

Chapter 11: Analysis of Tabane's royalty payout at the zenith of his career

CHAPTER ELEVEN

Analysis of Tabane's royalty payout at the zenith of his career

11.1 Introduction

The big question that haunts the life of a musician today in the looming culture of human rights, is the extent to which record companies and the public broadcaster contribute to their financial woes. In this chapter, the researcher makes an analysis of Tabane's royalty payout at the zenith of his career to address these questions. The researcher investigates the performance of Malombo music in terms of sales and in public broadcast. The empirical data gathered in the chapter helps to determine the trend of royalty payout in terms of both sales and public broadcasting of Tabane's music.

The researcher analyses Tabane's royalty payouts at the helm of his career. The analysis excludes royalties accrued from live performances. Performance fees arise from negotiated contracts and therefore are not used in this research to determine whether they do get honoured. This would require a tracking of Tabane's personal bank accounts and this would infringe on his privacy. However, the matter of royalty payouts to musicians by record companies and the public broadcaster, are matters that are legally declared in annual reports and could be requested from royalty collecting agencies or be voluntarily availed for case studies by an artist. They could be analysed to determine whether artists' constitutional rights are respected or abused. These rights are decreed and have international benchmarks.

The Berne Convention declared that all member states have to comply with the international standards of copyright protection of all creative works, and it does determine what constitutes a right of a composer. It is against this background that the researcher chooses to focus on Tabane's royalty payout in terms of sales

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and public broadcasting within the context of the right to protection of the intellectual property of a composer.

11.1.1 Analysis of both record sales and radio play

The researcher has made an effort to sample payout sheets of Malombo music in terms of sales royalty as well as performance royalty. Sales royalties sampled in the years when Malombo was at the peak of its demand cover the period from 1969 to 1972. The performance royalty is sampled to cover the same period. Different factors contributed to the rise of Malombo in these years. The outstanding achievement in the 1963 and the subsequent 1964 national talent search, the 1971 international breakthrough, the public debate sustained since the hype of Malombo music began in 1963, and Tabane's pro-African sentiments on music contributed to the rising sales of Malombo music. The researcher argues that the same factors outlined above should equally contribute to a high rotation of Malombo music titles on the airwaves. However the data show a contradicting trend.

11.1.1.1 Analysis of Tabane's sales royalty payout data

Records of Tabane's sales royalties show a better performance on the market. Regardless of what the sales royalty was, Tabane's record sales royalty fetched between R5000.00 and R20 000.00 in intermittent periods of payment. The sales royalty payouts of 1966, 1969, 1970, and 19771, are the records that the researcher was able to lay his hands on. Those of 1967 and 1968 are missing in Tabane's suitcase archive. However, the sales royalty in these selected years amounts to R146 619.99. Regardless of how one looks at it, one could at least live on such an amount in those days.

The data of Tabane's sales royalty payout is presented in the plates below:



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STATEMENT of COPYRIGHT ROYALTIES for Records ex South African Factory
JULY - DECEMBER, 65 and
PERIOD JANUARY - JUNE 1966 TAX DEDUCTED

REPUBLIC OF S.A.		EXPORT OUTGOINGS (General)		EXPORT OUTGOINGS To Zambia		RHODESIA SALES	
S.A. ROYALTY	QUANTITY	R	c.	S.A. ROYALTY PLUS 30%	QUANTITY	R	c.
1.000	83		830				
6.000	199	11	940				
"	98	5	880				
South African Sales		18	650	General Export		Export to Zambia	
						Rhodesia Sales	
						Total Export	
						.. S.A.	
						.. Combined	
						18	

Plate 11.1: R18650.00 royalty payout for record sales: January to June 1966.



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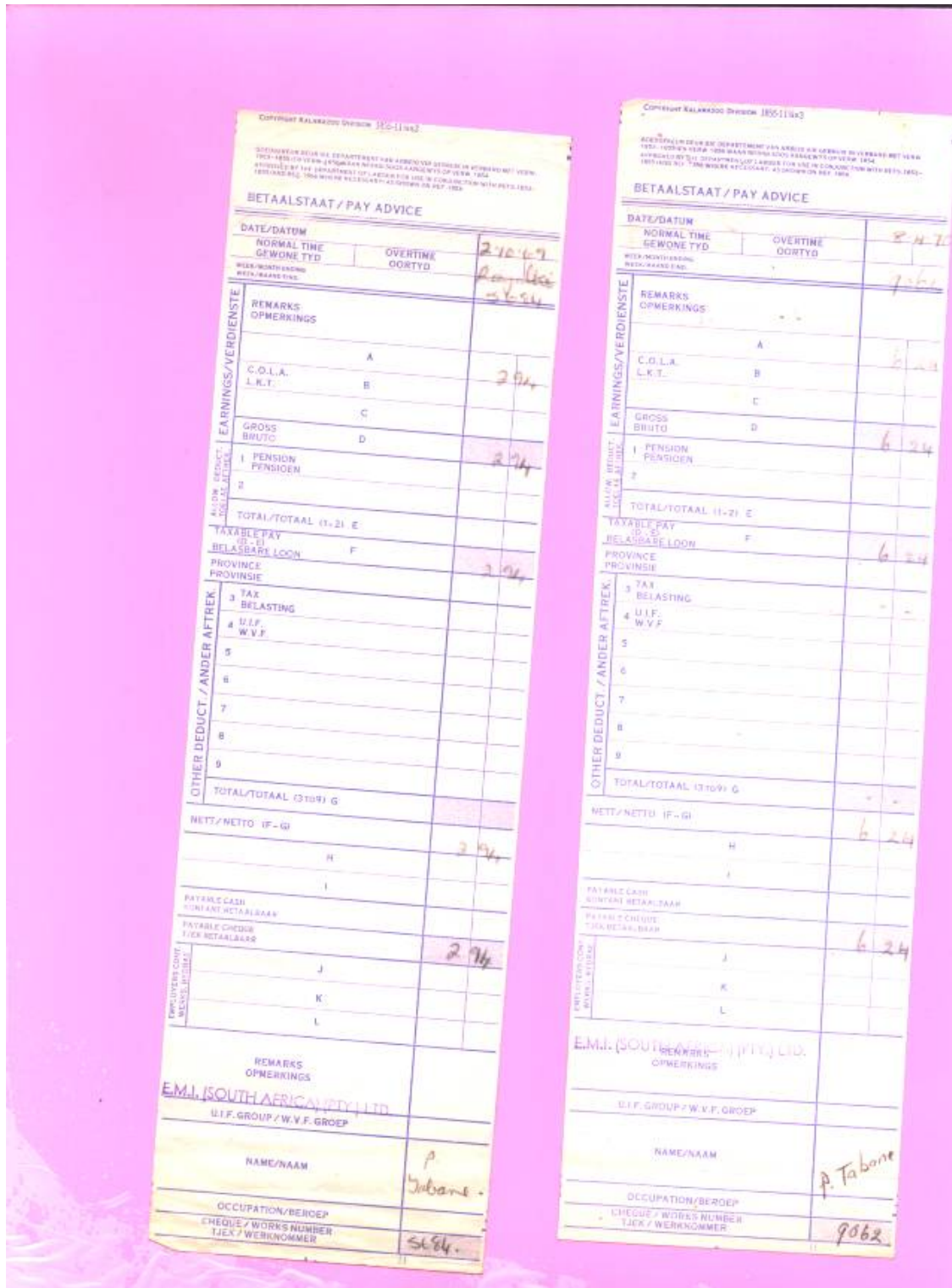


Plate 11.2: R5684.00 plus R9062.00 royalty payout for 1969 and 1970.



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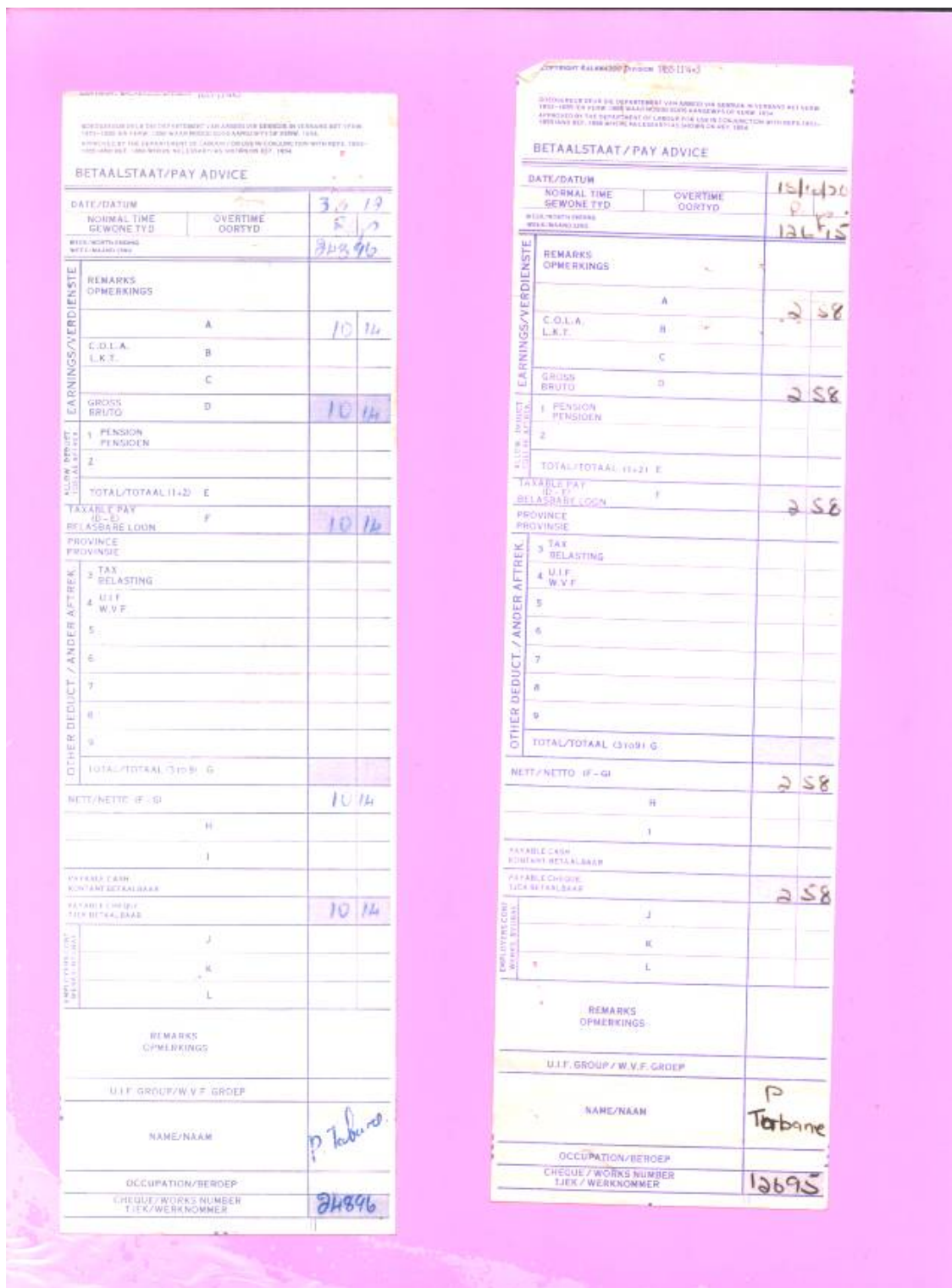


Plate 11.4: R24896.00 plus R12695.00 royalty payout of 1970.



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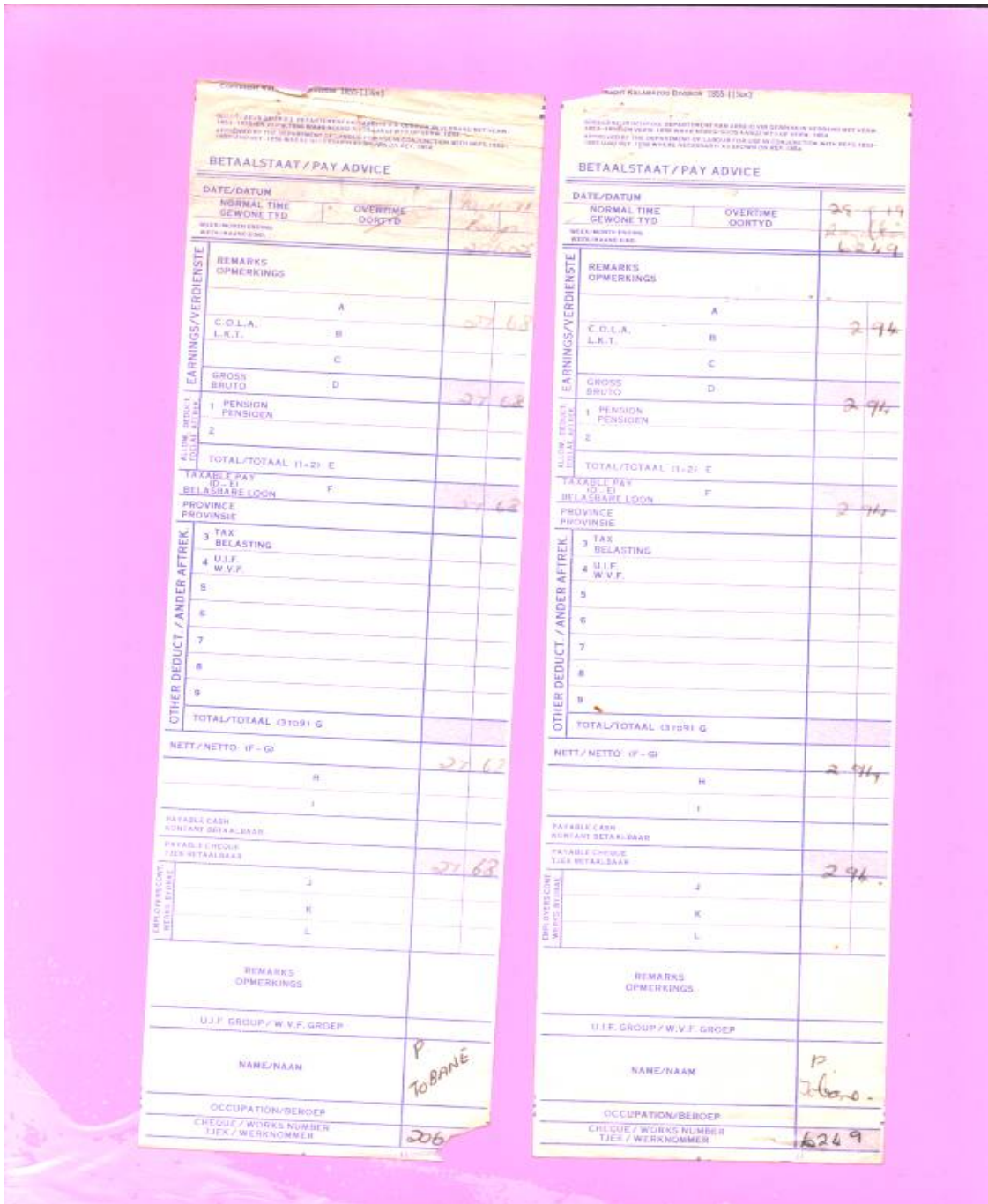


Plate 11.5: R20 605,00 plus R6249.00 paid out in 1971 for sales royalty.



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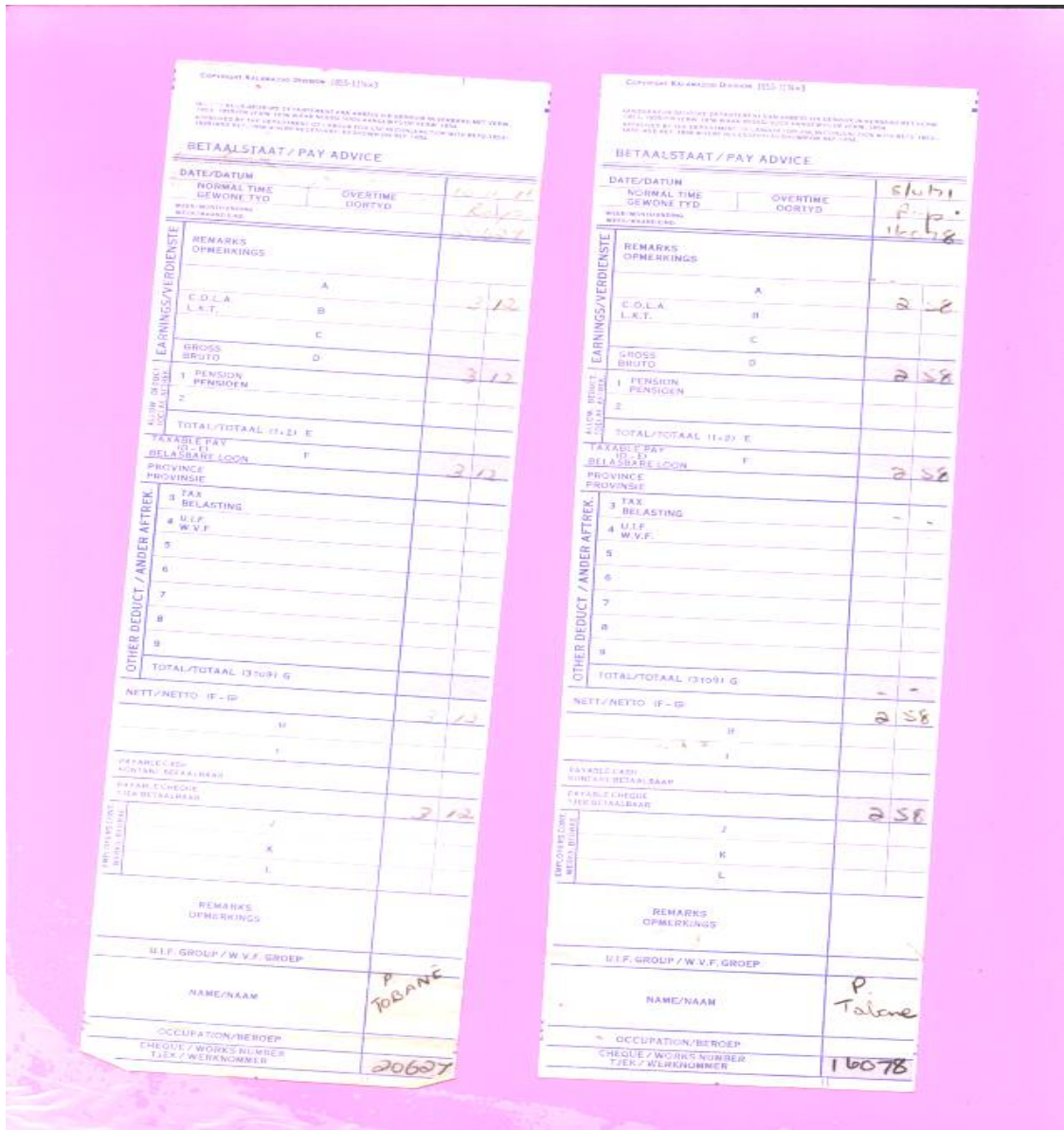


Plate 11.6: R20627.00 plus R16 078.00 royalty payout for 1971.

11.1.1.2 Analysis of Tabane's broadcast royalty data

Radio performance of Tabane's titles did not contribute to the success of the album sales as it is often the case. Most records are sold because radio plays the music regularly. The analysis of radio royalty payout sheets from SAMRO, evidence very minimal performance on airwaves while the sales royalties show some good performance.

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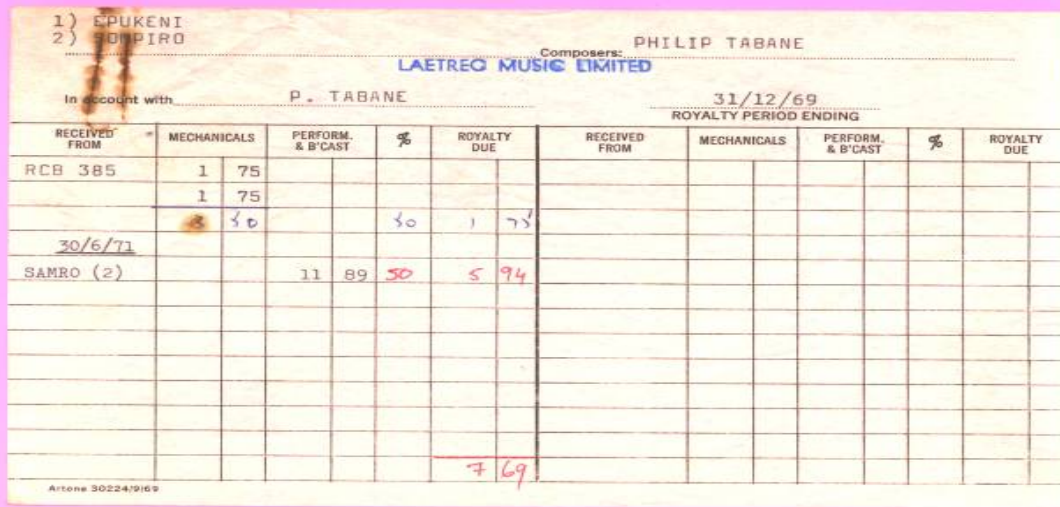
The matter of public broadcast of Tabane's music is compounded by a number of factors. These include the limited space for rotation of public broadcasting given to Blacks under Apartheid. Black music was allocated broadcast space according to tribal classifications. Because Malombo music was predominantly sung in Sepedi, it had to be largely broadcast on Radio Bantu only. It could therefore not enjoy national broadcast coverage. The other factor is that at that time, between 1963 and 1972, there was no television in South Africa. Television extended the space of electronic media tremendously and would have resulted in a wider broadcast space for music. However, the researcher argues that, even in the context of limited broadcast space, and the subsequent restriction of the broadcast coverage as a result of Apartheid policies, Bantu radio stations focused on 'local content'. At the time, South Africa was not open to the global village and there was no excuse for Malombo titles not to perform on airwaves as evident in royalty payouts.

Malombo competed with other popular genres of *mbaqanga*, *kwela*, *mbube*, and *scathamiya*. The researcher can only suspect that because of mal-perceptions of Malombo music as jazz, and because jazz was perceived as elitist, therefore, it received limited airplay on Radio Bantu. The other factors could be that Malombo music does not have a lot of danceable tunes; the strength of Tabane's Malombo lies in the message that is often couched in the idiom of Sepedi; Tabane's novel guitar playing did not evoke a popular music *de ja vous*; Tabane evoked a music of the deep spirits of a people and people sharing his *malombo* spirituality are few; and therefore *malombo* is still a topic that is not friendly in the popular music scene. Malombo evokes a deep sense of spirituality while regular popular music evokes a sense of fun and enjoyment.

The key reason is that in the context of trampled human rights culture, the submission of playlists to reward creativity was not mandatory because South

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Africa only passed the Intellectual Property Act in 1978. Before then intellectual property rights were managed at the discretion of the political rulership of the time. Apartheid was at its peak between 1963 and 1972. Tabane's case of broadcast royalty is therefore a clear case of lack of protection of human rights. The ethnographic data on Tabane's public broadcast royalty payout bears testimony to this.



1) EPUKENI
2) SONPIRO

Composers: PHILIP TABANE
LAETREO MUSIC LIMITED

In account with P. TABANE 31/12/69
ROYALTY PERIOD ENDING

RECEIVED FROM	MECHANICALS	PERFORM. & B'CAST	%	ROYALTY DUE	RECEIVED FROM	MECHANICALS	PERFORM. & B'CAST	%	ROYALTY DUE
RCB 385	1 75								
	1 75								
30/6/71	3 30		50	1 75					
SAMRO (2)		11 89	50	5 94					
				7 69					

Artone 30224/9169

Plate 11.7: R7.69: SAMRO payouts on broadcasting: 1969.

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<u>S.A.M.R.O.</u>				<u>P. TABANE.</u>
<u>TITLE.</u>	<u>TOTAL.</u>	<u>31 21</u>	<u>50%</u>	<u>DUE.</u>
Sompro. Broadcasting (Bantu Services)	10.70	31 21	50%	5.35 15.59
	<u>31.21</u>			<u>15.59</u>
				<u>35.91</u>
				<u>3.59</u>
				<u>32.32</u>

*Combined Total
less 10% tax*

7193 35-91

Plate 11.8: R35.91: SAMRO payouts for radio broadcast: 1969.

11.1.2 Data analysis

The broadcast royalty of South Africa is managed by SAMRO on behalf of artists who are affiliated to it. It is important to note that the 1969 radio broadcast royalty from SAMRO, actually paid for the broadcast that happened in 1967.

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SAMRO's royalty payouts are two years late while the record company sales are paid out every quarter. Therefore it is difficult to compare the sales royalty payout from the airplay in the same year. However, the 1969 records of royalty payout of SAMRO on just two tracks, cannot even make R50.00 over twelve months of broadcast. This therefore confirms that the low broadcast of serious music in the popular music domain, like Tabane's, receive lesser airplay than the other indigenous popular dance music. This kind of a quagmire still plagues musicians in the present day.

It is worth noting that the period from 1969 to 1970 are five and six years away from the glorious 1964 rocketing to fame of Philip Tabane. Therefore, the SAMRO royalty payout, are for 1967/1968 and these are three to four years after Tabane's great moment of fame after winning the 1964 talent contest. If the royalty payout for airplay per song in a year is R7.69 and R35.91 respectively, then this explains the rate of airplay Tabane received in the country of his birth.

Since the passing of the Copyright Act of 1978 in South Africa, the situation has in principle changed, but the practice has not changed. The airplay for both indigenous music and popular adaptations therefore has not changed. Only danceable adaptations of indigenous music receive more airplay. Therefore, Tabane's music continues to receive minimal airplay. This makes the researcher to argue that the value of the Copyright Act depends entirely on the performance rate of songs on electronic media. A song that is played quite often on radio, television or on ipods is paid more in accordance with terms of the provisions of the Copyright Act and Electronic Communications Act of the time. Even if the Act is democratized to pay citizens the maxim royalty of 100%, and the songs are never played on air, the artist remains poor, and the Act becomes redundant. The copyright period could even be extended to pay the composer/lyricist from 50 years to a 100 years after his/her death, but if the music is not played on air, the

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stipulations of the broadcast royalty in the Act are nullified by such practice. Those stipulations of the Act become inconsequential pieces of legislation for the composer and the composition itself.

The sales figures are exciting but are not sustainable. They simply reflect current popularity but may not be used to project sustainability in the livelihood of an artist's estates beyond his/her death. Most record companies either lose the original glass masters years after the artist would have left them or after losing popularity. Sometimes they just refrain from printing the master after a legal battle with the artist. There is no legislation that forces them to replicate the music regardless of the fall between the two parties. The best they can do for an artist is to release the artist on the bases that the artist wants out or that the contract has expired. However, the artist should be able to survive on the basis of the royalty payout from electronic performances of the compositions. If radio chooses to perform foreign music on their airwaves at the expense of the indigenous artists, then the Copyright Act effect of the South African composition is inconsequential and negligible.

This explains the reason why Philip Tabane had to agree to work in America for seven years in spite of his apparent popularity at home. The figures from airplay were not compensating at all compared to the figures of sales. Even today, radio in South Africa would rather perform the remix of Philip Tabane that is done in the house music format instead of the original composition. He has been relegated to a footnote of a heritage month reference diary. Sometimes the deejays just drop his name here and there to show they have heard of him but then play an American artist immediately thereafter. This indictment is exactly the fear that Tabane had when he agitated for the liberation of the mind of an African promoter, deejay, composer, and ethnomusicologist.

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Today, Africa has a lot of clones of American sounds done by some of the most gifted amongst its musicians. Radio can at least find a cheaper American from home, and use their works. The likes of Tabane are forgotten.

However, the spreadsheets evidenced earlier indicate that, in some concrete way, Malombo music of South Africa was practically selling. A lot of musicians known today get far less sales royalty from their record companies than what Malombo music could fetch. Given that the sales royalties evidenced in this chapter, are royalties that were paid out in the late sixties and early seventies, when an LP was about 50 cents each, then this means that Tabane's music sold thousands of copies. The sales figures are testimony to this.

Malombo music of South Africa is a force to reckon with, if it can create such consummate public debate on African musicology, as well as make for meaningful participation in the economy of the country. It is the tax from these very royalties that assisted general public infrastructure development. The more money Malombo music makes, the higher the tax paid by the artist.

Malombo music is one earliest success story of mainstreamed indigenous oral music in spite of the poor broadcast showing. It has set precedence for the adaptation of all other indigenous music into serious music in the popular music domain. The adaptation process of more indigenous music brings about new challenges where the Act needs to be strengthened to ensure protection of copyright of both individual practitioners as well as communities who give birth to the primary music texts and themes.

Communities will sooner or later require representation in terms of protection of the intellectual property that many individual musicians exploit for personal gain. The researcher therefore would like to suggest a few points that could

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constitute a framework by which the oral forms of music expression could be linked to various communities within delineated zones in order for communities to benefit from the collective intellectual property they have developed for centuries.

11.1.2.1 Exploitation of indigenous music and not musicians

The concept of the exploitation of indigenous music has over the years been pushed too far. The reinterpretation of indigenous themes is a way of exploiting indigenous music. Using direct ideas and or melodies of communities and members of the communities is exploitation of the works.

The Copyright Act protects individuals but not communities. It gives ownership to anyone who notifies the composition first to SAMRO and SARRAL, therefore perpetuating exploitation. SAMRO then looks after the performance right of the copyright owner, be it live or on electronic media. SARRAL and NORM manage, on behalf of the copyright owner, mechanical rights. Mechanical royalties include downloading and pressing rights.

The researcher suggests that in order to engender a fair exploitation of indigenous communal works of different art forms, it is important to revisit the directives of the Copyright Act of 1978 as amended. The Act should decree the setting up of institutions and or infrastructure to cater for the protection of communities and not just for individuals.

11.1.2.2 Status and role

The researcher recommends that clear thinking be applied around developing indigenous works as follows:

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- Refrain from calling indigenous works “local” genres or their practitioners/artists “local artists”. They should instead be referred to in the Act as “South African musicians” or “South African music”.
- Create parity between artists of the written word and artist of the oral literature.
- Build on the 2001 UNESCO conference resolution to develop African notation systems and music literacy discourse, instead of competing over the music literariness developed and brought to the African continent through missionaries. The fact that indigenous music practitioners have developed their own system of communication and interpretation of the works they do means that what is left is to document those systems. Tonic solfa and staff notation as they currently exist, are a barrier for indigenous communities who cannot read and write letters. Western and Diaspora music approaches to all spheres of the knowledge, cannot continue to patronize African indigenous knowledge systems. If African intellectuals cannot decipher the knowledge, skills and values systems of their own people, then they must ask the indigenous practitioners how they do what they do. Africa owes it to herself to develop graphic representations of its music. The Khois and Sans communities achieved this long time ago through rock art.
- Create a repository data bank of a body of indigenous works with clear credits of the community that has developed the concepts first. This should make it easier for the largely oral community of indigenous artists to notify their works without fear of not being looked down upon for not being able to handle elaborate transcriptions.
- Form the Indigenous Musical Arts Foundations of South Africa with offices in designated areas of local government to align the development of the indigenous music industry with the development of policies of heritage development.

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11.1.2.3 Ensuring that deserving beneficiaries benefit

Strategy to ensure that the indigenous/oral communities benefit:

- Set up a delineation of communities sharing a particular zonal space irrespective of cultural orientation, language or race
- Develop a database of genres and styles
- Develop a transcription method and have it regulated in legislation
- Notify the works available in these areas
- Locate the publishing rights of these works within the relevant national foundation that keeps record of groups and or individuals who own the rights to the works
- The foundation to license the works to whosoever would like to exploit the works
- The proceeds accrued from these works to be used to develop a monthly, bi-monthly, quarterly compensation to families and societies that generated the catalogued works
- Ensure that popular artists who use the melodies from the works administered by the foundation, book artists from communities that have been custodians of the works to perform in major commercial festivals so that they could benefit from the exploitation of the works. If popular musicians do not book the custodians of the indigenous cultures as shall be determined by the foundations, the former should donate a percentage of the proceeds to the foundation from which the culture bearers of the indigenous art forms come.

11.3 Conclusion

The researcher makes observation that Malombo music did become popular like other popular musics of the early 1970s. The news that Tabane had signed a seven-year contract to work in New York generated huge publicity that worked

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well for the sales of his music. It is evident in this chapter that Malombo did earn good sales royalty between 1969 and 1972. The research also notes that there is evidence that performance royalty, mechanical royalty as well as sales royalties were paid out. For the researcher it is as important how much money was paid out to the composer as is critical to note that an indigenous idea, if properly packaged and sold to the right market, does sell. What is more evident is that, while the public broadcaster has the mandate to broadcast with a sole purpose of generating royalty for the creativity of composers, the former does often renege on that mandate. The fact that Tabane's music performs well on sales and dismally on airplay means that the public broadcaster fails the creative genius of the culture conscious minds of the likes of Tabane.

There is no doubt that this indigenous art form of Malombo performed well internationally too. The seven-year contract that Tabane signed to perform under KAYA records in New York bears testimony to this. Tabane's highest hallmark of success lies in the fact that while his music performed well in the United States, it managed to retain its compositional and cultural integrity. Therefore there is value in principled mainstreaming of indigenous arts. Tabane's international profile is recorded in Appendix 6.

The spreadsheets of Tabane's example evidence that while record companies could be guilty of signing musicians low percentages of royalty payout, the sales royalties coming from the record companies supersede those the public broadcaster pays. Often the public broadcaster's royalties are so dismal because of lack of strict control over the authenticity of playlists submitted to SAMRO. In this case, it is the composer who suffers. The researcher therefore would like to point out that the composer has, in terms of the Copyright Law, a lifelong claim on broadcast royalties that continues up to 50 years beyond his/her life. It becomes clear therefore that the persistent non-performance of indigenous

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composers on the airwaves undermines the noble intents of the very provisions of the Copyright Act of 1978, as amended in 2001.

Public broadcast has the potential to accrue more longevity of benefit to the composer than the lifespan of an album on the sales market. Consumers of music buy music at least once, but public broadcast should ensure continued broadcast of the music produced in its country of operation. The broadcast of such music produced in the territory of broadcast should last for fifty years after the composer would have passed on. The researcher therefore suggests that the Electronic Communications Act should raise the quota of indigenous music on the airwaves to 70% of the 40% and 20% time set aside for music broadcast by the ECA. The remaining 30% of 40% and 20% time set aside for broadcasting music on public and community and commercial radio stations respectively be allocated to the broadcast of popular music. Tabane's Malombo concept and other similar indigenous genres undoubtedly received inadequate airplay. Malombo only fetched less than R50.00 of royalty at the zenith of his career in the late sixties and early seventies. It is the non-reliability of the public broadcaster's systems of compiling and submitting play-lists; the low percentage of the performance quota of indigenous/local music; and the subsequent discontinuation of pressing or replication of the music by record companies that contribute to the low broadcast royalty payout to Tabane. The researcher recommends that, unless government addresses these issues then the plight of musicians will continue to persist.

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CHAPTER TWELVE

Conclusion

The research has attempted a longitudinal study of the life, genre of music, contexts of historical development of the popular music of Malombo, and style of Philip Tabane's music. However, nothing has precluded this study from analysing elements of Tabane's music which are common to all music of the world. Through ethnographic research, the researcher investigated and presented documented evidence of the development of Malombo music.

The research investigated the definition of Malombo, starting with elements of the *malombo* ritual practice and how Tabane factored them into his construct of the popular music format of Malombo. It became then important to investigate how Tabane's views, musical practice, and overall textural blend of his music shaped the definition of the Malombo music as it is known today.

In tracing the development of Tabane's Malombo over forty two years, the researcher traced the twelve different stages of development of different formations of bands that experimented and produced the Malombo sound. The addition of one western music instrument to the music at each moment of Tabane's development of Malombo had impact on the overall textural blend of his music. It posed a challenge of articulation with the overall discourse of ritual *malombo* in the way Tabane set out to achieve. The individual perceptions of Malombo music by the guest musicians in Tabane's band and their response to the media insistence of calling Tabane's music jazz, invariably affected the tone of music negatively. Their voicing of parts of the music would gravitate towards jazz. Each variation from the standard Malombo sound as developed by the Malombo trio, was like another epoch and phase of the development of Malombo. The researcher has also critiqued the socio-political context within

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which Malombo was developed in South Africa and in the United States of America. In dealing with how the thesis of Malombo was tested by critical reviews from the public media, the research argued how the euphoria of jazz challenged the definition of Malombo. The researcher did this through critical review of articles by critics and apologists of Philip Tabane's Malombo music.

The researcher also investigated the extent to which the development of an indigenous art form is protected by existing legislation of the protection of intellectual property rights and electronic communications laws of South Africa. The research covered this area through a case study of Tabane's royalty payout between 1971 and 1974 when his career was at its peak. The researcher investigated the impact of festival sponsorships, festival managers and promoters on the development of Malombo and other budding genres of music.

A lot of definitions about Malombo abound as it was evidenced in Chapters 4 and 8. Malombo is essentially an embodiment and an extension of the musical practice, values, and spirituality of the sacred *malombo*. Its lyrical content is fundamentally derived from extensive discourse of traditional praise texts, as it has been evidenced. Its textural blend is richly percussive, highly rhythmic, and evokes spiritual bond in a context of live performance. It relies on the participants' knowledge on the cues used by Tabane during the performance. These include spontaneity in the use of sudden stops, high sensitivity in the use of dynamics, part-cadences and full cadences. Care is taken to ensure that the choice of the existing repertoire is relevant to the context of performance. As a result of this, some of the Malombo lyrical content comprise direct, instant, and relevant messages that respond to the current or immediate content of performance. Some lyrics of songs are extemporised on the spur of the performance but the melody text that has been recorded is replicable in live performance.

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The research established that it is often difficult for Tabane to perform in programmatic concerts that require him to send the repertoire in advance. Malombo is therefore a direct and an immediate response to pertinent socio-political and cultural stimuli in time. Songs like 'Basobeletse', was composed in New York as a direct message to the exiles who attended one of Tabane's shows at the Carnegie Hall. Tabane asked a rhetorical question, "*Ba sobeletše, bana bešo, le naga yotlhe. Go leta mang, ka mokana ga lena ge le le mo. Ijo! Mabele a jewa ke tšhupa.*" The song laments the challenge of living in exile and the Diaspora, and asks 'who guards the fort at home when all the great sons and daughters of South Africa are out in exile?' In later years when the exiles returned back to South Africa, Tabane adapted the lyrics to say '*re thabile ge le boile*'. *Boang, boang ka mokana ga lena.*', which means that 'we are grateful that they are back. Come back, come all of you'. Most of the lyrics are couched within an existing Malombo musical idiom and the proverbial idiomatic and praise expression. It is in this way that the messages of the indigenous *malombo* ritual are sustained in the popular music format of Malombo.

A number of musicians have performed and rearranged the music of Philip Tabane. Vusi Mahlasela, Don Laka, Themba Mkhize, Glen Mafoko, Revolution, Thabang Tabane and Mabe Thobejane have begun the reinterpretation of exiting Malombo repertoire into different genres of music. Revolution remixed Tabane's song - *Muvhango* and Thabang Tabane and Mabe Thobejane's remixed *Ba sobeletše* into a house dance styles. Themba Mkhize gave *Mkobola* a jazzy feel, while Mahlasela used Tabane's phoneaesthetics in the introduction of his recording of Tabane's '*Ke kgale re tshwenyega*'. The researcher composed a song *Marashia*, as a tribute to Tabane's development of Malombo music of South Africa. All these attempts achieve what Agawu (2003) suggested:

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The emancipation of African music begins precisely at the point where our priorities shift from valuing present realities to constructing future possibilities.

All the musicians stated above have in a way researched the concept of Malombo in some way, and selected the composition they like, and constructed 'new possibilities' that Agawu speaks about. These musicians have, in a way, participated in an exercise that Nketia (2005: 8) views as ethnomusicological practice. He puts it succinctly:

I viewed ethnomusicological research ... as a discipline whose methods and techniques can promote the collection, documentation, preservation, promotion and dissemination of music as a cultural heritage.

The reinterpretation of an existing music piece as a cultural heritage by later generations of musicians is, in a way, part of ethnomusicological practice. It also further promotes the collection, documentation, preservation, promotion and dissemination of music as cultural heritage. The study of Philip Tabane is not just a study of his life but it is also a vista to the broader South African music history. It is a study of the development and celebration of the indigenous music of South Africa. At a humanistic level, it is a celebration of being an African.

Philip Tabane's ability to push himself beyond the limits, is in itself a characteristic feature of a man who is in full communication with the world through a blend of different sounds, using instruments from different communities and people. This has made him a well rounded human person.

This researcher has found it interesting that the fight for the true soul of African music became a subterranean zone of struggle for other musicians too. The

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researcher identified amongst others, Mahotella Queens, Ladysmith Black Mambazo, the Dark City Sisters, Lemmy Special Mabaso, and Jack Lerole as some of the artists who remained true to their roots by positioning the traditional African sounds into mainstream of the music business. The solemnity of the African *mophaso*, the vibrancy in the rhythmic drum patterns of the *sangoma*, the soliloquy cum nostalgia of the praise singer's rendition, and the national communal celebratory spirit of African traditional song, all these elements, are still found in Tabane's popular music of Malombo.

The researcher further noted that the original sounds of the indigenous music of the time as found in Mbube, Kiba, Indlamu, Mushongolo, Mantshegele, Kgantla, Iscathamiya, Domba, Tshikona, Mqhentso, Amehubo, Isishameni, *malombo* ritual music, are amongst a few indigenous genres of African music that have survived regardless of the colonial and neo-colonial sounds of hymns and jazz.

This researcher has made the observation that western musicology is not world musicology. For it to be a world musicology it requires serious adaptation to incorporate the thinking and musical experiences of different peoples of the world, especially the African experience, or should be studied only for comparative purposes. African musical practice is strong and established, it is therefore possible to make ethnographic descriptions and analysis of its form, content, style, and philosophy. The African musical sense of rhythm and time, harmony, and music vocal techniques like mouth drumming, vocal lilting and the use of crepitating vocal features in praise singing, cannot become decorating frills of western musical ecology. They need to be treated as integral parts of African musicology. They constitute a particular African music sound – an Afrophonia.

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The research therefore concludes that there is no universal theory of music. Every theory of music is culturally evolved. Therefore western classical theory of composition has serious limitations in expressing the depths, nuance and philosophy of a variety of African musical practices available in the continent of Africa and the Diaspora.

The researcher further established that all the pieces of legislation in South Africa do not prioritise the protection of indigenous South African compositions. They rather allow foreign works easy 'qualification' to be classified as South African. A suite of these Acts do not make SAMRO, SARRAL, SABC, DALRO to be effective in that they all depend on the South African Copyright Act of 1978, as amended. The Act is rather too vague and does not prioritise the promotion of South African works over those of other nations within South Africa, therefore the indigenous music of South Africa gets marginalised. The ICASA's quota of 20% of South African music content is very low. The mechanism of calculating it compromises opportunities for musicians to earn a living and to have a better life in that it includes interviews which do not accumulate royalties for artists. Artists should be allowed 60% of sales royalties, more than 80% of broadcast royalties, and more than 50% of mechanical royalty. This could begin to enable musicians to have a better life.

The researcher argues that until South African music is rightly labelled in the Acts as 'South African music' and not merely as 'local content', and until the broadcast of South African music on South African airwaves is 95% of the total music played, then the country will continue to suffer cultural imperialism, and the noble political dream of 'a better life for all' will not be realised. Rather that dream might persistently skid away into a distant horizon, like a mirage.

Chapter 12: Conclusion

It is hoped that this research has re-invigorated the debate that was initiated in the early sixties about the definition of African music through attempts to define Malombo music by different journalists and critics. It is further hoped that by doing so, this research has engendered the defence of African indigenous music, through a case study on Philip Tabane and the Malombo popular music of South Africa.

Evidence has been presented in the research that much more needs to be done to ensure that indigenous and popular South African music is played more on the electronic media of South Africa. The record sales are the immediate source of income for musicians. The evidence lies in the case of Philip Tabane as shown in this research. The research therefore has pointed out that the composer's livelihood hinges more on public broadcast than on sales, because it is the public broadcast that has a longer life than sales of records by all means. The researcher therefore concludes that unless the Electronic Communications Act raises the quota of indigenous music on the airways, and the monitoring thereof is tightened, the Copyright Act of 1978 as amended in 2001, has no force and legitimacy.

It is hoped that the researcher has succeeded in demonstrating that it is no longer possible to discuss African musicology without inter-phasing it with the human rights culture. Issues of rights and ownership are integral parts of African musicology and are as critical in the study of African musicology as are the peculiar pieces of legislation governing all music in the public domain and their respective constituent elements. Therefore African musicology can no longer be studied as perennial study of old traditions of music of simple rural communities. It is this misnomer that makes the broadcasting of Tabane's music and African indigenous music in general so negligible in South Africa.