

Globalization Without World Order: Intellectual Property and its Discontents

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In Shanghai, the most dynamic city in the world's fastest growing country, fake DVDs, Prada bags, Armani watches, and Nike shoes are all easily available. Throughout the Chinese mainland — as in the rest of the developing world — there is a thriving market in counterfeit goods. Controlling this underground trade has become one of the most crucial issues in the arguments over globalization and its effect on the autonomy of the developing world.

In many respects globalization is nothing new. While there is much debate about precisely when it began, the worldwide trade in goods, ideas, and people is at least a century old. Nevertheless, it is possible to speak of a contemporary phase of globalization. This began in the late 1980s or early 1990s with the end of the Cold War and the rise of Asia, particularly India and China. President George H. W. Bush spoke dramatically of this emerging global phase at the time, calling it "a new world order."

The current system of intellectual property (IP) laws belongs to this "new world order." Embedded in such international organizations as the World Intellectual Property Organization (WIPO) and, more importantly TRIPS — one of the three integral parts of the World Trade Organization (WTO) — IPP (intellectual property protection) now constitutes a single global regime. Any country that wants to legitimately participate in global trade must now accept a set of worldwide IP laws.

Yet, despite their global ambition, the laws governing the protection of IP are often regarded as a form of First World protectionism, in which the rich world — the main producers of IP — are seen to be operating against the autonomy of governments and economies of the developing world. Critics complain that IP laws not only carry an enormous economic cost to those that can least afford it but they also violate the cultural autonomy of many non-Western states. The importance given to originality and the disdain for copying is a Western value that makes little sense in the cultures of the East, for example, where learning most often takes place through mimicry.

Debates surrounding IP, then, tend to pit a notion of globalization as a single "world order" against the economic and cultural autonomy of the developing world. Both sides underplay the giant underground economy that operates outside the global IP regime. While IP laws demand international harmonization the fact is that these laws are impossible to enforce. The "on the ground" reality, therefore, is not a single global order but rather a patchwork of different zones — both within and between countries — where IP laws are enforced to varying degrees. It is the heterogeneity of these zones — each of which operates with a fair degree of autonomy — that allows global piracy to thrive.

Science fiction writer Bruce Sterling calls the underground international market in counterfeit goods "black globalization" arguing that it subverts the global economy. Piracy, however, does not undermine "legitimate" globalization so much as work alongside it.

Copying has been a key factor in economic development everywhere in the world. All countries at a certain stage of growth — including Europe, America, Japan, and now Mainland China — have at some point relied on mimicry. Amongst the crucial aspects of piracy is a process called reverse engineering, which allows for technological transfer from the rich world to the poor. Though it is based on copying, reverse engineering requires innovation and trains indigenous workers to adapt foreign technology to local conditions. It also provides ample opportunities for poor entrepreneurs who run highly sophisticated businesses in the harshest of conditions. Most importantly, however, piracy brings down prices of existing goods opening new markets throughout the developing world. The legal economy in both rich and poor counties thus often benefits from the giant worldwide trade in counterfeit goods.

Seen from the perspective of global piracy, then, globalization is not a single world order but a disordered hybrid system in which the formal, legal, above-board economy coexists and feeds off of its shadowy informal twin.

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