribute, remix, tweak and build upon your work, even commercially, as long as they credit you for the original creation. This is the most accommodating of licences offered, in terms of what others can do with your works licensed under Attribution.

# chapter ⑥

## Guidelines For Action

The purpose of these guidelines is to encourage churches, authors, publishers, and the worldwide ecumenical community to start to take action on issues of intellectual property and copyright. The guidelines are not exhaustive but are meant to be a tool to help people work in an integrated and global way.

### For All

- Promote a culture of sharing worship and Christian education resources, valuing authors and protecting the intellectual property of communities.
- Keep a spirit of free sharing for community use in worship to encourage ecumenical partnership.
- Invite authors and publishers of worship material, as an expression of their faith commitment, to offer their work freely to the ecumenical family for the common good.
- Encourage people to find ways to share worship material globally, for example by using OSRR/Feautor (Open Source Religious Resources) website [www.feautor.org](http://www.feautor.org).

love to share

## For Churches

- Raise awareness of intellectual property issues. For churches in the North, this means thinking about intellectual property in a way that goes beyond a legalistic understanding of copyright rules and regulations.
- We need to find easier ways to communicate with each other concerning traditional, communal creations both regarding financial compensation for using this material and advice and permission for adaptations. The main rule is: **where possible ask**. But it is not always easy to know who to ask. It would be helpful if councils of churches or churches themselves would become aware of and document the traditional, communal resources within their jurisdictions to assist in the process of communication. This is not a legal or complex task. It is a matter of beginning to document traditional resources as they are identified.
- Share problems on intellectual property issues and find solutions in order to build common understandings and discover the local parameters for adaptation.

## For Those Using Others' Material

- Respect ownership by giving credit to the author, for example, in a printed liturgy. In a formal publication, this means contacting the author before using his or her work.
- Respect the integrity of cultural or folkloric material often labeled anonymous. Don't assume that such material has no author or is free for the taking. Sometimes the creators do not want their names attached to the work. Sometimes this material is a communal work. Since copyright law only takes effect when something is fixed or in some countries registered, it makes it very difficult to protect such communal works. The purpose of this protection is not to keep all communal properties from being shared. Each

community needs to find ways to determine what of its cultural works can be shared with others. But protection needs to be in place so that communal or anonymous works shared freely do not get adapted and gain profit for the adaptor without any recompense going to the original community.

- Those adapting works outside their own culture need to be very careful to understand and respect the style of the original work and the culture from which it comes. For example, in some places putting different words to a melody is common practice, while in other cultures this is offensive. Adding harmony or changing existing harmonies is normal in some cultures and with some works, but makes other works unrecognizable to those who created them. In some cultures changing a rhythm gives the work a new dimension. In other cases it just sounds wrong to those who created it with a different rhythm in mind. There is no easy way to give rules for all these differences.
- Ensure that traditional resources now in the public domain remain there and encourage people to respect their integrity.

### For Authors and Creators

- Consider protecting the works you create through Creative Commons licences (see Chapter 5).
- Encourage people who are creating liturgical material to freely share their material among the ecumenical community, rather than producing it only for personal profit.
- Encourage churches and communities in the South to indicate the source or creator of worship materials.

### For Publishers

- Encourage publishers in the North to find just ways to compensate original authors in the South and not to assume that works cre-

## love to share

ated in a community are in the public domain.

- Discourage publishers in the North from gathering material from the South and commercializing it for their own profit (see the story on page 33)
- Encourage publishers in the North who want to use material from the South to make this material available freely to the communities in the South.

### **How to Promote a Culture of Sharing**

1. If you are an author or creator consider using copyleft or Creative Commons licences (see Chapter 5).
2. Give credit to the author or creator whenever you are using other people's material. (See "Guidelines for Global Music Publication" in Chapter 4.) If you are the author or creator, be sure you have your name properly identified in works you create.
3. If you are a publisher, do not copyright material gathered from traditional communities where the creators/authors are not identified.
4. Respect the integrity of an author's work and do not change without permission.
5. Create local public access libraries or Internet databases and invite people to contribute their work (songs, texts, prayers, sermons, drawings, etc.).
6. Promote the research of local and universal Christian heritage, such as symbols, rituals and songs, among other expressions.
7. Encourage pastoral and theological discussions on these issues.
8. Participate in public Internet databases of liturgical content such as OSRR/Feautor ([www.feautor.org](http://www.feautor.org)), Selah (a website in Spanish; [www.selah.com.ar](http://www.selah.com.ar)), and Cyber Hymnal ([www.cyberhymnal.org](http://www.cyberhymnal.org)).

## A DECLARATION OF PRINCIPLES

- We want to affirm the moral rights and integrity of creative expression.
- We want to promote—every time it’s possible to do so—free distribution for non-commercial use of worship resources, including songs, hymns, etc.
- We are committed to creating space for creative exchange among liturgists and song writers around the world (with special support for peoples in the South).
- We want to affirm that the commodification of knowledge is not biblically or theologically appropriate. This is a prophetic affirmation. We see that the deification of the market leads to the commodification of human creative expression, which exacerbates social exclusion, fragmentation and polarization. We are concerned that the market has become the sole reason for creating works.
- We want to affirm that this is a complex set of challenges that demands multi-stakeholder engagement and responses.
- We want to create a playing field where artists from different cultures and different traditions have equal access to and equal protection of creative expression.
- We want to avoid a romantic conception that refuses to engage the multiple realities of human expression.
- We need to affirm difference, pluralism and particularity, respecting, protecting and promoting different cultural expressions.
- We affirm mutual accountability and right relations.
- We affirm that God is the fundamental source of every creative expression and therefore human creativity is a gift of the Creator for the whole human family.

*These guidelines were developed at the WCC/WACC consultation on copyright in September 2005 in Faverges, France.*





# appendix

## Some Helpful Websites

**<http://www.feautor.org>**: A new website and database for liturgical and Christian education content that allows people to freely share religious resources.

**<http://www.oikoumene.org>**: The website of World Council of Churches.

**<http://www.waccglobal.org>**: The website of World Association for Christian Communication.

**<http://www.ip-sj.org>**: The website of Intellectual Property and Social Justice, a student organization at the UC Davis School of Law in Davis, California. See particularly <http://www.ip-sj.org/wp/2005/04/08/traditional-knowledge-primer>.

**<http://www.lessig.org/blog>**: The weblog of Lawrence Lessig, a Professor of Law at Stanford Law School, California, founder of the school's Center for Internet and Society and chair of Creative Commons.

**<http://www.wipo.org>**: The website of the World Intellectual Property Organization.

**<http://www.unhchr.ch/udhr>**: The official *United Nations Universal Declaration of Human Rights*' home page.

love to share

## Glossary

**Agape:** A Greek word meaning unconditional love for others.

**Author rights:** Copyright protection gives authors/creators of works the exclusive right to use or authorize others to use the work on agreed terms. Copyright protection also includes moral rights, which involve the right to claim authorship of a work, and the right to oppose changes to it that could harm the creator's reputation.

**Copyright:** Literally "the right to copy." Copyright is a legal term describing rights given to creators for their literary and artistic works, such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs, sculptures and architectural designs. Copyright gives creators exclusive use of their works and protects the integrity and moral rights of the creator.

**Copyleft:** The practice of using copyright law to remove restrictions on distributing copies and modified versions of a work for others and requiring that the same freedoms be preserved in modified versions. Copyleft is a form of licensing and may be used to modify copyrights for works. In general, copyright law allows an author to prohibit others from reproducing, adapting or distributing copies of the author's work. In contrast, an author may, through a copyleft licensing scheme, give every person who receives a copy of a work permission to reproduce, adapt or distribute the work as long as any resulting copies or adaptations are also bound by the same copyleft licensing scheme. Such licences are available, for example, through Creative Commons (see Chapter 5).

**Creative Commons:** A non-profit organization that provides free tools that let authors and creators easily mark their creative work with the freedoms they want it to carry. These tools are licences that allow

creators to change their copyright terms from “all rights reserved” to “some rights reserved.” The licences are a mechanism that allows a more open sharing of intellectual property globally. See <http://creativecommons.org>.

**Globalization:** An increase in free trade and open markets around the world, usually accompanied by the increasing dominance of multinational corporations. It is a process that promotes private property over communal property. Inherent in globalization is a tendency towards increasing privatization of common and public goods.

**Intellectual Property:** Creations of the mind—inventions, literary and artistic works, symbols, names, images and designs used in commerce. Intellectual property is divided into two categories: industrial property, which includes inventions (patents), trademarks, industrial designs, geographic indications of source and copyright, which includes literary and artistic works.

**Koinonia:** A Greek word meaning partnership or fellowship that describes the fellowship and community of Christians.

**Licence/license:** To license (used as a verb) is to give permission. A licence (the noun) is the document demonstrating that permission. In the context of copyright, a licence spells out the conditions under which a creator grants another the right to use his or her work.

**Moral rights:** The rights of the creator of a work to claim authorship of the work and to oppose changes to it that could harm the creator’s reputation.

**North (countries of the):** An alternative term to “first world” or “developed countries.”

love to share

**Patent:** A set of exclusive rights granted by a state to a patentee for a fixed period of time in exchange for a disclosure of an invention.

**Public domain:** When the term of copyright for a work has expired or when the owner of the copyright has assigned the copyright to the public, a work is said to be in the public domain. This means the work may be freely used.

**Private sector:** An arena where goods are produced privately, for example, by artists, scientists and business people. These goods are called private goods.

**Public sector:** An arena where all people participate in creating common goods, such as culture and community knowledge or social goods, such as education and health. The goods produced are called public goods.

**Liturgical resources:** Resources used in a worship setting, including songs, prayers, liturgies, symbols, rituals, art, images and icons.

**South (countries of the):** An alternative term to “third world” or “developing countries.”

***United Nations Universal Declaration of Human Rights:*** A declaration adopted 10 December 1948 by the United Nations’ General Assembly as a common standard of achievement for all peoples and all nations.

**WACC:** World Association for Christian Communication, which promotes communication for social change, is an organization made up of more than 850 corporate and personal members in 115 countries organized into eight regional associations. See <http://www.waccglobal.org>.

**wcc:** World Council of Churches is a fellowship of 348 churches in more than 120 countries. Through programs, conferences and assem-

blies, networks, resources and financial support, wcc bring a Christian witness to the world. See <http://www.oikoumene.org>.

**WIPO:** World Intellectual Property Organization, a United Nations agency with a mandate to promote the protection of IP throughout the world.

## List Of Writers

**Rebekah CHEVALIER**, Senior Editor, The United Church of Canada, Toronto, Canada.

**Fabio Botelho JOSGRILBERG**, Researcher, Methodist University of São Paulo, São Bernardo do Campo, Brazil.

**Simei MONTEIRO**, Programme Executive for Spirituality and Worship, World Council of Churches, Geneva, Switzerland.

**Rogate Reuben MSHANA**, Programme Executive for Economic Justice, World Council of Churches, Geneva, Switzerland.

**Luiz Carlos RAMOS**, Editor, Methodist University of São Paulo, São Bernardo do Campo, Brazil.

**Dennis SMITH**, Presbyterian Church (USA) Mission Co-Worker and member of the Latin America region of WACC, Guatemala City, Guatemala.

love to share

Special Contributions by

**Mary E. HESS**, Associate Professor of Educational Leadership, Luther Seminary, Saint Paul, USA.

**Geidy LUNG**, Senior Legal Officer/Copyright Law Division, World Intellectual Property Organization, Geneva, Switzerland.

**Jung Mo SUNG**, Professor of Religious Studies, Methodist University of São Paulo, São Bernardo do Campo, Brazil.



