

The language of western homogeneity: a rose by any other name is a potential lawsuit

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Queen Mary Journal of Intellectual Property

Online ISSN: 20459815  
Print ISSN: 20459807

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Keywords: copyright; translations; culture; literary works; education; developing nations; language; South Africa

Published in print: Jul 2016  
Category: Research Article  
DOI: <https://doi.org/10.4337/qmjip.2016.03.08>  
Pages: 392-404

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It has sometimes been stated that international legislation favours the developed nations that create it to the detriment of the developing nations who must abide by it. This paper shall pose this question with regard to the issue of copyright law relating to the right to translate a literary work, as expressed in the Berne Convention and the TRIPS Agreement and applied in South Africa. In other words this paper shall ask: Does the right to make a translation of a literary work, as currently expressed in international instruments, work to the detriment of developing countries such as South Africa? The answer shall be a resounding 'yes'. This is because, whilst developed countries are largely homogenous in culture and therefore language, developing countries have become cultural melting pots through centuries of migration and colonialization. The failure of such instruments to adequately cater for the developing world's cultural (and linguistic) needs is a failure on the part of the international community to take the developmental goals expressed within local and international law seriously. It is argued that current international law does have the scope for change in such instruments, but whether or not this is done will depend on the political will of the developed nations.

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