

**IPA in Conversation with ...  
Francis Gurry**

**Director General, World Intellectual Property Organisation**

**Intellectual Property and international cooperation:  
Past, present, future  
Part 2, Monday, July 20 2020  
Transcript**

Hugo Setzer: Hello everyone and welcome back to the second part of the thoughtful conversation with the Director General of the World Intellectual Property Organization, Mr Francis Gurry. Francis, thanks again so much for being here with us.

Francis Gurry: It's a pleasure, Hugo.

Hugo Setzer: Francis, last time we covered a great deal in discussing your achievements during your tenure in WIPO, speaking mostly about the past. Today I propose that we focus on the future and for that I have a couple of questions for you, if it's okay with you that we start.

Francis Gurry: Of course.

Hugo Setzer: let me pick the conversation up where we left it last time. I remember we have talked about on several occasions, and we did last time as well, about the importance of international cooperation and the fact that this critical concept was being challenged even before this crisis. What do you think of the role of multilateralism to help overcome the pandemic?

Francis Gurry: Well, look, I think that there have been varied degrees of successes. I think, specifically on the pandemic, we've seen that there have been some failures and there have been some successes. What I think it demonstrates is that the old model of having a single international institution with an exclusive mandate and monopoly over an area has finished. The world is too complex for that. So if you look at what might constitute international cooperation in relation to the pandemic it's a very complex web of relationships involving, of course, the World Health Organization and other international organizations, the UN, but, involving many private sector actors, many public-private partnerships. You know you have the safety centers for epidemic preparedness innovations, you have GAVI, the vaccine alliance, you have Médecins Sans Frontières, you have many many players – and so I think that's the first thing about multilateralism is that its nature is changing. But you're right

that there are two questions really here, I think. One is, what's the appropriate model for the world? And the second question is the whole idea of international cooperation. I suppose I should reverse them. So one of the worrying things at the moment is of course that it's not just the particular form, or expression, of international cooperation in the current multilateral architecture that is under criticism, but the whole idea of cooperating. You know, the various first movements around the world are saying really: we'll do it our way and look, you, you just keep away. And if you want to deal with us, you have to deal with us on a more or less bilateral basis. Again, I emphasize: I don't think this is this is a tendency that is confined to one country or emanates from one country. It may be it receives its most forceful expression in one country, but it's happening in many many countries around the world. So the whole idea that we can advance the public good as it were, or, you know global public assets, through cooperation is under threat. And that's a very worrying thing because I personally think that we've just come too far in the development of the world to renounce international cooperation. If you want your mobile telephone to work when you get off the plane, if you can take a plane, somewhere else, then it can only work because of international cooperation. And there's so many examples of that that we tend to forget about, of technical international cooperation.

Now on the particular form, we could talk for hours and I better shut up, but I think the problem is that this particular form of multilateralism that we have at the moment was invented in an entirely different world. It was invented the end of the 1940s and the world was just completely different place geopolitically, economically, technologically in every single respect. And so the system as it was designed is suffering from design fatigue. Now, history tells us that we only ever get the energy, as a globe, to reform the multilateral machinery after a crisis. Whether it was the Napoleonic wars and the Congress of Vienna or the first World War and the League of Nations, the second World War and the United Nations and so on. I think we have a crisis at the moment, a global crisis with the pandemic, and we have a global crisis, let's face it, of multilateralism. So I hope that maybe we can use that to inspire a reform of the multilateral machinery which will make it more adapted to the current world.

Hugo Setzer: I agree with you, Francis, and I am also kind of concerned about what you mentioned about the threats of protectionism and going back on on the importance of international cooperation. I mean, it probably has to change, but I think international cooperation is something that will lead us out of this of this problem. I don't know, you've also probably read Yuval Noah Harari with his *21 Lessons for the 21st Century* where he says that our challenges are of a global nature and so have to be our responses to those challenges, also of a concerted global nature.

Francis Gurry: Absolutely, I fully agree.

Hugo Setzer: Thank you, thank you Francis. And on another question: You mentioned earlier that you are having also meetings around AI and one of your final acts as Director General has been to lead WIPO, WIPO's engagement with the issue of artificial intelligence. IPA participated in WIPO's consultation voicing the industry's views on this issue, which discussion is still at the early stages in the majority of WIPO member states. What do you see as the key questions that need to be raised by policymakers in the coming years in in this area?

Francis Gurry: Thank you, Hugo. We have tried to define those questions in a collaborative manner. So we had the first conversation last year in September, I think. Then we published a preliminary list of issues for comment. We got over 250 comments. IPA, thank you very much. And then we published a revised list. And now right at the moment we're discussing the revised list. So it's a long journey and we've deliberately called it a conversation because we don't want to alarm anyone into thinking that we're going to do a treaty tomorrow. We're just not at that stage in our understanding of the impact of artificial intelligence, which is a general purpose technology. It's going to have an impact right across the economy and society and nor are we at a sufficiently advanced stage in our understanding for intellectual property issues. But amongst the intellectual property issues that are very important are of course machine creation, as against human creation. You know, so how does that work for the copyright system? Do we need, are we just going to treat the machine in this instance – you know, the the trained data and the algorithm – as another assistance to creation like paper or pencil or a computer-aided design, or is there such a thing as autonomous creation from artificial intelligence. And if so, should we create an incentive structure that is based on the copyright system or on a different system? So these are very profound questions and I don't think we should rush into an answer. Likewise, I think we've got fundamental questions about, you know, the whole transformation towards data. What does that mean in terms of creative works and what data qualifies creative works? I think many data qualify under the classical intellectual property system but is there a need for a broader form of protection for data? Well, they tried it with the Database Directive so we have to be very careful, it didn't really work very well. But I think the Europeans are re-thinking this in the new context so that's a huge question.

Then there's a whole question of the integrity of data, you know, the deep fake technology that is developed and enables actors performances to be pieced, re-pieced together so you get a video. We've all seen the video of president Obama giving a speech which he never made through deep fake technology. Well, they can make films with actors on, you know, with performances they've never made. What you know what what are the rights and permissions that should be involved here and who owns whatever comes out in any case.

So we're really faced with a set of very fundamental challenges and of course it's always a dilemma here and depends on your particular political economy where you where you line up on the regulatory spectrum. Some people regulate want to regulate everything that moves and others say no, you know, there's a market there and let's leave it to do its work. So it depends a bit on the approach you take but we do live under a system in which you can normally, in most countries, you can do anything except that which is illegal. Now with a new technology, there's no law so people are doing things and afterwards the world is saying: 'oh well, we're not sure that they should have been using the data for manipulating electoral results here or there or whatever it might be'. That's a dilemma, you know. So do we regulate or don't we regulate? We're going to see a lot of activity and phenomena which we would afterwards consider doubtful, but if we do regulate, then we might be doing so without full understanding of the implications.

Hugo Setzer: Those are really interesting and to some extent frightening challenges we have there with AI and all the discussions that's happening. And I think it's really great that you

are leading those, as you mentioned, conversations because there's so much we have to still understand and discuss and between the many stakeholders.

So Francis, perhaps for my last question for this second session – let me go back to copyright. On World Intellectual Property Day IPA issued a statement on copyright which demonstrates the value of WIPO's administered treaties for our industry. And I quote what we said at that time: *In these unprecedented times, IPA notes that the copyright framework is critically important and apparently inherently innovative. This is a time when we need authors, publishers and a strong legal framework more than ever*, end of quote. In that sense, what do you think will be the role of copyright in the economic recovery from the post-pandemic global recession? And perhaps further down the road, what future do you see for copyright?

Francis Gurry: Yeah. so I think Hugo, I'm 100% on board with your statement on world intellectual property, it absolutely hits the nail on the head. I think, well, look, it's the basic business model or economic model for returning value to creators and their business associates and it has been for quite some time, you know, many centuries.

I don't see that it's replaced by something like advertising, you see. A lot of people would say: oh what advertising, you know, if you look at some of the distribution platforms they're using advertising to generate (revenue), not copyright. Well I don't think that's quite true because an advertiser is not going to pay anyone money for something that is in the public domain or for advertising in respect to something that's in the public domain. They're usually in order to be able to attract the advertising you've got something that you're selling and that is access to this, these works. So even advertising depends on copyright in a certain sense, between what who they're going to have to pay or not pay to do their advertising.

So I think it's a tried and true institution. It's of course always under stress but I think that's normal because it's a balancing institution. It's an institution that's trying to find the right balance between the authors, the business associates, the publishers, the recording companies for music, the film production companies, the broadcasters and then the consumers and all the distributors that are in there as well, libraries and so forth. And so it's always going to be slightly controversial or at least there'll be tensions. The job I think of intellectual property is to get the right balance between all those things, so that the value distribution is a good one across the whole value chain.

So I see it's an indispensable model that I don't see any replacement out there for it. And I really don't see any replacement is out there. What I think we have, one of our major tasks, is to be able to simplify the dizzying complexity of the copyright system. It's become very complex now, partly because of the movement of creative works around the world and we're dealing with territorially based copyright systems, laws and institutions. That produces a certain amount of complexity for users and I think this is something that we need to think about carefully now. The digital age gives us the possibility to be able to introduce more simplicity in that very complex system. I think we should all be working and I know you, the publishers, have been working, you've been working for a long time on the various elements that you need for a smooth functioning digital production and distribution of published works, of publications. We have to get this into a form. I think that it's extremely important that you do this. I mean if we take the example of music, basically the problems we had with

music, where the music industry was in decline, well it was solved by a better business model. Yes, we had copyright, it was based on copyright, it is based on copyright, but you needed a better business model. So I think we all the time and you do as publishers, we have to think about what's the best business model, how can we make this the most simple for the user, but the system itself I think is the bedrock of the whole creative industries.

Hugo Setzer: Absolutely, I fully agree with you Francis. I also think that I have to say, as a publisher, I'm proud that we as publishers I think are very innovative in creating new business models and for that to happen we need this bedrock of this copyright framework for this to happen and to protect the investments we made, we make in generating those new business models. So yeah, I fully agree with you on that. Thank you, Francis.

I think we could we could go on and on and talking but we have to have an ending to to this program. This has really been a fascinating conversation. Thank you so much for sharing your insights with us, for IPA and for me personally it has always been a pleasure to collaborate with you. So let me take this opportunity to wish you all the best for your future endeavors.

Francis Gurry: Thank you so much, Hugo. Look for me likewise it has been really a privilege and a great pleasure to cooperate with you, with all of our friends at IPA, it's with José, with everyone else, it's always been a pleasure. So thank you and thank you for your engagement in WIPO because that's what makes the system work.

Hugo Setzer: Thank you thank you, Francis. It was also a privilege and a pleasure for me. Thank you. Bye.