

Laying the foundations for Rwanda's new knowledge economy

The Government of Rwanda's efforts to rebuild the country's economy put technological innovation at the centre. With increasing numbers of foreign investors being attracted into Rwanda as the 'go-to' business hub in the region, intellectual property reforms are so that Rwandans truly benefit as producers and consumers. This note tells the story of Oxford Policy Fellows working within the Government to help shape the legal reforms with a focus on one early benefit – affordable medicines.

A progressive nation

Rwanda's progress since the early 2000s has been widely celebrated as one of Africa's greatest success stories. Despite seemingly insurmountable challenges of rebuilding Rwanda's society after the genocide, the country is now stable and unified. Rwanda's governance and social services are on a remarkably equitable basis. Tasked with rehabilitating the economy while continuing to repair the social fabric, President Paul Kagame launched an ambitious "Vision 2020" program. This aims to transform Rwanda's economy, shifting away from dependence on subsistence farming towards a knowledge-based economy that will realise upper-middle-income status by 2035 and high-income status by 2050.

As a small, landlocked country lacking significant capital assets and the ability to trade products in large volumes, President Kagame committed to Rwanda becoming a dynamic global hub for business, investment and innovation. This has begun to pay off: by 2018, Rwanda was ranked the second-best place to do business in Africa – a position it still holds in 2020.

An innovation-based economy that attracts foreign investment needs a strong intellectual property (IP) regime. Central to the Government of Rwanda's (GoR) development strategy is to create value within Rwanda, while allowing Rwandans to access the creations of others. To that end, the GoR had overhauled its IP laws and policy in 2009 to encourage technology transfer, with a particular emphasis on knowledge creation, acquisition and transfer. We have seen how, for

example, mobile phone coverage is approaching 100%, and the introduction of the regionally-popular “mobile money” in 2010 has made financial services accessible to the largely unbanked Rwandan population.

But from 2014 the GoR began to identify several weaknesses in the local IP landscape. It did not reflect the numerous IP international treaties which the GoR had ratified. It could not adequately address relevant and modern copyright challenges, such as the promotion of its culture and heritage on the global stage. It failed to provide ways for Rwanda’s artistic community to securely make money from its traditional knowledge and folklore. Furthermore, IP enforcement, administration, and policymaking were not at par with global best practices.

Seeking a new intellectual property regime

In 2015, the Ministry of Trade and Industry (MINICOM), which holds the IP policy mandate in Rwanda, took the decision to reform the 2009 IP law, followed by a concurrent revision of its IP policy. It also decided to conduct a comprehensive reform process with other public institutions, notably the Rwanda Development Board (RDB) as the implementing agency of IP in Rwanda. The GoR was also keen to consult with experts from the World Intellectual Property Organisation (WIPO) throughout, to ensure international coherence and best practice.

But MINICOM also wanted to include a novel form of collaboration. It sought Fellows of the Oxford Policy Fellowship (OPF) to provide continuous and practical legal advice, running through the whole process of consultation, analysis and reform. As legal advisors embedded in MINICOM and working to senior staff, OPF Fellows complemented Rwandan colleagues’ institutional knowledge and experience in driving the reform work through its diverse stages. Indeed, given the extensive nature of the work, MINICOM sought three successive two-year OPF Fellowships over six years: Sarah Brewin (2015-2017), Nkatha Obungu (2017-2019) and Hafidzi Razali (2019-Present).

High momentum

The GoR’s IP reform process took many interesting turns along the way. Momentum came from diverse sources: from President Kagame’s directive for IP reform as a formal GoR “high priority”; from dynamic MINICOM leadership; from an inter-Ministerial committee to re-draft the 2009 IP law for submission to the Rwanda Law Reform Commission (RLRC); and from the work of Fellows who provided continued energy and expertise working within the local professionals.

But it was knowledge of the potential gains from IP that meant the policy discussions were purposive and focused. For example, ways were sought to retain Rwanda’s pharmaceutical exemptions under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), at least while Rwanda is still categorised as a Least Developed Country. This enables Rwanda to buy or produce generic medicines that are a lot less expensive than the branded

equivalent. Foreign investors, such as members of the American Chamber of Commerce were giving MINICOM growing feedback that the GoR had to improve IP protection if it was to attract more of their investments, selecting Rwanda as their manufacturing hub over other African countries.

Legal ‘heavy lifting’

The draft law went through several iterations following rounds of RLRC feedback – a busy but necessarily long process which led to MINICOM’s requests for successive OPF Fellowships. The Chairman of RLRC also recommended the reformulation of Rwanda’s IP policy to give shape and purpose to the new laws, which was achieved in 2019 with the second Fellow working on it alongside MINICOM’s IP specialist.

A Ministerial directive meant that the IP reform taskforce, in which the OPF Fellow was a member, would have to keep to a tight timeframe to conclude the inter-Ministerial consultation with fourteen government stakeholders. To that end, MINICOM organised two roundtable consultations to reach a consensus. The taskforce coordinated, compiled and analysed the institutions’ feedback and progressively sharpened the draft laws. The collaborative working arrangement between the OPF Fellow and MINICOM’s legal advisor meant best practices were applied throughout the process, communication with civil servants was seamless, international coherence was secured by coordination with WIPO experts, and the Minister was kept up to date. This may help to explain why the draft laws were approved by all fourteen government institutions by February 2020. Having soon received the Minister’s approval, the draft laws were submitted to the RLRC in March 2020.

New powers and institutions

This process has meant that the draft IP law is not simply a ‘cookie-cutter’ of best international IP practice. Numerous Rwandan policy concerns explored throughout the whole process are reflected. One of the most prominent is the GoR’s discretionary power to grant a compulsory licence, or to authorise a public non-commercial use, to import pharmaceutical products for HIV, tuberculosis, malaria and other life-threatening diseases. This legal provision is expected to increase the medicines’ accessibility to the largely poor Rwandan population, which will bring very significant health benefits and help most households to reduce their expenditure.

Another prominent result is the law to establish a National Independent Intellectual Property Office (NIIPO). The IP institutional framework had been inadequate, with administration, policymaking, and protection of IP rights fragmented across MINICOM, RDB and the Ministry of Sports and Culture. A new and autonomous IP office for Rwanda, NIIPO, will now be able to streamline all IP matters, reducing ‘red tape’ and enabling more efficient IP policy-making, enforcement and royalty

collection. It will have its own mandate to do what is best for IP development in Rwanda and so accelerate achievement of Rwanda's agile knowledge economy.

Such legal reform processes take time. Three OPF's Fellows have been deeply involved over five years of legislative and policymaking processes, their 'embedded' nature proving critical to success. And there is more process to come: a green light from the RLRC to enable the draft laws' transmission to the Prime Minister's Office; followed by a high-level inter-Ministerial meeting and Cabinet's approval; the Minister helped by IP specialists defending the draft laws in Parliament – before its eventual sign off by the President, Prime Minister and Minister of Justice. The two laws may be gazetted only by the second quarter of 2021. But it is clear that the process has ensured that the actors are convinced by the policy goals. The momentum is good and the prospects are bright.

Fellow reflection

Law reform processes are a mental marathon requiring all participants to reach the finishing line together. No matter how sophisticated the technical and legal issues are, it is equally important to consult, and to reflect diverse demands and needs, so that all stakeholders become convinced of the policy goals. It is only with a collaborative approach and adequate time that the reform spirit can resonate.

It has been good for the three Fellows to be involved throughout. As I look forward to the remaining sixteen months of OPF at MINICOM, like Sarah and Nkatha before me, I am ever more curious if I will get to see the IP reform process through to its finishing line, expected by early-2021. All three of us are keen to leave a lasting legacy which will result in better use and protection of Rwanda's knowledge – as a basis for innovation, job creation and poverty eradication in Rwanda.

Hafidzi Razali, June 2020

The OPF is a demand-led Fellowship Programme that works with governments to deliver legal capacity support and development. We do this through Fellows, networks, and learning. We source high performing early-career advisors to work within current government systems and processes for two years so that their work contributes to ongoing policymaking, rather than creating parallel structures for getting things done. By providing governments with key support that they themselves have defined and requested, we deliver sustainable and locally-owned development impact. We also host a network of government practitioners working at the interface of law and public policy, promoting a culture of knowledge sharing and learning across governments and the wider community.

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