Introduction: a continent of diversity

Africa is not a country: it is a very heterogeneous continent comprised of . . . nations with great variations in physical, economic, political, and social dimensions.

Research Question & Theoretical Framework

Are current efforts to harmonize intellectual property (IP) policy, law and administration in Africa in the public interest?

Sub-questions

What is the public interest and how is it best served?

Who regulates IP policy, law and administration?

What are the current, and proposed, institutional arrangements?

What are the various models of harmonisation?

Which key considerations must Africa keep in mind in the development of a harmonised IP framework?

The public interest

• IP laws in the public interest are appropriately calibrated laws so that they are fitting for a state’s current conditions and aligned to its developmental goals.
• An unmodified legal transplant will be unfit for purpose.
• The public interest is best served by a country’s utilisation of the policy space and flexibility provided for in relevant binding international agreements.

Regional Economic Communities (RECs)

Africa has too many RECS, some regulate IP

The following 8 RECs will form the African Economic Community:

1. Arab Maghreb Union (AMU/AMUUMA);
2. Common Market for Eastern and Southern Africa (COMESA);†
3. Community of Sahel-Saharan States (CEN-SAD);
4. East African Community (EAC);†
5. Economic Community of Central African States (ECCAS/CEAC);†
6. Economic Community of West African States (ECOWAS);†
7. Inter-Governmental Authority of Development (IGAD);
8. Southern African Development Community (SADC).**

A continental IP organisation?

In addition to the above regional IP organisation and REC frameworks, the African Union intends to create the Pan-African intellectual organisation (PAIPO), raising the following concerns:

• policy coherence
• forum proliferation
• overlapping mandates
• co-existence, and co-operation, with existing institutional infrastructure
• how to craft an appropriate harmonisation model

The IP policy landscape

• Existing IP policies are often too rigid.
• The regulatory landscape is already complex enough and the prudence of establishing PAIPO is questionable.

Policies &amp; Theoretical Framework

What are the current, and proposed, institutional arrangements?

What are the various models of harmonisation?

Which key considerations must Africa keep in mind in the development of a harmonised IP framework?

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7. General conclusions

Membership of the IP organisations

IP regional organisation membership by All region

Legend: ARlPO = Ane Ratifying Organisation; OAPI = Ouganda ARlPO

• ARlPO plays a harmonising function, its members choose whether to approximate its Protocols.
• OAPI is a unified IP system with a single codified IP regime.

Opening 1: Blogging the research

Opening 2: Related publications

1. Ncube CB ‘The politics of national intellectual property policy design and the provision of health services in South Africa’ (2015)
6. Ncube CB ‘Some surprising findings - most IP policies are not public - confusing terminology soup: policy, strategy & plan are used

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