

‘Plagiarism is a Great Insult’: Politics and Discourses of Intellectual Property Rights Infringement in Botswana, 1970s to 2016

Christian John Makgala, Maitseo Bolaane[‡] and Andy Chebanne[§]*

Abstract

Primarily utilising information in the public domain in the form of media reports on claims of plagiarism, this paper explores issues of Intellectual Property Rights (IPR) infringement in Botswana since the 1970s. Particular attention is given to the country’s politics, academia, parastatal corporations, entertainment industry, and the Botswana’s 50th anniversary of Independence logo. It seems the plagiarism plague affects every society at all levels and Botswana is not an exception. We also observe the different measures put in place by the government of Botswana and key stakeholders in a bid to combat plagiarism. However, while plagiarism is a high risk undertaking that has led to many prominent personalities falling from grace and some careers ruined, human nature is such that the practice will continue despite the availability of digital detection technology and stringent policies meant to combat plagiarism. In most cases, people accused of plagiarism did so knowingly and were aware of the consequences. However, the deterrence measures did not prevent them as they do it for survival or misguided pursuit of personal glory.

Introduction

There is well developed scholarship on intellectual property and copyright in Botswana and elsewhere (Vermeulen 2005; Briscoe and Kiggundu 2001; Dutfield 2003; Leslie 2011; Muzaka 2011; Andersen 2013; Mebratu 2011; Bird and Jain 2008; Vrins and Schneider 2006; Pugatch 2004; Lahdenper 2011 and Noordin 2011). Vermeulen (2005) focuses on the intellectual property rights and indigenous knowledge at communal level among the San (Bushmen) of Southern Africa which includes Botswana. However, in this paper we focus on intellectual property rights of individuals. In the context of this paper, plagiarism simply means using other people’s ideas or inventions without acknowledging the original inventor which amounts to theft. Chris Park observes that plagiarism ‘is probably as old as writing itself, but until the advent of mass-produced writing, it remained hidden from the public gaze’ (Park 2013:473). Many writers acknowledge that the advent of the Internet has made plagiarism, now pejoratively referred to as ‘cut and paste’, very easy and rampant. The British playwright Ben Jonson is credited with having pioneered the term plagiary (plagiarism) in the literary circles in early seventeenth-century (Mallon 1989).

Plagiarism or academic dishonesty is a very common phenomenon in academia where it has a very long history despite the fraternity’s insistence on citing of both primary and secondary source material. Globally, there is appreciable literature on student plagiarism at tertiary institutions but not much on academics themselves. One of the most high profile accusations of academic dishonesty involved David Robinson – former vice chancellor of Monash University in Australia (Baty 2002). The dearth of literature on plagiarism whereby academics are the culprits applies to the University of Botswana (UB) where the only work done is on student plagiarism (Weeks 2001; Batane 2010; Motshegwe and Molelu nd). Few claims of plagiarism have appeared in the media about academics at UB and the recently established Botswana International University of Science and Technology (BUIST). Nevertheless, as this study tries to demonstrate, plagiarism is not limited to academia in the case of Botswana.

Park also writes that legendary authors such as William Shakespeare, Mark Twain, George Orwell,

* Christian John Makgala, Department of History, University of Botswana. Email: Makgalac@mopipi.ub.bw

‡ Maitseo Bolaane, Department of History, University of Botswana. Email: Bolaanem@mopipi.ub.bw

§ Andy Chebanne, Faculty of Humanities, University of Botswana. Email: CHEBANNE@mopipi.ub.bw

Alex Haley, Samuel Beckett and Edgar Allen Poe have been accused of plagiarism (Park 2013). He also states that famous singers Celine Dion and Michael Jackson, and distinguished Hollywood film director Steven Spielberg, were sued for plagiarism. Other important personalities mentioned by Park include legendary scientists Pythagoras and Albert Einstein, and philosophers Descartes, Sartre and Wittgenstein. Church leaders such as John Wesley and Martin Luther King Jr are also said to have been accused of plagiarism (Park 2013).

In Botswana, it appears that the offending term 'plagiarism' as understood in academia was used mostly by journalists and not politicians themselves. Botswana politicians' use of terminology was limited to 'stealing', 'copying' and 'hijacking' which can be said to be relatively 'mild' terms compared to the term plagiarism. The use of the term plagiarism by politicians in relation to one another seems to have started in 2016. For one to be accused of plagiarism was so degrading that it was said to be 'a great insult' by one political leader in the Botswana parliament in February 2016 as we demonstrate below. Perhaps, it is worth noting that accusations and counter-accusations of plagiarism and smear campaign by politicians against other politicians is common at freedom squares (political rallies), a good number of which are not covered by the media.

Accusations of Plagiarism in Politics

According to the veteran opposition Botswana National Front (BNF) ideologue, Comrade Moore 'In an attempt to portray itself as the natural party of government, the [Botswana Democratic Party] BDP often claims that opposition parties have no alternative political programmes and that all they do is to criticise existing policies' (Moore c.2004:3). However, from about the 1970s, opposition parties initiated some ideas on development which the ruling BDP dismissed as non-viable only to later implement these without acknowledging the opposition as originators of the ideas behind the policies. Well-known ideas that the opposition initiated in the 1970s include the call for the establishment of the country's own university and formation of an army. At the time, Botswana was involved in a joint University of Botswana, Lesotho and Swaziland (UBLS) which had a token campus in Gaborone as the significant campus was in Lesotho. It was only in 1976, following Lesotho's unceremonious withdrawal from the joint project and appropriating for itself the assets of the UBLS in 1975, that Botswana started a meaningful campus in Gaborone which became part of the new University of Botswana and Swaziland (UBS). In 1982 the institution became the University of Botswana. The Botswana Defence Force (BDF) was eventually formed in 1977 owing to military attacks on Botswana by white minority regime of Ian Smith in Zimbabwe (Rhodesia).

However, in his 2006 memoirs, former president of Botswana, Quett Masire (1980-1998), avoids attributing any idea on development to the country's opposition parties (Masire 2006). Philip Matante, the founding leader of the Botswana Peoples Party (BPP) and parliamentarian from 1966 to 1979, is usually credited with having initiated the idea of the formation of the army. However, it was not until 2015, 34 years after Matante died in 1979, that former BDF commander and former vice president of Botswana, Mompoti Merafhe in his posthumously published memoirs mentions Matante as having been behind the idea of an army for Botswana. According to Merafhe 'The opposition had been harping about the need for a defence force for a country that "fancied" itself as sovereign. Phillip Matante of the BPP was particularly vocal both in parliament and at political rallies. "No country can be respected anywhere in the world without a defence force", he lamented non-stop' (Merafhe 2015:49).

In the 1980s the BNF seemed to gain some support in the country for advocating the introduction of free secondary education in Botswana. This development seemed to unnerve the BDP. According to Mogopodi Lekorwe 'When the top BDP leaders decided to act because of the gains the BNF was making, they did not even take time to consult the Ministry of Education about the feasibility of the change. They just announced the date of implementation' (Lekorwe 1989:223).

In April 1997 when parliament discussed a motion on the establishment of an Independent Electoral Commission (IEC), BNF member of parliament for Gaborone West and former mayor of Gaborone, Paul Rantao, wrote that ‘this has long been a clarion call by the opposition... They [BDP government] have hijacked the Electoral Commission’ (Rantao 2000:16).

Nevertheless, serious accusation of the BDP copying ideas from the opposition which entailed the use of the term ‘plagiarism’ by the media is a fairly recent development traceable only to about 2010. This followed the ruling party’s first major split when a new offshoot emerged by the name Botswana Movement for Democracy (BMD). In September 2010 under the screaming title ‘BMD Accuses BDP of Plagiarism’, a *Monitor* newspaper reporter Ephraim Keoreng wrote that ‘A fuming Kabo Morwaeng of BMD said he learnt with shock that their idea, which was pitched at the party’s leadership seminar in Palapye early this month, had been hijacked by the BDP’ (Keoreng 27 September 2010). This involved requesting party members to wear party colours every Friday at the end of every month. According to Keoreng members of the two parties accused each other of copying the idea from the other.

The following year in July 2011 an opposition Botswana Congress Party (BCP) activist and councillor in Kweneng District Council and a prolific contributor to newspapers, Banks Ndebele, was accused of having plagiarised an article originally written by Professor John Makumbe –a political scientist at the University of Zimbabwe. Ndebele was accused of having used two paragraphs from Makumbe’s work verbatim without acknowledging the source. Ndebele’s article was said to have appeared in the *Mmegi* newspaper on 5 December 2007 with the title ‘Let Mugabe go to Lisbon’, whereas Makumbe piece has been published on 13 of November 2007 with the title “Let the dictator go to Lisbon and make a fool of himself” (Chilisa 19 July 2011). When contacted for comment, BCP publicity official Taolo Lucas, an academic at UB hence quite familiar with the consequences of plagiarism, made assurance that the party would look into the matter to establish the degree of the damage. However, he emphatically stated that plagiarism was not tolerated in the BCP (Chilisa 19 July 2011).

In late February 2016, a BDP politician and parliamentarian, Prince Maele, strongly accused the leader of opposition, Duman Boko, of plagiarism and this received wide publicity in the local media. According to Maele, also the Minister of Lands and Housing, Boko in his response to the 2016/2017 budget speech plagiarised government’s land policy and in some instances reproduced excerpts from the policy verbatim without acknowledging the source (Letswamotse 22 February 2016). The accusation of plagiarism so angered opposition parliamentarians who demanded that Maele retract his claim as it was disrespectful to the leader of the opposition. However, Maele refused to withdraw his statement which led to chaos and exchange of abusive words between opposition parliamentarians and some of their BDP counterparts.

Boko himself was said to have taken serious exception to Maele’s branding his submission plagiarism. Boko described Maele’s accusations as ‘very serious imputation of academic intellectual dishonesty’ (Letswamotse 22 February 2016). He further said that Maele suggested that ‘the source from which words were allegedly plagiarized holds original intellectual property over those words or concept and the manner in which they are specifically organized or arranged’. According to Boko, ‘The BDP or the Minister or whoever else has absolutely no original intellectual property over anything to do with the servicing of land as a concept or an idea... even if they might have written it somewhere. It is not their original idea’. He also said that many other people had written on land servicing and Maele had ‘absolutely no intellectual power to whom they can refer or from whom they can draw any idea. I find it extremely disrespectful, extremely distasteful and totally unacceptable and I will ask him to withdraw if he doesn’t want us to descend into chaos’ (Letswamotse 22 February 2016).

Ndaba Gaolathe of Gaborone-Bonnington South constituency and president of the BMD, said he ‘had been part of the team that actually prepared the speech and I can confirm to you that people who

inserted that passage were not even aware that there was that part in the land policy. So to suggest that its plagiarism is a great insult' (Khunwane 21 February 2016). The opposition parliamentarians belonging to Boko's party threatened to institute a lawsuit against Maele at the court for accusing Boko of plagiarism (Bagwasi and Masokola 22 February 2016). This controversial matter was referred to parliament's Business Advisory Committee (BAC) for a decision and its verdict was that indeed Boko was guilty of plagiarising from a government land policy document. All BAC members, who sat on the committee including the speaker of parliament, were said to be BDP parliamentarians (Letswamotse 13-19 March 2016).

It was interesting for Boko to be accused of plagiarism because in 2012 he had launched a scathing attack on UB academics accusing them of being useless in their research and publication (Makgapha 18 July 2012). UB academics, Never Tshabang and Thapelo Otlogetswe, responded by arguing that it was ironic of Boko to accuse UB scholars as ineffective while he had not had much contribution to scholarship when he was still a Law lecturer at UB for some 10 years from 1993 to 2003 (Tshabang 13 August 2012 and Otlogetswe 13 August 2012).

Accusations of Plagiarism in Academia

Despite the dearth of scholarship on plagiarism perpetrated by academics in Botswana allegations of such practise have appeared in the media in recent years. For instance, in August 2009 a member of parliament for Ngwaketse West, Mephato Reatile, made accusations in parliament about an unnamed expatriate UB lecturer whom he alleged had engaged in plagiarism. According to Reatile the concerned lecturer, whom he said was in the Department of Management, had recently been promoted to the rank of senior lecturer even 'though there is evidence or reason to believe that he plagiarised journal articles' (*Mmegi* 16 August 2009). The parliamentarian further claimed that the same lecturer's contract was also renewed under suspicious circumstances. According to Reatile 'a citizen who was interested in the same position was disqualified after his application documents conveniently went missing' (*Mmegi* 16 August 2009). In his view 'such things mar the image and standing of the UB, particularly its claims to the pursuit of academic excellence'.

In responding to Reatile's allegations Kavis Kario, Assistant Minister for Education, disagreed that the lecturer in question had plagiarised other people's work. Nevertheless, Kario stated that the UB hierarchy had noted similarities between the lecturer's publication and somebody else's (*Mmegi* 16 August 2009). He also said that in their investigation of the matter UB realised that the topic was similar to someone else's piece but had different methodologies and literature consulted. Kario further stated that UB followed international standards and was adamant that this left no room for plagiarism. He also dismissed the claim that a Botswana citizen's job application dossier had gone missing at UB. Furthermore, he also told parliament that international practices were followed in the process of promoting staff at UB.

BIUST, which has been in existence for just a few years, has also been rocked by a plagiarism scandal. In October 2015, Sonny Serite, writing for the *Sunday Standard*, indicated that a certain professor at the institution's Department of Engineering and Technology was accused of plagiarism. The offender was named as Professor Frank Ibikunle from Nigeria (Serite 4 October 2015). His article, which caused the controversy went by the title 'Security Issues in Mobile WiMAX'.

Professor Ibikunle was accused of infringing upon 'the IEEE journal publication principles by submitting for publication an academic paper that contained significant portions of original text from a paper written by other academics' (Serite 4 October 2015). According to the report the professor was accused by the IEEE's committee for plagiarising from an article with the title 'Security Vulnerabilities and Solutions in Mobile WiMAX' authored by Andreas Deininger, Shinsaku Kiyomoto, Jun Kurihara and Toshiaki Tanaka. Their piece appeared in the *International Journal of Computer Science and Network Security*, volume 7, no 11 of November 2007 (Serite 4 October 2015). Serite, who broke the news in Botswana, indicated that he had studied both Professor Ibikunle's article and the origi-

nal authors' article and found striking similarities from the word go. He also observed that 'French authors Cyril Labbe and Dominique Labbe used Professor Ibikunle as a case study on professionals who have been caught plagiarizing in their paper, titled "HAL Archives: who wrote this scientific text?"' (Serite 4 October 2015). Professor Ibinkule, who was described as 'a decorated engineer scientist' with 26-year experience working in the ICTS/telecommunications engineering industry, was also accused of academic dishonesty by the *Sunday Standard*. It reported that in his eight-page curriculum vitae (CV) 'the Professor had listed several papers as peer reviewed journals, [but] most of them were just conference papers and did not exist in the IET and IEEE journals where they were purportedly published' (Serite 4 October 2015). According to the newspaper, the case of Professor Ibikunle's plagiarism was confirmed by BIUST public relations manager. In February 2016 Professor Ibikunle was reported to have been sacked by BIUST after he was suspended following the discovery of his professional misconduct (Serite 22 February 2016).

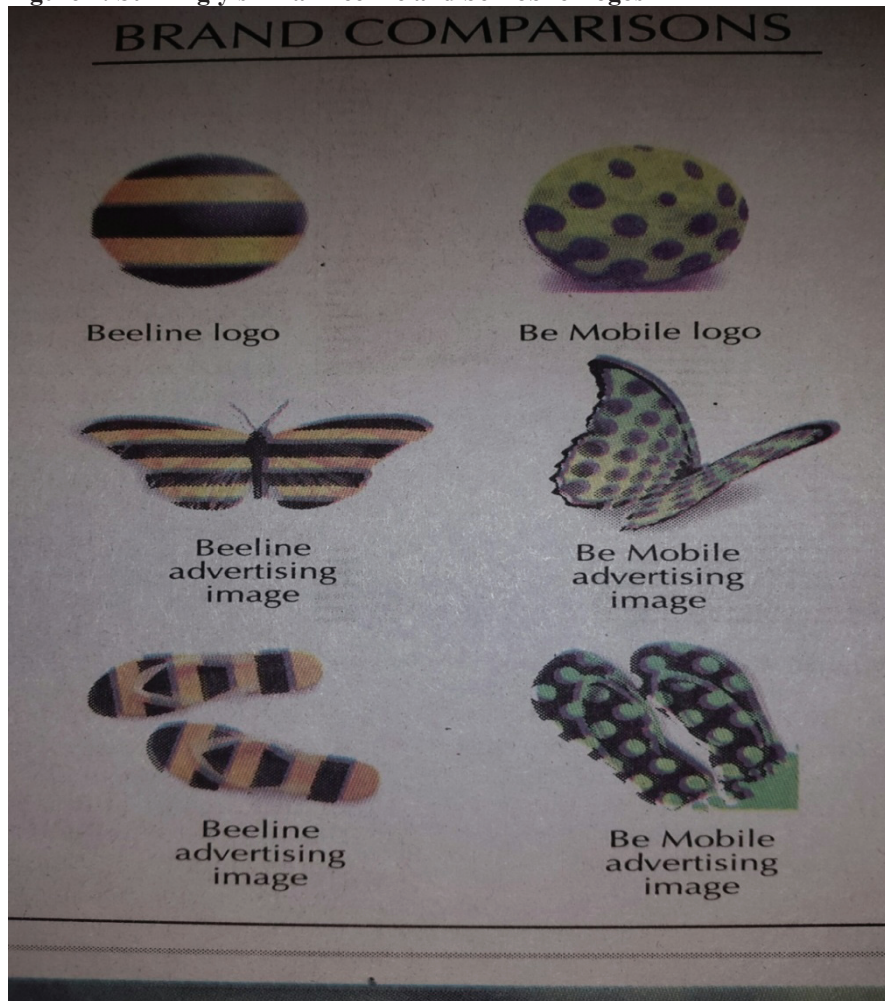
Allegations of Plagiarism in the Parastatal Corporations

Some parastatal organisations were also accused of plagiarism. Here we site three instances, the first development were reports that the emblem or logo of the newly established mobile telephony service provider beMobile was worryingly similar to that of a mobile phone company in Russia. The second one involved a journalist unearthing what he believed was evidence of blatant plagiarism by the Botswana Housing Corporation (BHC). Finally, we discuss claims that a company that was among the leaders in a tender bid for architectural design of the new headquarters for Botswana Unified Revenue Service (BURS) in Gaborone had submitted plagiarised drawing of a police headquarters in Dubai.

In May 2008 reports appeared in the *Sunday Standard* to the effect that the parastatal Botswana Telecommunications Corporation (BTC) was 'battling to contain a copyright scandal following reports that their newly launched mobile phone company –beMobile may had adopted a logo stolen from Vimpel-Com' of Russia (*Sunday Standard* 11 May 2008). The *Sunday Standard* also reported that beMobile had paid P2 million for the controversial logo and advertising material which strikingly resembled that of the Russian company. VimpelCom was also said to have been operating under a multi-billion dollar Beeline brand. The *Sunday Standard* noted that 'The only difference is that while the Botswana company uses green and black dots in its creatives, the Russian company uses yellow and black stripes. For example, the Be Mobile brand is a green circle with black dots while the Russian Bee Mobile brand is a yellow circle with black stripes'. It was further observed that 'Be Mobile has been running a number of adverts showing a green and black spotted butterfly next to a caption saying "Be Free". Similarly, the Russian mobile company has, in the past, run a brand advertising campaign showing a yellow and black stripped butterfly. Be Mobile has also run an advert showing a pair of black flip-flop sandals with green dots while the Russian cell phone company has, in the past, run brand adverts showing black flip flop sandals with yellow stripes' (*Sunday Standard* 11 May 2008) (Figure 1).

Public relations manager at BTC, James Molosankwe, was contacted by the newspaper and he responded by saying that 'we dismiss the allegations as unfounded and damaging. The BTC mobile brand is exceptional, unique, fresh and one of its kind. However, of late, we have been made aware of some similarities in the use of some elements in the teasers campaign' (*Sunday Standard* 11 May 2008). The beMobile logo design had been contracted to a South African 8 Seconds company whose chief executive officer was Laine Barnard. In responding to the *Sunday Standard* enquiry he 'also dismissed plagiarism claims saying no one can claim ownership of the butterfly and the flip-flop sandals'. Interestingly, according to the *Sunday Standard*, there had been commotion at the BTC after the news broke that the beMobile brand may have been plagiarised from a Russian enterprise. According to media reports, management at BTC had issued stern warning 'to staff against circulating e-mail messages on the brand theft allegations' (*Sunday Standard* 11 May 2008).

Figure 1: Strikingly similar Beeline and beMobile Logos



Source: *Sunday Standard* (11 May 2008)

‘Hardly two weeks after a minister accused the Leader of Opposition of plagiarising a government document word for word, it has emerged that a parastatal under him promiscuously plagiarised a document from a United States housing authority word for word’, wrote Bashi Letsididi (28 February to 5 March 2016) a journalist with *Sunday Standard*. In the opening paragraph of his article Letsididi stated that ‘The Minister of Lands and Housing, Prince Maele, will have to worry more about plagiarism in his own fiefdom than in the political opposition’. According to Letsididi, in 2010, BHC came up with a maintenance policy. He said that the policy which BHC cobbled together was a 17-page long document liberally and carelessly plagiarised from the Minneapolis Public Housing Authority’s (MPHA) maintenance policy in the United States. The latter was also said to have been a 17-page long document.

In a witty comment Letsididi observed that ‘It should be a delicious irony that the Authority’s acronym [MPHA] forms an otherwise innocuous Setswana word which means “give me”. However, that irony immediately calcifies into wholesale tartness because the most basic forensic linguistics reveals that the document was actually stolen’. However, the journalist did indicate that when BHC came up with ‘its’ maintenance policy in 2010, Maele was still a backbencher having been elevated to the cabinet after the 2014 general election. Although, it looked unfair to land Maele with responsibility for BHC maintenance policy debacle which happened before he became minister, Letsididi argued that as the minister the buck

ended with him nonetheless (Letsididi 28 February to 5 March 2016).

He did point out that BHC maintenance policy was improved in certain areas but by and large the similarities with that of MPHA were still glaring. He cited chunks of paragraphs from the two documents which were strikingly similar. In numerous instances MPHA was simply replaced with BHC. 'If the motivation was laziness, it was so acute that the author(s) could not even find the time to use British spelling which Botswana uses officially on account of its colonial past', noted Letsididi. He went on to indicate that BHC's plagiarism was at times so inspired that it stated scenarios which may have been applicable to MPHA but totally alien to BHC or Botswana scene.

Perhaps, this development was brought to Letsididi's attention by a BHC employee sympathetic to the opposition after Maele accused Boko of plagiarism or just a disenchanting worker. Interestingly, no rebuttal was issued by BHC denying plagiarism as reported by Letsididi. This is usually the case with government departments when what they view as adverse publicity is reported about them one way or the other.

In October 2010, the enquiring *Sunday Standard* carried the news of rumours being whispered in the country's architectural fraternity about an unnamed leading architectural company being a frontrunner in a P400 million tender for BURS' headquarters in the Gaborone's new and trendy central business district (CBD). BURS as a parastatal entity was under the Ministry of Finance and Development Planning. The reported murmurs in the architectural industry was that the said company's drawings had been stolen from concepts of a luxury multi-storey police headquarters in Dubai – the United Arab Emirates (*Sunday Standard* 3 October 2010).

It was also said that the chairman of the Botswana Architects Registration Council, Goitsemodimo Manowe, had confirmed to the *Sunday Standard* that his organisation was 'aware of the allegations of ethical impropriety' by one of the bidders of the designs for the BURS headquarters. Manowe indicated that an Act passed by parliament early in 2010 would lead to the suspension or striking off the roll of the architects of the implicated company if found guilty of copyright infringement (*Sunday Standard* 3 October 2010). Manowe was deeply concerned because the proposed building that was now at the centre of the allegation of plagiarism was of national significance. "What happens when intellectual property owners of this design (Dubai Police Headquarters) discover this? Will BURS be liable for litigation?" asked another architect who did not want to be named because his company had also tendered', claimed the *Sunday Standard*.

Accusations of Plagiarism in the Entertainment Industry

In April 2006, the *Mmegi* journalist Tshireletso Motlogelwa penned an interesting and illuminating article on how contemporary Botswana musicians were misappropriating lyrics from the classic songs of folk musicians of the past in a manner that amounted to robbery as the former hardly ever paid royalties to the latter. In particular, Motlogelwa was concerned about younger artists' use of the legendary Speech Madimabe's hugely popular folk songs. Madimabe died in the early 1990s and like most folk musicians and entertainers in Botswana, he died a deeply impoverished man in terms of material possessions. Musicians such as Madimabe constitute a category of African traditional performers or poets called the 'freelance entertainer'. According to African oral literature scholar Isidore Okpewho, the freelance entertainer 'is the kind of a poet who relies on his skill at singing or chanting traditional poems to earn him some material rewards wherever possible. Such a performer usually has other kinds of work that he does on a more or less steady basis, and only uses his poetic art to supplement his living' (Okpewho 1985:5). As a freelance entertainer, Madimabe performed at social gatherings and national celebration events among others.

In the words of Motlogelwa, in his music, 'Madimabe protests against all sorts of ills –from the assassins who wrestled his father to death, to the uncles who deny him his father's inheritance, and everything else in between onto which he wanted to unleash his unhappiness' (Motlogelwa 13 April 2006). He goes on to say:

But if he was still alive, Madimabe would have even more to protest about given the current patterns in the local music scene. The local music industry has seen unprecedented growth in the last half decade. This growth has not been without its own controversies, among which are the contemporary musicians' adaptation of music by past legends. This has raised the inevitable question, what is the difference between paying homage to those legends by adapting their music to the modern sound on one hand, and the outright stealing of that music for maximum profit?

Motlogelwa gives an example of a group calling itself Matsieng whom he says 'take direct lyrics from Madimabe in what some may feel is an unashamed misappropriation of a legend's material' (Motlogelwa 13 April 2006). He also says Matsieng make use of another late folk singer Ratsie Setlhako. Motlogelwa also wrote about a compact disc (CD) by Dipsoil and Speech entitled *Sewiwi*. Motlogelwa observes that Dipsoil, whose real name was Dipogiso Allen Thuto, said he included Speech's name on the CD sleeve to pay homage to Speech Madimabe whom he claimed to have been his uncle. Thuto argued that his album, which entirely consisted of Madimabe's music, was something of a family project. He was also reported to have said that his major objective was to assist Madimabe's impoverished mother with proceeds from the album, and also to erect a tombstone on Speech's grave (Motlogelwa 13 April 2006). At any rate, according to Motlogelwa 'The "looting" continues as more and more modern musicians look to these folk legends for their new material. As for the original musicians and their families, they have nothing to show but struggle, strife and poverty as Madimabe describes' in one of his lyrics.

Motlogelwa's contribution so impressed a newspaper reader by the name Gagarin wa Mboloongwe who praised it greatly. 'The piece can have a lasting effect on every person of a prickly and well-functioning conscience as it is a rare departure from Botswana's mainstream artistic and cultural writing' (Mboloongwe 21 April 2006). Mboloongwe said that in late 2005 he had written to the *Botswana Guardian* expressing great concern at the rate at which the new generation was illegally cutting and pasting with abandon material by traditional folk music legends for commercial gain. However, he lamented that his piece did not have the intended impact. He deeply appreciated the pledge by Thuto to help Madimabe's struggling mother and provide a tombstone for him from the proceeds of the CD. For this Mboloongwe promised to buy the CD but never to buy those of artists who steal songs from past legends without paying any royalties. 'As I have said before, to have lived during Speech's lifetime and walked on the same soil as him, is to me an honour that entitles me to denounce all those who want to live off him in an unlawful and greedy manner' (Mboloongwe 21 April 2006). However, according to one resident of Madimabe's hometown of Letlhakeng as late as 2016 no tombstone had been erected for Madimabe (Personal communication with Masiela Taolo 11 April 2016).

Whereas Motlogelwa does not really use the term plagiarism, Mboloongwe does actually employ it as well as 'cut and paste' and 'piracy' in his submission. Piracy is actually the commonest term used in reference to plagiarism in the entertainment industry. While Mboloongwe does acknowledge that some people were driven by hard times for survival, he also makes his argument from a legal perspective. It really is worthwhile citing him at length because he was well versed with the legal provisions of intellectual property and the harsh reality on the ground that militated against the provisions of the law:

As Tshireletso Motlogelwa rightfully puts it, this shameful practice of plagiarising the oldies' music is somewhat becoming systematically entrenched and I find myself being reminded of the rhetoric question that was once posed by Rampholo Molefhe. He was questioning the musical prowess of our so called best-selling musicians who are thriving on selling rumba [Music from the Democratic Republic of Congo] tapes which were cut and pasted from elsewhere, lock, stock and barrel....

Having said that, we all need to accept that times are hard and that people are yearning and craving fame and fortune. It is therefore not entirely surprising that some cannot resist the temptation of turning to others' works to break even! Of course just as all other ways of this world, the issue of musical plagiarism has got a legal perspective to it. Botswana is a signatory to numerous International instruments and bodies which, if implemented diligently, would forestall this practice that is to say World Intellectual Property Organisation Convention (since April 1998), World Trade Organisation (especially TRIPS) (since May 1995) and African Regional Intellectual Property Organisation (since February 1985). There are men and women of high repute and standing in this country who appended their esteemed signatures to these instruments and who continue to go for conferences and other engagements at these bodies and yet the rot here at home, is festering and is just on the verge of becoming malignant.

There is at present, the Copyright Act of 1965. This Act, had it been administered with stern and deserving urgency, would have averted the current trend. Attempts to update it have crashed and burned due to reasons only known to these same men and women. There is currently another version of the Copyright Act (2000) which is now in limbo for reasons only known to themselves (the men and women of repute). Meanwhile, people are pillaging all over the place under the very noses of these officials and not so much as a whimper or growl is coming out.

It has become some kind of a norm that all administrative issues in Botswana are to be discharged by fancy boards, councils, societies and even NGOs but even though these bodies are a splendid idea, the people appointed to them are at the most elitist in nature and detached from reality, a factor that leads to their apparent lack of drive. Some time ago, there was talk that a Copyright Society was going to be appointed to monitor and protect works of original artists and to administer the Copyright Act. Just as the Vision 2016 Council is mute over pertinent issues that affect the people, the said Society (if it exists) is equally silent.

I am of the utmost belief that Speech's relatives, dependants and even his estate could embark on a principled crusade of litigating the culprits as indicated above but we all know that in Botswana, the wheels of justice turn ever so slowly and justice is for those who have the deep pockets to get lawyers on their side! So, I would say, owing to their acutely limited means, the Madimabes are unlikely to ever attain justice for and on behalf of their own son.

It should be stressed that Mboloongwe touches on the issue of plagiarism for survival or pursuit of personal glory or 'fame and fortune' which is our key conclusion. Mboloongwe also wrote that government-owned Radio Botswana, Botswana Television (Btv) and their parent ministry should be leading the way in protecting the interests of the country's citizens. By this he meant the intellectual property or copyright of musicians, particularly legends of the past. 'This is a strict and binding duty which is repaid with patriotism and continued peace', he emphasised (Mboloongwe 21 April 2006). He also noted that Radio Botswana had recorded Speech Madimabe's compositions and was said to be the only entity in possession of Madimabe's music. From the 1960s to the early 1990s Radio Botswana was the only local institution with the resources to record folk music throughout the country for purposes of preservation and promotion of culture. Btv itself only came onto the scene in 2000 long after Madimabe and some other folk musicians had died.

Whereas the police are expected to be at the forefront of fighting the plagiarism scourge, they have not been immune from allegations of engaging in plagiarism themselves. Chedza Simon, journalist for the popular Botswana tabloid, *The Voice*, reported in October 2007 that Kesebonye Seabelo, a producer for Baboneng Film Production, threatened to lodge a lawsuit against the Botswana Police for using his production to produce an episode for their hugely popular Btv crime prevention programme '*Itshireletse*'

(‘Protect Yourself’). It was said that Seabelo’s efforts to get compensation from the police for allegedly violating his copyright had been futile which frustrated him to the extent that he shared his predicament with *The Voice* (Simon 16 October 2007).

Nevertheless, it was not indicated which of Seabeleo’s production was plagiarised by the police and the issue does not seem to have gotten much coverage from the media except the brief mention by *The Voice*. The police were also not interviewed for their side of the story, and do not seem to have responded to this damaging allegation by demanding a retraction of the story by the newspaper as is the usual practice by government departments.

Accusations of Plagiarism of Botswana’s Golden Jubilee Logo

At the time when parliamentarians quarrelled over claims of plagiarism by the leader of opposition it emerged in the social media that the logo used to commemorate Botswana’s 50th anniversary of Independence in 2016 may possibly had been plagiarised from Jamaica’s 50th anniversary celebrations held in 2012. ‘Social media went abuzz this morning with the logo of the 2012 Jamaican 50 years independence celebrations put against our very own 2016 logo’. It was further stated that ‘To say its plagiarism is an understatement as it implies that the designer at-least designed something that looks like something, but in this case, the user just edited Jamaica’s logo. If it is an original idea, then its [sic] one in a million, that two creative people thousands of miles apart managed to come up with the same concept’. The two logos were shown side by side for the readers to see for themselves as illustrated below in Figure 2 below:

Figure 2: Juxtaposition of Jamaican and Botswana 50th anniversary logos with strikingly similar features



The story also appeared in the *Sunday Standard* among other local private newspapers. The *Sunday Standard* had a screaming front page headline reading ‘Alleged Stolen Logo Threatens to Spoil Botswana’s 50th Birthday Party’ (Ontenbetse 6-12 March 2016). The following week on 9 March 2016 *The Telegraph*, *Sunday Standard*’s sister publication, had a cartoon making fun of the allegedly plagiarised logo (Figure 3).

Figure 3: A cartoon from *The Telegraph* (9 March 2016) making fun of the allegedly plagiarised logo



The striking similarities between the Botswana and Jamaican golden jubilee logos were said to have caused serious concern among the members of public who felt it may have been a copyright violation. The social media outlets and local private radio stations' phone-in programmes held discussions on the issue. It was reported that this was so serious that the chairperson of Botswana Fifty Anniversary Coordination Unit 'BOT50' (Botswana's golden jubilee's organising committee) Boyce Sebetela bowed to pressure to investigate the matter (Ontenbetse 6-12 March 2016). According to the *Sunday Standard* there was a possibility for the preparations for the country's 50th anniversary celebrations to be paralysed if it were to be discovered that the logo was 'stolen' from Jamaica's design.

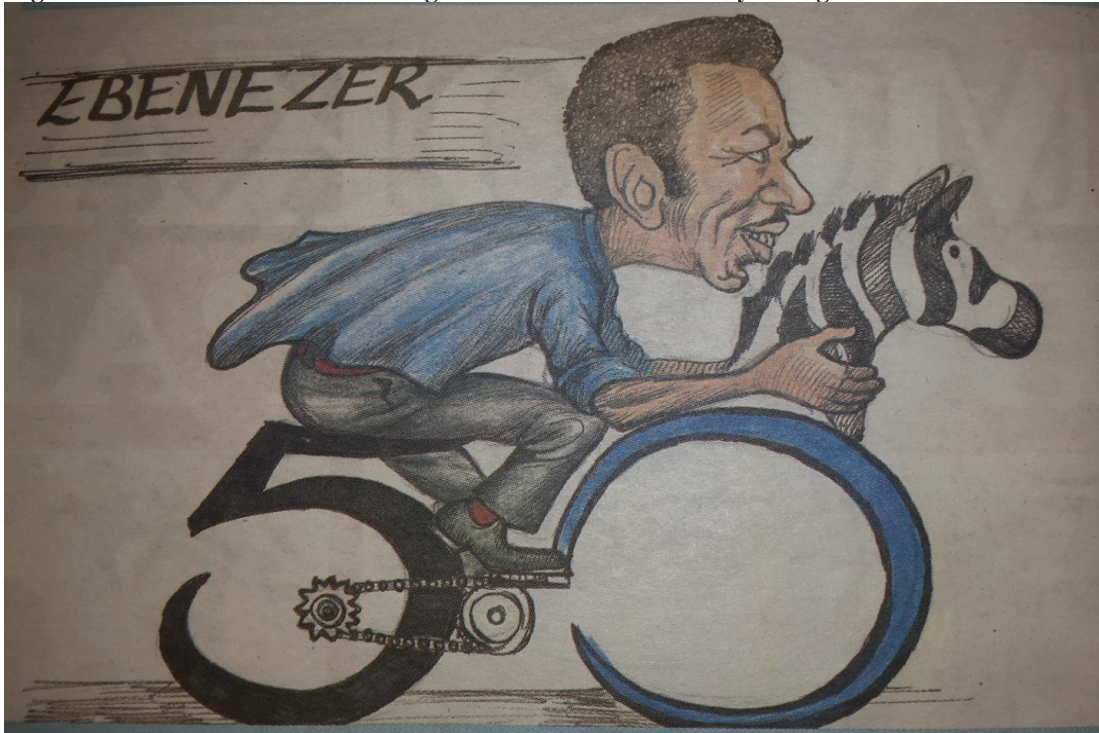
What seems to have irked members of the public the most was the allegation that a private company had been commissioned at the tune of P3 million to design a logo for the country's golden jubilee celebrations. When interviewed by the *Sunday Standard*, Sebelela indicated that while they took the matter seriously he felt there was no violation of intellectual property in the BOT50 logo. He also dismissed the claim that a private company had been engaged and said the logo was designed in-house. According to Sebetela, 'generally logos are inspired by other logos, so we believe that there is no plagiarism.... Even Jaguar and Puma have logos that have striking similarities, so logos just like flags are inspired by others' (Ontenbetse 6-12 March 2016). He also indicated that their preparations for the golden jubilee celebrations were at an advanced stage which meant that the government could not engage in a process of advertising for design of a new logo because that was quite a long process. The newspaper further noted that 'reports from Jamaican media reveal that Director of the Jamaica 50 Secretariat, Robert Bryan had since warned that persons could face legal action if they use the Jamaica 50th anniversary logo without permission'. However, this was not in relation to the BOT50 logo saga but had been declared by the Jamaican authorities at the time their logo appeared in 2012 (*The Gleaner* 3 May 2012).

A few days later, the *Botswana Gazette* newspaper's freelance journalist Sonny Serite wrote that the government had not given BOT50 any funds for creation of a logo (Serite 9-15 March 2016). This led to BOT50 asking its resident graphic designer to come up with what was deemed an appropriate design. It is claimed that the graphic designer came up with two logos depicting the map of Botswana with 50 distinctively embosomed in them. However, it seems this did not appeal to the BOT50 hierarchy but quickly

liked the next sample after the graphic designer had googled and borrowed from the Jamaican design. Among other things, he or she did minor tweaking by changing the Jamaican national bird with a Zebra – Botswana's national animal. Serite suspected that 'The committee members, it seems, did not do further work to qualify the authenticity of the design' (Serite 9-15 March 2016). Nonetheless, the controversial golden jubilee logo continued being used and promoted widely by BOT50.

No complaints from the Jamaican authorities were reported and two days after the hugely successful 50th anniversary celebrations held on 30 September 2016, *The Monitor* newspaper cheekily reminded its readers of the logo controversy through a cartoon depicting the smiling President Ian Khama riding a BOT50 'MaGaeva bicycle' logo (Figure 4):

Figure 4: President Ian Khama riding the 'BOT50 MaGaeva bicycle' logo



Source: *The Monitor* (3 October 2016)

Efforts at Combating Plagiarism in Botswana

Mboloongwe observes that after recording Madimabe's music, Radio Botswana in the spirit of preserving the country's culture, played and broadcasted his music 'to the public so much so that the music became a permanent fixture in the public domain' (Mboloongwe 21 April 2006). He goes on to argue that:

At law, especially looking at the Copyright Act of 1965, this factor alone, attracts protection and should have, in the ordinary course of things done so. Radio Botswana being the ones to sow the seeds of this music, should have taken the necessary steps to ensure that they do not in any way countenance or encourage and facilitate the piracy of this kind of music. At present, Radio Botswana and even Btv, are complicit in the continuing piracy as they continue to give a platform to the people mentioned by Tshireletso Motlogelwa, to further consolidate their position as musicians, when in actual fact they are pirating others' music! One would ordinarily expect the Communications Ministry, especially the Broadcasting services to know better and be intimate with the law on copyright.

Botswana Music Union (BOMU) has since its inception consistently complained about people pirating the music of the country's musicians and singers. It is said that the technological advancement in terms of digital uploading in the twenty-first century has exacerbated the problem. This has meant that even international Internet shopping outlets such as eBay have been able to download and sell music from Botswana without the permission of the composers (Balancing Act nd). BOMU cited these factors as having had adverse effect on the country's music industry, and the livelihoods of musicians (Keoreng 26 November 2008). In an interview by *Mmegi* reporter Ephraim Keoreng with BOMU spokesperson Seabelo Modibe in November 2008, the latter suggested that an independent copyright office needed to be established with a copyright administrator as provided for in the country's Copyright Act.

Modibe decried the fact that the copyright office was part of the Registrar of Companies which he said made matters relating to copyright to be overshadowed by issues about companies because such issues were the primary mandate of the registrar of companies. He also suggested the creation of an anti-copyright theft unit in the Botswana Police Service to be solely responsible for tackling head-on issues of copyright infringement. Modibe did indicate that the music industry was not the only victim of copyright infringement but the industry was the most adversely affected. 'Copyright infringement of phonographic products currently stands at 82 per cent in Botswana as per 2006 study by the Business Software Alliance. This is very high because it means out of 10 music and software CDs in the Botswana market eight of them are fake', he cited this alarming statistic (Keoreng 26 November 2008). He also pleaded that Botswana ought to have what he called an arts council as the country was the only one in the Southern African region without such a council. In explaining the function of an arts council he said it operated like the Botswana National Youth Council by bringing different sporting activities under one physical facility. 'In Botswana there is not even one Public Entertainment Centre where you can find a hall, gym and cinema under one roof', lamented Modibe (Keoreng 26 November 2008).

Nonetheless, BOMU did not just complain about the plight of the country's musicians but also took some concrete initiatives in empowering its members to better understand and appreciate the concepts and practice of IPR. For instance, in March 2016 BOMU invited the Botswana Society for the Arts (BSA) to mount a two-day workshop on IPR for local musicians (*Botswana Guardian* 4 March 2016). For its part, the Companies and Intellectual Properties Authority (CIPA) brought specialists to explain numerous areas of IRP and issues related to the Copyright and Neighbouring Rights Act. The workshop, which was held in Tlokweng near Gaborone, also included discussions on the World Intellectual Property Organisation's (WIPO) statutes. The workshop was said to be part of BSA's campaign for capacity building among creators and innovators under the non-state actors programme funded by the European Union. According to the *Botswana Guardian*, which reported on the workshop, 'Musicians are particularly constrained to eke out a decent life from their trade by the rife scourge of piracy; copying and plagiarism, which consign works of creativity to items of mass production without any value' (*Botswana Guardian* 4 March 2016).

International efforts to combat plagiarism have had supporters in Botswana. For instance, 17 July 2009 was declared Anti-Plagiarism Day by the author and blogger Jane Smith on her blog under the title 'How Publishing Really Works' (Smith 13 April 2016). In her blog Smith requested writers worldwide to use their blogs, Facebook and other networking sites for a discussion on plagiarism and its consequences. In Botswana, a local novelist and newspaper columnist, Lauri Kubuitsile of Mahalapye, wasted little time in sharing her disturbing experience as a victim of plagiarism herself (Kubuitsile 13 April 2009).

In August 2007 UB introduced a stringent 'Academic Honesty Policy for Students' (University of Botswana 2007) in a bid to eradicate the plagiarism scourge but plagiarism by students is still reported at the institution (Batane 2010). Various Information Communication Technology (ICT) programmes such as 'Turnitin' and 'Safeassign' among others have also been employed in the struggle against plagiarism by students (Batane 2010; Motshegwe and Molelu nd). However, as shown above, news of plagiarism by

academics tend to appear rarely in the media which may mean that something is being done about it.

Conclusion

This paper has attempted to discuss various issues on plagiarism which were in the public domain in the form of media reports in Botswana. The paper is not about whether the reports of plagiarism in Botswana were accurate or inaccurate but that they formed part of public discourse. Almost nothing has been done to combat political plagiarism and the accusations or smear campaign by politicians against other politicians for point-scoring is likely to resurface from time to time.

Plagiarism by students is quite prevalent not only in Botswana but in many other countries as well. Nonetheless, plagiarism by students does not seem to attract the attention of the media unless perhaps concerned students are prominent personalities in the society or community. While we were interested in plagiarism by academics we have observed that the problem is not a widespread one as far as reporting in the media is concerned.

Professional associations in the corporate sector have come up with canons of ethics in an attempt to ensure that members avoid plagiarism, but in this dog-eat-dog sector, there is bound to be reports of allegations of plagiarism from time to time. As far as the entertainment industry is concerned, it would seem that some 'artists' may be joining the fraternity owing to widespread unemployment in Botswana, and are not necessarily creative and talented performers, hence plagiarism on their part.

As much as different punitive sanctions are applied in the society in a bid to curb crime which include capital punishment for murder among other serious offences, these crimes still persist. Therefore, it would be asking too much to expect plagiarism to be successfully eradicated given the human nature's inclination to fail to learn from past mistakes. Survival also forces some people to resort to plagiarism while in some cases blatant greed and pursuit of personal glory or fame and fortune can be the determining factors.

References

Official report and documents

- Republic of Botswana 1997. Long Term Vision for Botswana: Towards Prosperity for All. Gaborone: Government Printer.*
- University of Botswana August 2007. 'Academic Honesty Policy for Students'. Gaborone: University of Botswana.*

Secondary sources

- Andersen, B 2013 (ed.), Intellectual Property Rights in Contemporary Capitalism. London: Routledge.*
- Batane, T 2010. 'Turning to Turnitin to Fight Plagiarism Among University Students', Educational Technology and Society, 13, 2, pp.1-12 http://ifets.info/journals/13_2/1.pdf accessed 8 April 2016.*
- Baty, P 19 July 2002. 'Plagiarism Puts Monash VC out of Job', Times Higher Education Supplement, <https://www.timeshighereducation.com/news/plagiarism-puts-monash-v-c-out-of-job/170551.article> accessed on 13 April 2016.*
- Bird, R and Jain, CJ 2008 (eds.), The Global Challenge of Intellectual Property Rights. Cheltenham, United Kingdom; Northampton, MA: Edward Elgar.*
- Briscoe, A and Kiggundu, J 2001. A Guide to Intellectual Property Law in Botswana. Gaborone: Morula Tree.*
- Dutfield, G 2003. Intellectual Property Rights and Life Science Industries: A 20th Century History. Aldershot: Ashgate Dartmouth.*
- Lahdenper, J 2011. The Intellectual Property Rights Protection of Service Concepts. Colne: LAP Lambert*

Academic Publishing.

- Lekorwe, MH 1989. 'The Kgotla and the Freedom Square: One-Way or Two-Way Communication', in Holm, J and Molutsi, P (eds.), *Democracy in Botswana*. Gaborone: The Botswana Society and Macmillan, pp.216-230.
- Leslie, CR 2011. *Antitrust Law and Intellectual Property Rights: Cases and Materials*. Oxford: Oxford University Press.
- Mallon, T 1989. *Stolen Words: Forays into the Origins and Ravages of plagiarism*. London: Ticknor and Fields.
- Masire, QKJ 2006. *Very Brave or Very Foolish?: Memoirs of an African Democrat*. Gaborone: Macmillan.
- Mebratu, R 2011. *Farmers Rights versus Globalization of Intellectual Property Rights*. LAP Lambert Academic Publishing.
- Merafhe, MS 2015. *The General: In the Service of My Country*. Gaborone: Diamond Educational Books.
- Moore, C c.2004. *BNF vs BDP: 187 Policy and Ideological Differences*. Gaborone: Author.
- Motshegwe, MM and Molelu, GB nd. 'Piloting Safeassign at the University of Botswana', http://wikieducator.org/images/7/72/Piloting_SafeAssign_Originality_Detection_Software_at_University_of_Botswana.pdf accessed 8 April 2016.
- Muzaka, V 2011. *The Politics of Intellectual Property and Access to Medicines*. Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan.
- Noordin, J 2011. *The Concept of Intellectual Property and Pirates*. Colne: LAP Lambert Academic Publishing.
- Isidore Okpewho 1985 (ed.), *The Heritage of African Poetry*. Harlow: Longman.
- Park, C 2003. 'In Other (People's) Words: Plagiarism by University Students –Literature and Lessons', *Assessment and Evaluation in Higher Education*, vol. 28, 5, pp.471-488.
- Pugatch, MP 2004. *The International Political Economy of Intellectual Property Rights*. Cheltenham, UK and Northampton, MA: Edward Elgar.
- Rantao, P 2000. *Makatolole No. 1. An Expose of Pimples and Pitfalls in Botswana's Political Economy*. Gaborone: Author.
- Weeks, S 18 May 2001. 'Plagiarism: Think Before Pointing Finger of Blame', <https://www.timeshighereducation.com/news/plagiarism-think-before-pointing-finger-of-blame/160230.article> accessed 12 March 2016.
- Weiner, J 2005. *Historians in Trouble: Plagiarism, Fraud and Politics in the Ivory Tower*. New York: The New Press.
- Vermeylen, S 2005. 'Intellectual Property Rights and Indigenous Peoples: A Case Study of the San in Southern Africa: CES Working Paper 07/05'. Centre for Environmental Strategy, University of Surrey. https://www.surrey.ac.uk/ces/files/pdf/0705_WP_Intellectual_Property_Rights_and_Indigenous_Peoples.pdf accessed 13 April 2016.
- Vrins, O and Schneider, M 2006. (eds.), *Enforcement of Intellectual Property Rights Through Border Measures*. New York: Oxford University Press.

Newspaper and Internet sources

- Bagwasi, T and Msokola, A 22 February 2016. 'UDC May Sue Maele', *The WeekendPost*.
- Balancing Act, 'Botswana Musician Threatens to Sue for Copyright Violation Through the Internet', <http://www.balancingact-africa.com/news/en/issue-no-365/internet/botswana-s-musician/en> accessed 13 April 2016.
- Botswana Guardian, 04 March 2016. 'Musicians and Intellectual Property Rights'.
- Chilisa, S 19 July 2011. 'BCP Councillor in Plagiarism Charges', *Sunday Standard*.

- Gobotswang, K 9-15 July 2016. 'BDP Plagiarises the BCP 2014 General Election Manifesto', *Weekend-Post*.
- Keoreng, E 27 September 2010. 'BMD Accuses BDP of Plagiarism', *Monitor*.
- Keoreng, E 26 November 2008. 'Botswana Music Industry Under Threat – BOMU', *Mmegi*.
- Khunwane, T 21 February 2016. 'Botswana: Maele Accuses Boko of Plagiarism', *Botswana Daily News*.
- Kubuitsile, L 13 April 2009. 'Anti-Plagiarism Day: Thoughts from Botswana', <http://thoughtsfrombotswana.blogspot.com/2009/07/anti-plagiarism-day.html> accessed 12 March 2016.
- Letsididi, B 28 February to 5 March 2016. 'Ministry of Lands and Housing Plagiarised US Document', *Sunday Standard*.
- Letswamotse, P 22 February 2016. 'Parliament in Chaos over an Alleged Plagiarism by Boko', *Sunday Standard*.
- Letswamotse, P 13-19 March 2016. 'Speaker Juggles Hats in Controversial Decision Against Boko', *Sunday Standard*.
- Makgapha, S 18 July 2012. 'UB Academics are Useless –Boko', *Botswana Gazette*.
- Mboloongwe, G 21 April 2006. 'A Rejoinder: How to Rob a Legend', *Mmegi*.
- Mmegi, 16 August 2009. 'MP Links UB Lecturer to Plagiarism'.
- Motlogelwa, T 13 April 2006. 'Go Ka Tweng: How to Rob a Legend', *Mmegi*.
- Ontebetse, K 6-12 March 2016. 'Alleged Stolen Logo Threatens to Spoil Botswana 50th Birthday Party', *Sunday Standard*.
- Otlogetswe, T 14 August 2013. 'The Enigma that is Duma Boko', *The Telegraph*.
- Serite, S 9-15 March 2016. 'The Story Behind the BOT50 Logo Drama', *The Botswana Gazette*.
- Serite, S 22 February 2016. 'BIUST Fires Professor Ibikunle Following Plagiarism Expose', *Sunday Standard*.
- Serite, S 4 October 2015. 'BIUST Professor in Plagiarism Scandal', *Sunday Standard*.
- Simon, C 16 October 2007. 'Botswana Police Accused of Plagiarism', *The Voice*.
- Smith, J 6 July 2009. 'How Publishing Really Works', <http://howpublishingreallyworks.blogspot.com/2009/07/anti-plagiarism-day-friday-17-july.html> accessed 13 April 2016.
- Sunday Standard*, 3 October 2010. 'New BURS Head Office in Architectural Design Scam'.
- Sunday Standard* 11 May 2008. 'BTC Accused of Stealing Russia's US\$7 Billion Brand'.
- The Gleaner* 3 May 2012. 'Jamaica 50 Changes Logo: Warns Against Illegal Use', <http://jamaica-gleaner.com/gleaner/20120503/ent/ent2.html>, accessed 13 April 2016.
- Tshabang, N 13 August 2012. 'Of Tirade and Intimidation –Duma Boko Must Stop It!' *Sunday Standard*.