



# Comparative Global Innovation Policies

*A focus on South Africa*

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Progress through freedom

# About the FMF

- Independent, public benefit organisation
- Founded in 1975
  - Promote and foster an open society
  - The Rule of Law
  - Personal Liberty
  - Economic and Press Freedom
- SAs leading property rights champion



# GTIPA Summit

- Focus of this session:
  - Newly promulgated national innovation policies
  - Best practices and ideas in global innovation policy
- Lessons from South Africa...

# “What is the surest way to kill innovation & creativity?”

- Ruling African National Congress resolved to adopt **expropriation without compensation**
- Parliamentarians backed a motion brought by the ***Economic Freedom Fighters*** to establish a parliamentary ad hoc committee that
  - “*Will review and amend section 25 of the Constitution after hearing public submissions from policy makers, academics, civil society and the public*”.
- The ad hoc committee needs to report back to parliamentarians by **August 30<sup>th</sup>**

# Property rights are sacrosanct

- Property rights are **human rights** and are the basis of a **market economy**
- **Apartheid** was a denial of this fundamental human right
- Every **tyranny** in the world today is noted for the absence of property rights
- The rule of law, freedom, and property rights are a **package deal**
- There is no **freedom of expression** without the ability to own cellular telephones, art, clothing etc

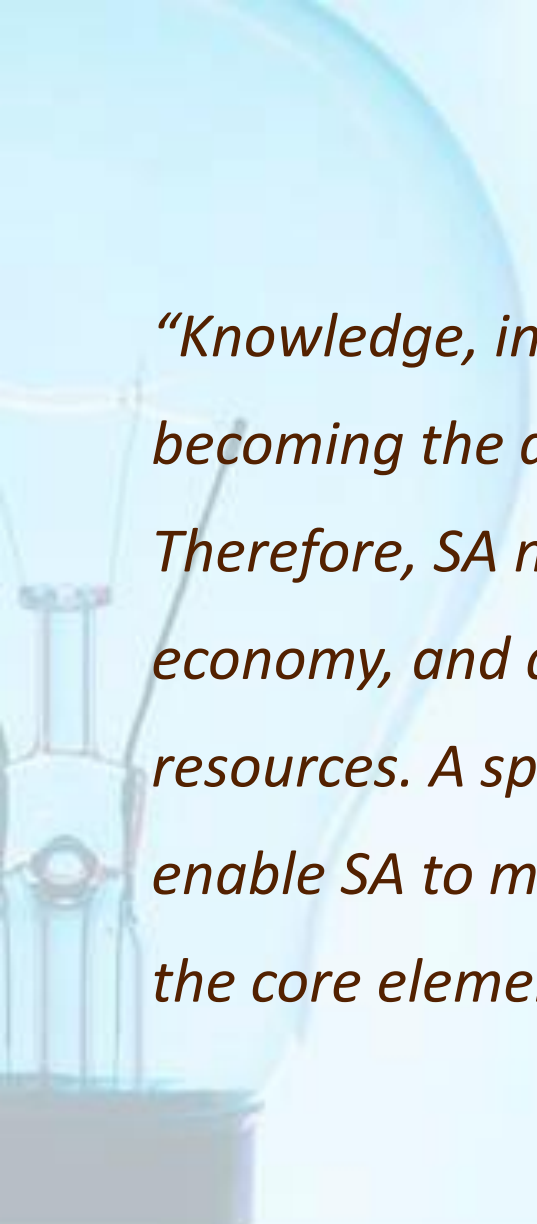
# Property rights fuel innovation

- The recognition & protection of property rights is the **cornerstone of a free society** that fuels **innovation**
- Without property rights there would be few economic **incentives** to bring products to market
- Govn's role is to create an **enabling** environment
- **Institutions** such as private property rights, impartial courts and predictable laws and regulations provide the incentives to **innovate**

# Draft IP Policy – Phase 1

- Traditionally, SA has a **proud record** of upholding IPRs
- Draft IP Policy's **inordinate focus** on pharma & patents to the **detriment** of all other manner of IP
- Healthcare activists: “Fix the Patent Laws”
- **Decline** in the number of innovative pharmaceutical companies marketing drugs in SA





*“Knowledge, innovation and technology are increasingly becoming the drivers of progress, growth and wealth. Therefore, SA needs to transition towards a knowledge economy, and away from an overreliance on natural resources. A specific framework of conditions is necessary to enable SA to make this transition, and an IP policy is one of the core elements required to achieve this objective”*

*(Draft IP Policy, pg. 3)*



# Building a knowledge economy?

- The Draft IP policy **weakens** IPRs by making it
  - More difficult to register patents
  - Easier to “break” patents
  - Limits the remedies available to patent holders

# Draft IP Policy – Proposals

- Substantive search and examination system
- Issuing “*workable*” compulsory licences via a *non-judicial review mechanism*
- Pre- and post-grant opposition (with pre-grant opposition *by third parties* and an *administrative review mechanism* for post-grant opposition)
- Amending patentability criteria to promote “*genuine*” innovation
- “To introduce a broader set of policy options to address instances where *voluntary mechanisms* prove *insufficient or inadequate*”

# Conclusion

- PRs and IPRs standards are **improving** in most countries across the globe; but SA is **bucking the trend**
- When it comes to international investment the decision to invest in a foreign country is a **complex** one based on a variety of factors
- Whilst a robust & effective property rights regime is **not sufficient** in and of itself to attract FDI, a weak or poorly enforced one would most certainly **deter** innovative companies from investing



# Thank You!

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