

# When academic writing no longer pays, writing stops

By [Prof Sihawukele Ngubane](#)

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The goals of the Copyright Amendment bill tabled by the National Council of Provinces are noble, and indeed ones shared by most South Africans interested in developing our creative and academic sectors. Unfortunately, by misreading the production processes behind our country's body of knowledge, parliament may have in fact issued the death blow to these industries. What's even more concerning is the domino effect that this will have on the long-term quality of higher education in South Africa, as we effectively remove any and all incentives to create new or updated learning materials.



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In a recent letter to groups representing some of the creators of this knowledge – PEN South Africa, PEN Afrikaans, and ANFASA (The Academic and Non-Fiction Authors Association of South Africa) – Minister of Trade and Industry Rob Davies stated that educational institutions like universities are the dominant creators of new knowledge, and that, as such, they “critique information and find new local and global applications for existing knowledge”.

He uses this assessment as justification for the Bill, which, in its exceptions and limitations for fair use, allows for the extension of exceptions to copyright in works when the use is ‘for education’ of academic works.

The harsh reality is that, the producers of knowledge can no longer gain fair compensation for their work, the incentive for creating that knowledge disappears, and that work stops. When this work stops, we effectively achieve two outcomes. The first is to age the body of academic materials to the point that they are no longer relevant and the skills we are creating do not keep up with global trends. The second consequence is to effectively recolonize our education landscape as the only way to access new materials is to import it (at a significant cost premium).

When there is less knowledge – particularly local ideas and insights – the opportunities for “critiquing information and finding new local and global applications” for it is necessarily also reduced.

The rationale behind the Bill’s attempt to make academic texts affordable, or permitting their reproduction is that students and lecturers will be able to access that knowledge more easily. However, by rendering the production of academic knowledge a non-viable pursuit, the minister is essentially pressing “pause” on the growth of the field.

When the amended Act leads to fewer South African writers producing work, and fewer university presses and academic publishers putting out texts, the availability of “existing knowledge” to be converted and processed into new, innovative and inspiring ideas will shrink.

In a sense, the DTI and the parliament, which has approved the bill, is endorsing the appropriation of knowledge without compensation. While such a policy may be understandable in the context of returning stolen land to its rightful owners, in the academic field, there are no such considerations.

Knowledge has not been stolen. It is produced by writers, academics, publishers and artists, influenced by previous generations of knowledge creators, built upon and shared in order to grow humanity’s understanding of itself, and its environment.

These people have as much right to compensation for their endeavours as any other workers in our economy. By allowing an extremely broad range of uses of their work without authorisation or compensation, the DTI is in effect saying it has no value, and at a stroke undermining knowledge creators’ ability to earn a living.

To extend the land-use metaphor, were a government to decree that wheat could no longer be sold for money, wheat farmers would instantly have no more incentive to grow wheat, and cultivation of that crop would cease.

In this case, knowledge and ideas are our cash crop. Writers, publishers and artists are the farmers of our ideas. They invest their time, their labour and their own money into their research, their production and their creative processes.

While much of what they do is for the benefit of broader society, their motives are not just altruistic. Like all of us, they must support themselves through these labours. The Copyright Amendment Bill threatens to remove their ability to do so.

When producing knowledge no longer pays, knowledge producers move into other industries. They have no other choice.

The Minister, in his letter, insists that “the Hybrid Fair Use provision is not a carte blanche provision, but it is subject to safeguards that have been incorporated into the CAB.”

This is all well and good, but as we have seen with similar legislation in countries like Canada, the parameters of the new law will have to be determined by the judiciary. Academics, artists and publishers will have to go to court to defend their right to earn a living from their own work.

Whether they succeed or fail, the process may take longer than a decade – as has been the case in some similar matters in North America. Quite simply, few publishers – and hardly any authors on the face of the earth – have the wherewithal to finance such legal battles.

This should not be necessary. Copyright in created works and the right of their creators to live off them should be an

inalienable right.

We fear that in trying to ensure that coursework is more affordable, the state is ensuring that the work in those academic courses will be all the poorer in years to come. We must again implore the legislature to reconsider its adoption of this law.

Even now, at the 11th hour, the president can send the bill back to parliament for further consideration. If our writers can no longer write for a living, there will be less writing to learn from.

## ABOUT THE AUTHOR

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