Wang, Shujen. "'Dreaming with BRICs?': On Piracy and Film Markets in Emerging Economies." *Postcolonial Piracy: Media Distribution and Cultural Production in the Global South*. Ed. Lars Eckstein and Anja Schwarz. London: Bloomsbury Academic, 2014. 99–118. *Bloomsbury Collections*. Web. 26 Apr. 2023. <<http://dx.doi.org/10.5040/9781472519450.ch-004>>.

Downloaded from Bloomsbury Collections, www.bloomsburycollections.com, 26 April 2023, 13:05 UTC.

Copyright © Lars Eckstein and Anja Schwarz 2014. You may share this work for non-commercial purposes only, provided you give attribution to the copyright holder and the publisher, and provide a link to the Creative Commons licence.

‘Dreaming with BRICs?’¹

On Piracy and Film Markets in Emerging Economies

Shujen Wang

[T]he story of the century will be the inexorable rise of emerging economies.

The Economist (2011: 84)

Introduction

Both emerging markets and grey markets are temporally and spatially ambiguous, defying fixed expectations and definitions. As a grey and informal market, piracy occupies an interesting space in which the products circulated are not illegal in and of themselves (as opposed to black market goods such as narcotics) (Creer 2004); it is the ways in which, and the areas in and through which, they are produced, distributed, sold and used that raise questions. Likewise, emerging economies are by definition in-between economies, between development stages or economic systems. They are in transition and occupy a more or less fluid in-between place temporally. What makes piracy

¹ ‘Dreaming with BRICs’ is the partial title of Wilson and Purushothaman’s oft-cited Goldman Sachs report that predicted the rise of these four emerging economies in the next few decades (2003: 1).

markets in emerging economies worthy of note is the inextricable relationships between pirate markets and their formal counterparts and the role different stages of development play in the functioning and operation of these markets.

Piracy and development share an intricate relationship. The spread of piracy is part of the development of globalization and regionalism. The transition into a free market economy that benefits the growth of a formal economy and the production and distribution of goods in emerging markets also inevitably helps the circulation and production of illicit goods. A form of parasitic capitalism, given its dependency on the formal economy and the existing infrastructure, piracy siphons off the formal markets, but what is rarely discussed is how it also fuels the growth of the formal economy. The top-performing emerging economies with high respective piracy rates, the BRIC (Brazil, Russia, India and China) markets, provide a particularly interesting backdrop against which the dynamics between the formal and the informal play out.

BRIC

In 2001 Goldman Sachs's chief economist Jim O'Neill first coined the term BRIC (O'Neill 2001; Kowitt 2009), and in 2003 Goldman Sachs published its now oft-cited research entitled 'Dreaming with BRICs: The Path to 2050', predicting that the BRIC economies combined could account for over half of the current size of the G6 by 2025, and outgrow them by 2050 (Wilson and Purushothaman 2003: 2). The irony with regard to 'BRIC' is that it was not only a Western banker on Wall Street who coined the term, but it was also done as a reaction to the 9/11 attacks. In an interview, Jim O'Neill noted his realization after the 9/11 attacks that globalization was not going to be about 'the Americanization of the world', but rather 'it showed you couldn't run the world properly without having these guys more involved' (Kowitt 2009). Global powers and power relationships are shifting in post-9/11 international reality.

As the most populated and fastest-growing markets in the world, the BRIC countries carry increasingly significant weight and negotiation prowess, which is beginning to reduce the size of the American as well as other Western economies (Wince-Smith 2007).

Also in 2003, the US film industry saw that for the first time international revenues outperformed its domestic box-office returns, earning 50.2 per cent of the total revenue. In 2011 the international market grew even higher to account for 58.4 per cent of the total revenue, with China and Russia, half of the BRIC economies, leading the pack in both box-office performance and infrastructure/screen growth (Hancock 2012). China's box-office, for example, rose past US\$2 billion for the first time in 2011 (a 29 per cent increase over 2010), while the Russian box-office revenue measured US\$1.16 billion (a 20 per cent growth from 2010). In 2010 all four BRIC countries constituted the top foreign territories, with China witnessing a 64 per cent increase from 2009, Russia seeing a 56 per cent increase, and Brazil increasing 30 per cent (A. Stewart 2012).² Finally, and very significantly, in 2012 China replaced Japan to become the world's largest market for Hollywood movies outside the US.³ And for the first time in a decade, not a single Russian film made it to the top-ten list in Russia in 2012, the fifth largest film market in the world. The list, instead, was dominated by Hollywood movies (Holdsworth 2013). Both occurrences signalled a clear dominance and overwhelming popularity of American movies in these two transitioning former communist countries. These performances are stunning in and of themselves, but they are even more dramatic, and ironic, when viewed against the piracy backdrop.

Just as the formal box-offices in these top-performing emerging economies continued to see record-breaking growth, their shadowy

² To catch the buzz of the excitement over the BRIC markets, the Hollywood trade journal *Variety* presented 'The BRIC Summit' on 15 June 2012 in association with the Association of Film Commissions International (AFCI) Locations Show, exploring 'how the fast-growing film and TV economies of Brazil, Russia, India and China are critical to the ongoing growth of the entertainment industry' (*Variety.com* 2012).

³ In 2012, the Chinese market rose 31 per cent to US\$2.75 billion, and the Russian market rose 8 per cent to US\$1.24 billion. See Abrams (2013) and Holdsworth (2013).

informal counterparts, the pirate markets, also maintained their upward ascension trend. In 2013 all four BRIC countries remained on the United States Trade Representative (USTR) Special 301's Priority Watch List and the (regular) Watch List for high piracy offences and weak antipiracy enforcements.⁴ India, for example, had been placed on the Priority Watch List for 20 straight years (continuously since 1994), while Russia remained on the same list for 17 straight years (continuously since 1997). Brazil was placed on the Priority Watch List from 2002 to 2006 and was downgraded to the Watch List in 2007, remaining there ever since. Meanwhile, China was named the Priority Foreign Country in 1991, 1994 and 1996, subject to potential investigation under the Section 301 provisions of the Trade Act of 1974, and has been placed on the Priority Watch List since 2005. In 2012 and 2013 China was also subject to a special monitoring programme under Section 306 of US trade law (as it was from 1997 to 2004, and in 2006).⁵

The 2012 USTR Report is particularly significant because the American intellectual property (IP) industries were the top export sector (at 60 per cent) in the US economy and employed a high number of workers domestically (40 million American jobs) (Reuters 2012). These numbers are even more important when viewed in the context of the recent economic downturn. Despite the 2008/9 economic recession and the high piracy rates that had supposedly caused losses to the copyright industries, the copyright industries instead outperformed the rest of the US economy (Siwek 2011).⁶

Given these parallel developments (i.e. high piracy rates and the record-breaking, formal box-office increases in BRIC), one has to ask if

⁴ Under Special 301 provisions, USTR has created a 'Priority Watch List' and 'Watch List' documenting IPR protection, enforcement or market-access problems existing in trading partner countries. Countries placed on the Priority Watch List receive bilateral attention concerning IPR problems. Any country that is named a Priority Foreign Country is a country with 'the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on the relevant U.S. products', subject to a potential investigation under the Section 301 provisions of the Trade Act of 1974 (IIPA 2012: 53).

⁵ See various IIPA reports for this section.

⁶ Siwek (2011) estimated that the core copyright industries' dollar share of the US economy was at 6.4 per cent between 2007 and 2010.

there is any connection between piracy and formal market growth. Has visual disk piracy since the 1990s successfully cultivated another generation of viewers for the formal film market just as video cassette piracy did in the 1980s? Has users' pirate-product consumption increased their demand for legitimate products? What is the significance of the contexts of emerging economies in both the informal and formal global movie market growth? Is piracy a legitimate business model, as one Sony executive once suggested (see later discussion)? What are the cultural, theoretical, legal and policy implications of grey economies in emerging countries?

With the buzz over BRIC in the past decade, it is surprising that only a handful of law studies have examined copyright issues in BRIC as a cohort⁷ and even fewer studies have been conducted on media piracy and related matters in BRIC.⁸ Owing to space restrictions, this chapter will only attempt to provide a preliminary contextual look at piracy matters in BRIC, addressing common issues pertaining to these countries. More specifically, this chapter will examine the complex relationships between piracy and global film markets. It will look at how the growth of the BRIC box-office revenues and their parallel high movie-piracy rates have raised questions about and shed light on global cultural flows, and have begun to shape global film discourse and challenged/redefined the boundaries between the formal and the informal, the licit and the illicit.

BRIC: Emerging economies as a collective force?

Representing 40 per cent of the world's population and 15 per cent of its GDP, BRIC economies, when combined, are a force to be reckoned

⁷ Robert C. Bird is one of the few legal scholars to have specifically written comparatively on IP matters in BRIC.

⁸ The major research volume edited by Joe Karaganis (2011b) is one of the very few collections that examine piracy in the context of emerging economies. The volume includes individual country studies on Brazil, Russia and India, and not BRIC as a cohort.

with. But is the BRIC bloc a collective force, or is it a group of disparate countries? After all, the four countries have diverse histories, cultures and political and economic backgrounds. As Patrick Stewart (2012) pointed out, while they may lack a common vision, the BRIC countries have two things in common: their emerging economic powerhouse status and their resentment of a West-dominated global economy. In June 2009 the four leading emerging economies called their first summit as a group in the Russian city of Yekaterinburg for an 'increased role in global financial institutions by emerging economies and developing nations' (*Deutsche Welle* 2009). The summit turned into an annual occurrence after 2009, adding South Africa in 2011 to form 'BRICS'. The 2012 summit in India was particularly noteworthy. For the first time the group went beyond its macroeconomic focus to also include discussions of issues surrounding development, urbanization and cultural cooperation, acting clearly as a new geopolitical force (P. M. Stewart 2012).

While the BRIC economies fit the definition of an 'emerging economy', their unique status does set them apart from other emerging economies. As mentioned, emerging economies are those in-between, transitional economies. They are 'low-income, rapid-growth countries using economic liberalization as their primary engine of growth' (Hoskisson et al. 2000: 249). In general, there are two categories into which emerging economies fall: developing countries in Asia, Latin America, Africa and the Middle East, and transition economies in the former Soviet Union and China. On the one hand, BRIC countries are emerging economies since they meet the above criteria; on the other hand, they are not typical emerging economies. They are *sui generis*, possessing negotiation leverages that other emerging countries do not have: large populations, strategic geopolitical power, large geographic areas, and all but Brazil are nuclear powers (Gibbons 2010). While they may hold stronger bargaining leverages than those with lesser prowess, the BRIC economies do provide interesting examples of what other emerging economies could follow in their own respective IP negotiation relationships with the West, especially the US.

IP protection is high on the US trade negotiation agenda not only because of the importance of the IP industries to the US economy, given its role as a key export industry as mentioned earlier, but also because it could help reduce the US trade deficits (Yu 2006).⁹ Although all four countries have updated their respective IP laws and strengthened enforcements, piracy rates remain high. Given BRIC's status as attractive markets for US exports and their respective high piracy rates, perceived or real, the US has had to extend repeated trade pressures towards the BRIC governments. All four countries have been successful in their own ways in resisting pressures from the US while negotiating. Likewise, just as the BRIC countries have different negotiation and resistance strategies, the US has also handled the copyright trade negotiations with BRIC differently depending on its relationship with each country.

The US, for example, has treated Russia far more leniently in copyright issues than it has the other BRIC countries, especially China (Neigel 2000; Bird and Cahoy 2007). To reduce the serious trade deficit with China, the US has threatened China multiple times with trade sanctions over its IP violation and enforcement issues. To support the Russian government following the Soviet Union's collapse, conversely, the US government became a strong supporter of the Yeltsin government by helping Russia strengthen its economy. The fact that the US does not view Russia as a major consumer market the way it does the Chinese, Indian and Brazilian markets also means that copyright issues with Russia, while crucial, are not as pressing as those with the other markets. Finally, to encourage the Russian disarmament effort, the US has adopted a milder approach towards Russia than it has towards China. Thus, for Russia, it is its intricate political significance

⁹ Yu made the observation of some parallel developments in Sino-US trade negotiations in the 1980s and the 2000s during which IP protection issues became a key negotiation point. The first Bush and the Clinton administrations threatened China with economic sanctions, trade wars and opposition to China's WTO entry to induce China to strengthen its IP protection and enforcement.

that has enabled it to resist US pressure in reforming its intellectual property rights (IPR) protection and enforcement efforts.

For China, its strategy has been what legal scholar Peter Yu called the 'Cycle of Futility' (2006: 904).¹⁰ Whenever the US threatened China with sanctions, China would always engage in counter-threats of sanctions, negotiating and reaching an agreement at the eleventh hour. India, on the other hand, used what Bird and Cahoy (2007: 410) described as 'procedural slowness' to prolong and delay legislation and enforcement in reaction to the US's demands. They have also been slow to enact IPR regulations.

Brazil was one of the leading countries (along with India) in protesting the linking of trade to intellectual property at GATT (see discussion in the next section). While it ultimately and reluctantly became a TRIPS (Trade-Related Aspects of Intellectual Property Rights) signatory, it remained resistant to US pressure, especially in the area of pharmaceutical protection (Bird 2005).

Trade, copyright and development

Signed upon the establishment of the World Trade Organization (WTO) in Marrakesh, Morocco, on 15 April 1994, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) means that the global copyright governance has expanded into the arena of global trade, signalling the 'further intersection of legal, technological and knowledge structural streams' (May 2000: 67).

As is well acknowledged, access to free or cheap technology and knowledge diffusion are essential tools with which developing countries are able to 'catch up' and narrow the gap between themselves and industrialized countries (Yueh 2007: 442; Richards 2008). Others

¹⁰ See also Peter Yu (2005), when he first coined the term. In his 2006 essay he did a follow-up analysis of the situation and made further recommendations.

have echoed that strong IPR protection often inhibits economic developments (Schiappacasse 2003).

In an interesting 2010 essay, Llewellyn Gibbons argued that, to reach the developed stage, every country would have to go through a free-riding period, pirating intellectual property of the more developed countries. In going through the three stages of development, namely dissemination, absorption and innovation, it is common for piracy to be part of a growing economy as it matures into a developed state. In other words, one could say that appropriating IP, not protecting it, helps development (Volper 2007).¹¹ The US, for example, relied on IP appropriation, not protection, for its early economic growth.

It is then easy to understand why developing countries are, in general, more in favour of having the World Intellectual Property Organization (WIPO), as opposed to TRIPS, as an IPR forum. WIPO's one-nation, one-vote decision-making mechanism works in developing countries' favour much more so than TRIPS's deep integration programme and supranational harmonization requirements, through which the exclusive territoriality of the nation is challenged (Wang 2005; Endeshaw 2002). As Peter Yu (2007: 7) explained, the turn from WIPO to TRIPS is the transformation from an *international* intellectual property regimen to a *global* one. With the earlier international IP treaties, such as the Berne or Paris Conventions, countries were focusing on 'minimum standards' or the 'protection floor', whereas TRIPS imposed a 'supranational code' on the weaker WTO members. It is no wonder then that many view the establishment of TRIPS as a reordering of international relations and the further eroding of developing countries' standing. Thus the linking of IP issues with trade and the fear of potential trade sanctions are an effort to ensure that developing countries not only adopt the expansion of IP but also enforce it (Endeshaw 2010).

Interestingly, the copyright and piracy rhetoric both in the West and in BRIC follows a development-centred North vs. South trajectory,

¹¹ Volper (2007: 324) noted that appropriation is necessary for China to transform from a 'made in China' country to one that boasts 'invented in China'.

where the West views the BRIC economies as having the strength and sufficient economic as well as technological growth to participate in global innovation, and therefore they should protect intellectual property rights. In the meantime, BRIC and other emerging economies have argued for an open-access route, resisting the coercion from the West whose aim they perceive is to maximize profits while not understanding the development needs of the developing countries (Bird and Cahoy 2007).

Grey and informal: Ambiguities

The line between the formal and informal economies is never clear-cut. In fact, the formal and the informal economies are mutually beneficial. As a shadow economy, piracy does rely on existing formal economic infrastructure (as mentioned earlier), but it also provides jobs and other sources of revenues to local businesses and governments. Enforcement that requires local government collaboration proves to be difficult to a degree because of the unspoken benefits piracy provides. It is reported, for example, that the Chinese economy has become dependent on revenues coming from piracy. As much as one-third of China's GDP, for instance, comes from piracy and counterfeiting (Haber 2006). One of the reasons for China's inconsistent enforcement efforts has, then, in part to do with the positive effects piracy exerts on local economy, as pirate industries support local employment as well as legitimate businesses. These include, both directly and indirectly, transportation, hotels, restaurants, and other service and entertainment businesses (Harris 2008; Hunter 2007). In that sense, pirate and other informal economies solve problems that globalization cannot. Furthermore, piracy provides employment and income for goods otherwise inaccessible to those directly or indirectly participating in pirate operations, improving the quality of life for many.

It is apparent then that the same market economy that facilitates the production, distribution and sale of products worldwide also helps

the circulation of illegal ones. As Movius (2002) pointed out, piracy is a by-product of these marketization processes and the accompanying uneven development of both supra- and subregionalism. The flexibility of piracy means that it is able to accommodate large numbers of dispossessed populations, due to uneven developments in these emerging economies, while relieving the social unrest that uneven developments inevitably produce.

Similarly, Adrian Athique (2008) showed in a fascinating study the intricate and entangled relationships between the formal and the informal film markets in India. The close connections that existed among some of the informal economies (e.g. a disorganized film industry and the black money underworld) eventually linked to, and, in fact, led to, the establishment of the formal overseas Bollywood film markets. While in both the Chinese and the Indian cases the relationships between the formal economy and the informal economy, and their respective relationships to the government are extremely complex and disparate, in both cases pirate markets are directly connected to the state and the formal market.

Also in India, the growth of pirate markets is positively linked to the growth of formal film markets because of the transformation of the exhibition sector. The building of multiplexes in urban areas has caused the industry to raise ticket prices and to cater to higher-income audiences whose preferences are to watch more globalized Bollywood fare and international/American releases (Liang and Sundaram 2011). The higher movie ticket prices have driven poorer audiences increasingly to pirate markets.

Furthermore, the kinds of pirate 'on-demand' or 'demand-driven' distribution strategies respond directly to dispersed and niche audiences' needs in both the domestic and overseas markets (Athique 2008: 703). Aided by new technological innovations, pirates thus create distribution networks that are far more efficient and effective than their vertically integrated Hollywood counterparts' networks, which rely on a critical mass. Anne Sweeney, Co-Chair of Disney Media Networks and President of Disney-ABC Television Group, acknowledged the

success of the pirate networks and urged the major studios to view piracy as a 'business model', serving the consumers' need not only for 'in-demand content', but also for 'on-demand' content, competing with their formal counterpart through 'quality, price and availability' (Kiss 2006). As the opening epigraph to this chapter shows, content consumption, whether pirated or not, encourages more content consumption. In other words, 'content consumption drives increased content consumption' (Tarnoff 2012). As Tarnoff puts it, it is not about piracy, it is about which business models will work in the twenty-first century in tapping the entertainment content market. Clearly, consumers in both the emerging markets and in the West want widely available (i.e. on all platforms for all devices) on-demand content at a competitive price point. The piracy model provides just that, as Anne Sweeney has pointed out. If one can no longer dictate pricing based on production costs, one has to work with the new consumption patterns to ensure that buyers purchase the content.

Similarly, in the computer software market, there are the network and lock-in effects that make piracy a welcome situation, especially in unsaturated markets (Cosovanu 2003).¹² While film markets operate differently, one may also argue that film-watching habits are something that piracy can help develop (as the epigraph to this chapter indicates). The argument that piracy cultivates movie habits is not unfounded. Reports show, for example, that while some illegal downloaders do attend movies less frequently, more downloaders in fact increase the frequency with which they go to movies (Lyman 2010). Not all unpaid consumption displaces paid consumption. Free information samples sometimes stimulate paid consumption, helping consumers determine the value of the said product by generating a buzz around it (Shapiro and Varian 1999; Danaher and Waldfogel 2012).

¹² The user is locked into a particular platform or software once it is adopted. To avoid switching costs the user is likely to continue to use the same network of platforms or software. Anecdotally, Microsoft has expressed that it did not mind its products being pirated in China, since it would create precisely this kind of lock-in and network effect, and would develop and cultivate a market for its products, which is important in an untapped market.

A convincing example is the formal release of *Robocop 3* in China. The film is one of the most successful Columbia releases in China and one of the first groups of videos ever to be released in China. The catch is that *Robocop 1* and *2* had never been released in China formally, but the pirate consumption of the first two films had established a market and created a demand for the new instalment. Similarly, to utilize pirates' efficient distribution routes and networks, for example, Warner Brothers used a former pirate company as its legal licensee to distribute its home videos in China (Wang 2003).

Media piracy has always been connected with technological developments. BRIC countries are interesting examples because of their hardware and software production capabilities. China, for example, has been producing cheap region-free DVD players and burners that create both the supply of and demand for pirated contents (Karaganis 2011b). In other words, the cheaply made Chinese hardware has created demand for software and content. China became the source of many of the pirated goods that are circulated in these emerging economies and beyond (Mathews and Vega 2012). Even in the porous Tri-Border Area (i.e. Triple Frontera, the borders of Brazil, Paraguay and Argentina) in Brazil, for example, where pirate products are trafficked, Chinese immigrants are increasingly those in control of local commerce and the nodes of global piracy networks (Rabossi 2012; Mizukami et al. 2011). In other words (as the Indian example attests to), diasporic flows are closely tied to global piracy networks (Liang and Sundaram 2011).

Finally, in Russia, as it is in other emerging economies, piracy is a result of the transformation of local cinemas from a popular entertainment form accessible to the masses, to fancy multiplexes in urban centres that drove up ticket prices and turned films into luxury goods inaccessible to many viewers. The high price of imported DVDs relative to local income levels, furthermore, also creates demand for pirate goods. The limited selection of legal goods on the Russian media market, meanwhile, creates a demand for pirated media contents. The complex licensing process for imported goods in Russia further

contributes to the growth of piracy in Russia, where the majority of consumers are active participants in the pirate economy. In other words, it is the 'differences in perceived legality to differences in perceived quality' that define pirate product consumption in Russia (Sezneva and Karaganis 2011: 166). Piracy, then, begs the question of legality versus licitness, and illegality *vis-à-vis* illicitness, since the meanings are perspectival and fluid.

Abraham and Schendel (2005: 4), for example, distinguish between the legal and the licit, viewing 'legal' as what states consider legitimate and 'licit' as something that people involved in transnational networks consider legitimate. To many, the illicit trade is an alternative, partially visible global system. It is a parallel system to its formal counterpart. In other words, some of these transnational flows may be illegal because they violate laws or policies, but they are viewed as 'acceptable' by those who participate one way or another in such activities (Abraham and Schendel 2005: 2). This dynamic grey area of *illegal but licit* provides the most interesting case for the study of piracy. It is in the land of the underground and the borderland that rules are rewritten and rearticulated. In other words, piracy occupies two unstable identities of the underground and the borderland. Described as the 'third space', this is the space in which activities that are legally banned but socially sanctioned and accepted take place.

Conclusion

While BRIC countries share similar parallel developments regarding their robust formal film market growth and high piracy rates, it is clear that the particular cultural, socio-economic and political contexts in which these developments take place are different. That being said, ultimately, piracy is an issue of disparity, influenced by the processes of globalization and uneven market developments which define the current state of the emerging economies. Because software and entertainment products are priced out of local markets, piracy becomes

necessary for the diffusion of these products, creating media access. In both Joe Karaganis' timely edited volume of *Media Piracy in Emerging Economies* (2011b) and Ravi Sundaram's seminal *Pirate Modernity* (2009), the crucial issues of media access and of global pricing are viewed as some of the roots to piracy that currently exist in developing countries. Furthermore, the fact that technology prices have fallen faster than local incomes have risen has resulted in an infrastructure for digital media consumption which major media companies have not reacted to, thus creating a platform for pirate media consumption (Karaganis 2011b).¹³

Piracy in emerging economies thus accentuates clearly the paradoxical nature of capitalism. As Ribeiro has so rightly pointed out, while piracy can be subversive in interrupting capitalistic reproduction, it is positively linked to capitalistic growth since it is organic to capitalistic production and distribution needs, and to the 'fetishized (re)production of social identities and of distinction under the edge of electronic and computer capitalism' (Ribeiro 2012: 233). The same free market developments in transitional emerging economies that benefit the formal market growth also enhance the production, flow and distribution of illicit goods. The movements of people further facilitate and enlarge the scope, locations, demand and movements of these goods. It is what Ribeiro termed 'economic globalisation from below' (2012: 221). Given that these parallel and alternative processes are below the 'radar of the state', they are able to solve problems that globalization from above is unable to (Mathews and Vega 2012: 5).

Consequently, the key to piracy problems happens also to be the key to the MPAA's success: industry profitability depends on the free movement of products through ancillary and parallel markets (Lewis 2007). As the Bollywood example shows, the informal film economy and underworld black money have not only helped establish the thriving overseas diasporic Bollywood film market; the capacity of

¹³ What may prove to be interesting in the case of China is that some of the major studios have a different pricing strategy to attract precisely that pocket of consumers by lowering the price of legitimate DVDs (Wang 2010).

piracy has also built new markets and fostered 'increased levels of habitual film consumption', bringing up a new generation of South Asians on pirated video cassettes and VCDs (Athique 2008: 706). Just as video piracy was crucial for the development and expansion of worldwide entertainment markets in the 1980s, as Tom O'Regan has argued (Athique 2008), likewise, one could argue that media piracy has helped the growth of the legitimate film markets in former communist countries such as China and Russia and in other emerging economies. The effects are beyond just the availability of entertainment. This generation of new film lovers has in turn rejuvenated and expanded the legitimate film market. It is clear that the shadow economy has played an important role in the development of a cultural industry.

Finally, while the BRIC economies may not be some of the poorest countries in the world, they could be other developing countries' proxy in the area of global copyright governance and negotiations. Each country's strategy in negotiations with the US and in resisting the US's pressure and sanction threats can be textbook examples for other developing countries (Bird and Cahoy 2007). All four as a result have preserved their respective national sovereignty to a certain extent and may be used as a model for other developing countries for how to balance national sovereignty as well as economic and developmental interests and global IP requirements.

References

- Abraham, I. and van Schendel, W. (2005), 'Introduction: The Making of Illicitness', in W. van Schendel and I. Abraham (eds), *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalisation*. Bloomington and Indianapolis: Indiana University Press, 1–37.
- Abrams, R. (2013), 'Hollywood Figuring out China B.O.', *Variety.Com*, 17 January. Web.
- Athique, A. (2008), 'The Global Dynamics of Indian Media Piracy: Export Markets, Playback Media and the Informal Economy', *Media, Culture & Society*, 30: 699–717.

- Bird, R. C. (2005), 'Defending Intellectual Property Rights in the BRIC Economies', *Social Science Research Network*. Web.
- Bird, R. C. and Cahoy, D. R. (2007), 'The Emerging BRIC Economies: Lessons from Intellectual Property Negotiation and Enforcement', *Northwestern Journal of Technology and Intellectual Property*, 5(3): 400–25.
- Cosovanu, C. (2003), 'Piracy, Price Discrimination, and Development: The Software Sector in Eastern Europe and Other Emerging Markets', *The Columbia Science and Technology Law Review*, 5: 1–38.
- Creer, G. (2004), 'Note and Comment: The International Threat to Intellectual Property Rights Through Emerging Markets', *Wisconsin International Law Journal*, 22: 213–43.
- Danaher, B. and Waldfogel, J. (2012), 'Reel Piracy: The Effect of Online Film Piracy on International Box Office Sales', *Social Science Research Network*. Web.
- Deutsche Welle (2009), 'First BRIC Summit Concludes', 16 June. Web.
- Economist*, *The* (2011), 'BRIC Wall', 398(8729): 84.
- Endeshaw, A. (2002), 'The Paradox of Intellectual Property Lawmaking in the New Millennium: Universal Templates as Terms of Surrender for Non-Industrial National; Piracy as an Offshoot', *Cardozo Journal of International and Comparative Law*, 10: 47–77.
- (2010), *Intellectual Property in Asian Emerging Economies: Law and Policy in the Post-TRIPS Era*. Surrey: Ashgate.
- Gibbons, L. J. (2010), 'Do as I Say (Not as I Did): Putative Intellectual Property Lessons for Emerging Economies from the Not so Long Past of the Developed Nations', *Social Science Research Network*. Web.
- Haber, J. (2006), 'Motion Picture Piracy in China: Rated Arrrgh!', *Brooklyn Journal of International Law*, 32: 205–29.
- Hancock, D. (2012), 'International Movie Market Continues to Increase Lead Over US', press release, 5 April, *IHS iLibrary*. Web.
- Harris, D. (2008), 'The Honeymoon is Over: Evaluating The U.S.-China WTO Intellectual Property Complaint', *Fordham International Law Journal*, 32(1): 96–187.
- Holdsworth, N. (2013), 'Russian Box Office Surges 8%', *Variety.Com*, 17 January. Web.
- Hoskisson, R. E., Eden, L., Chung Ming, L. and Wright, M. (2000), 'Strategy in Emerging Economies', *The Academy of Management Journal*, 43(3): 249–67.

- Hunter, K. C. (2007), 'Here There Be Pirates: How China Is Meeting Its IP Enforcement Obligations Under TRIPS', *San Diego International Law Journal*, 8: 523–58.
- International Intellectual Property Alliance (2012), IIPA 2012 Special 301 Report on Copyright Protection and Enforcement: Brazil'. Web.
- (2013a), 'IIPA 2013 Special 301 Report on Copyright Protection and Enforcement: Brazil'. Web.
- (2013b), 'IIPA 2013 Special 301 Report on Copyright Protection and Enforcement: China'. Web.
- (2013c), 'IIPA 2013 Special 301 Report on Copyright Protection and Enforcement: India'. Web.
- (2013d), 'IIPA 2013 Special 301 Report on Copyright Protection and Enforcement: Russia'. Web.
- (2013e), 'Appendix C: Chart of Countries Special 301 Placement (1989–2012) and IIPA 2013 Special 301 Recommendations'. Web.
- Karaganis, J. (2011a), 'Rethinking Piracy', in J. Karaganis (ed.), *Media Piracy in Emerging Economies*. New York: Social Science Research Council, 1–74.
- (ed.) (2011b), *Media Piracy in Emerging Economies*, New York: Social Science Research Council.
- Kiss, J. (2006), '@ Mipcom: Piracy Is A Business Model, Says Disney Co-Chair Anne Sweeney', *PaidContent.org: The Economics of Content*, 10 October. Web.
- Kowitz, B. (2009), 'For Mr. BRIC, Nations Meeting a Milestone', *CNN Money*, 17 June. Web.
- Lewis, J. (2007), '"If You Can't Protect What You Own, You Don't Own Anything": Piracy, Privacy, and Public Relations in 21st Century Hollywood', *Cinema Journal*, 46(2): 145–50.
- Liang, L. and Sundaram, R. (2011), 'Chapter 8: India', in J. Karaganis (ed.), *Media Piracy in Emerging Economies*. New York: Social Science Research Council, 339–98.
- Lyman, J. (2010), 'Analysts Question MPAA's Findings on Film Piracy', *CRMBuyer*, 15 June. Web.
- Mathews, G. and Alba Vega, C. (2012), 'Introduction: What is Globalisation from Below?', in G. Mathews, G. L. Ribeiro and C. Alba Vega (eds), *Globalisation From Below: The World's Other Economy*. London and New York: Routledge, 1–16.
- May, C. (2000), *A Global Political Economy of Intellectual Property Rights: The New Enclosures?* London: Routledge.

- Mizukami, P. N., Castro, O., Fernando Moncau, L. and Lemos, R. (2011), 'Chapter 5: Brazil', in J. Karaganis (ed.), *Media Piracy in Emerging Economies*. New York: Social Science Research Council, 219–304.
- Movius, L. (2002), 'Imitation Nation: Is Piracy-Crazed China a Nightmare Vision of the Future, Or Just a Developing Country Going through Some Severe Growing Pains?', *Salon.Com*, 8 July. Web.
- Neigel, C. (2000), 'Piracy in Russia and China: A Different U.S. Reaction', *Law and Contemporary Problems*, 63(4): 179–200.
- O'Neill, J. (2001), 'Building Better Global Economic BRICs', *Goldman Sachs Global Economics Paper*, 66, 30 November. Web.
- Rabossi, F. (2012), 'Ciudad Del Este and Brazilian Circuits of Commercial Distribution', in G. Mathews, G. L. Ribeiro and C. Alba Vega (eds), *Globalisation From Below: The World's Other Economy*. London and New York: Routledge, 54–68.
- Reuters (2012), 'US Puts India on Copyright Pirates "Priority Watch List"', *Times of India*, 1 May. Web.
- Ribeiro, G. L. (2012), 'Conclusion: Globalisation from Below and the Non-Hegemonic World-System', in G. Mathews, G. L. Ribeiro and C. Alba Vega (eds), *Globalisation From Below: The World's Other Economy*. London and New York: Routledge, 221–34.
- Richards, D. G. (2008), 'A Skeptic's View of Intellectual Property Rights', in R. C. Bird and S. C. Jain (eds), *The Global Challenge of Intellectual Property Rights*. Cheltenham and Northampton, MA: Edward Elgar, 267–82.
- Schiappacasse, M. (2003), 'Intellectual Property Rights In China: Technology Transfers and Economic Development', *Buffalo Intellectual Property Law Journal*, 2: 164–85.
- Sezneva, O. and Karaganis, J. (2011), 'Chapter 4: Russia', in J. Karaganis (ed.), *Media Piracy in Emerging Economies*. New York: Social Science Research Council, 149–218.
- Shapiro, C. and Varian, H. R. (1999), *Information Rules: A Strategic Guide to the Network Economy*. Boston, MA: Harvard Business School Press.
- Siwek, S. (2011), 'Copyright Industries in the U.S. Economy: The 2011 Report', *International Intellectual Property Alliance (IIPA)*. Web.
- Stewart, A. (2012), 'H'wood Zooms on Overseas Boom', *Variety*, 16–22 January: 1, 10.
- Stewart, P. M. (2012), 'The BRICS India Summit: Beyond Bricolage?', *Council on Foreign Relations*, 28 March. Web.

- Sundaram, R. (2009), *Pirate Modernity: Delhi's Media Urbanism*. Oxford and New York: Routledge.
- Tarnoff, J. (2012), 'Piracy Shmiracy: We Need New 21st Century Business Models', *Huffington Post*, 25 January. Web.
- United States Trade Representative (2012), '2012 Special 301 Report'. Web.
- Variety.Com (2012), 'The BRIC Summit'. Web.
- Volper, T. E. (2007), 'TRIPS Enforcement in China: A Case for Judicial Transparency', *Brooklyn Journal of International Law*, 33: 309–46.
- Wang, S. (2003), *Framing Piracy: Globalisation and Film Distribution in Greater China*. Lanham, MD: Rowman & Littlefield.
- (2005), 'Harmony Or Discord? TRIPS, China, and Overlapping Sovereignties', in M. Narula, S. Sengupta, J. Bagchi and G. Lovink (eds), *Bare Acts: Sarai Reader 05*. Delhi: Sarai/CSDS. Web.
- (2010), 'Piracy and the DVD/VCD Market', in Y. Zhu and S. Rosen (eds), *Art, Politics, and Commerce in Chinese Cinema*. Hong Kong: Hong Kong University Press, 71–83.
- Wilson, D. and Purushothaman, R. (2003), 'Dreaming with BRICs: The Path to 2050', Global Economics Paper, No. 99, *Goldman Sachs*. Web.
- Wince-Smith, D. L. (2007), 'Emerging Economies Coming on Strong', *Issues in Science & Technology*, 23(3): 85–8.
- Yardley, J. and Bajaj, V. (2012), 'India's Economy Slows, With Global Implications', *New York Times.Com*, 30 May. Web.
- Yu, P. K. (2005), 'Still Dissatisfied After All These Years: Intellectual Property, Post-WTO China, and the Avoidable Cycle of Futility', *MSU Legal Studies Research*, Paper No. 3–11: 1–11.
- (2006), 'From Pirates to Partners (Episode II): Protecting Intellectual Property in Post-WTO China', *American University Law Review*, 55: 901–1000.
- (2007), 'International Enclosure, The Regime Complex, and Intellectual Property Schizophrenia', *Michigan State Law Review*, spring: 1–33.
- (2008), 'Intellectual Property, Foreign Direct Investment and the China Exception', in R. C. Bird and S. C. Jain (eds), *The Global Challenge of Intellectual Property Rights*. Cheltenham and Northampton, MA: Edward Elgar, 153–74.
- Yueh, L. Y. (2007), 'Global Intellectual Property Rights and Economic Growth', *Northwestern Journal of Technology and Intellectual Property*, 5(3): 436–48.