Enabling AI for Health Innovation and Access

Workshop – 11 July 2025

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How can intellectual property be effectively managed by innovators and Governments to ensure that AI health solutions reach the market and expand access to healthcare in LMICS / Africa?

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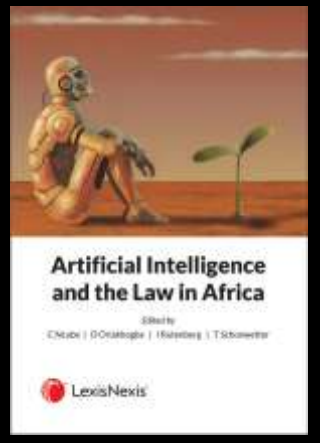
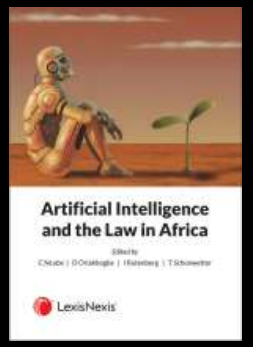


Broad framing of the AI, health and IP legal framework on the African continent

- According to the AU, AI is a strategic priority for the continent - and Africa, too, experiences significant growth in AI applications, incl. in the health sector.



- An AI regulation framework from Africa must be people-centred, promote ethical and responsible use of AI, and ensure the sustainable development of Africa.
- African law and policy makers would have to decide which path to take between adopting a broad-based approach or a sectoral approach to AI regulation. Any such regulation needs to be home-grown and responsive to the peculiar needs of the African continent in order to effectively harness the benefits of AI, while addressing its challenges.

Broad framing of the AI, health and IP legal framework on the African continent

- **Domestic and regional efforts are underway** to shape tech and AI governance on the continent
  - Just under 10 fully-fledged **national AI Policies / Strategies** (not just general frameworks) & Draft AI Policy in South Africa (2024)
  - Some sector-specific regulations
  - SADC (*rights-based*) Model AI Policy and Regulatory Framework
  - AU Continental AI Strategy (2024) & AU Africa AI Declaration (2025)
  - Support from AU and UNDP and others for national policy development
  - Some emphasis on innovation, transformation, inclusivity, capacity-building, development, human rights, digital self-determination, data protection and (social) equality

Source: Convergence *Q2 AI in Africa 2025 – Summary Report*

Broad framing of the AI, health and IP legal framework on the African continent

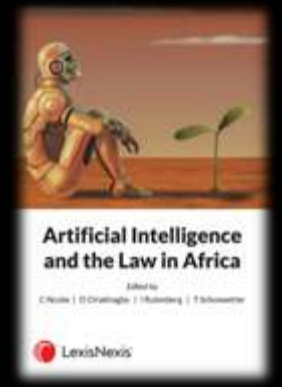
Benefits of AI for improving health in Africa are obvious and generally acknowledged.

- Eg, AI enables **better diagnostics and detection** and **improving access to medical and treatment providers**.
- Expanding AI Adoption in the African health sector is thus one of the priority sectors identified in the AU Strategy and the word “health” is mentioned almost 40 times in the Strategy.

Challenges / opportunities for the use of AI in Africa; and the role of IP in addressing these

Chapter 8 of our AI book examines the increased use of AI in healthcare in Africa and identifies key challenges.

- **Challenges** to the effective use of AI in healthcare in Africa **include**
  - availability of data and quality of data
  - the replication of bias and injustice
  - paucity of legal regulations
  - inadequate infrastructure
  - costs of AI application and adoption



Challenges / opportunities for the use of AI in Africa; and the role of IP in addressing these

As *a system dealing with creative and inventive outputs*, IP has the capacity to significantly contribute to the development and deployment of AI in Africa.

Challenges / opportunities for the use of AI in Africa; and the role of IP in addressing these

IP has the capacity to significantly contribute to the development and deployment of AI in Africa…

- … obvs as an **incentive to stimulate innovation and creativity** in the area of AI.
- **But also through scope delineation & exceptions.**

Challenges / opportunities for the use of AI in Africa; and the role of IP in addressing these

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Equitable access to data is considered key when creating and curating datasets required for machine learning. And the low availability of data from Africa has the potential to exacerbate inequalities and social exclusion**.**

But copyright law can become a stumbling block for data access because many data sources (written texts, images, spoken word etc.) are subject to © protection.

Key Policy Recommendation

So we really need to find the right **balance** here **between control over data** as provided for, among ither things, by IPRs **and access to such data**.

I.o.w., it is crucial to appreciate that the context of the continent requires not only robust IP protections for enabling AI development, but also an **IP system that sufficiently and flexibly caters for data access and use, data curation and disclosures**.

Copyright e&l (including for text and data mining) can therefore help African countries to better utilise AI and meet their development goals.

Challenges / opportunities for the use of AI in Africa; and the role of IP in addressing these

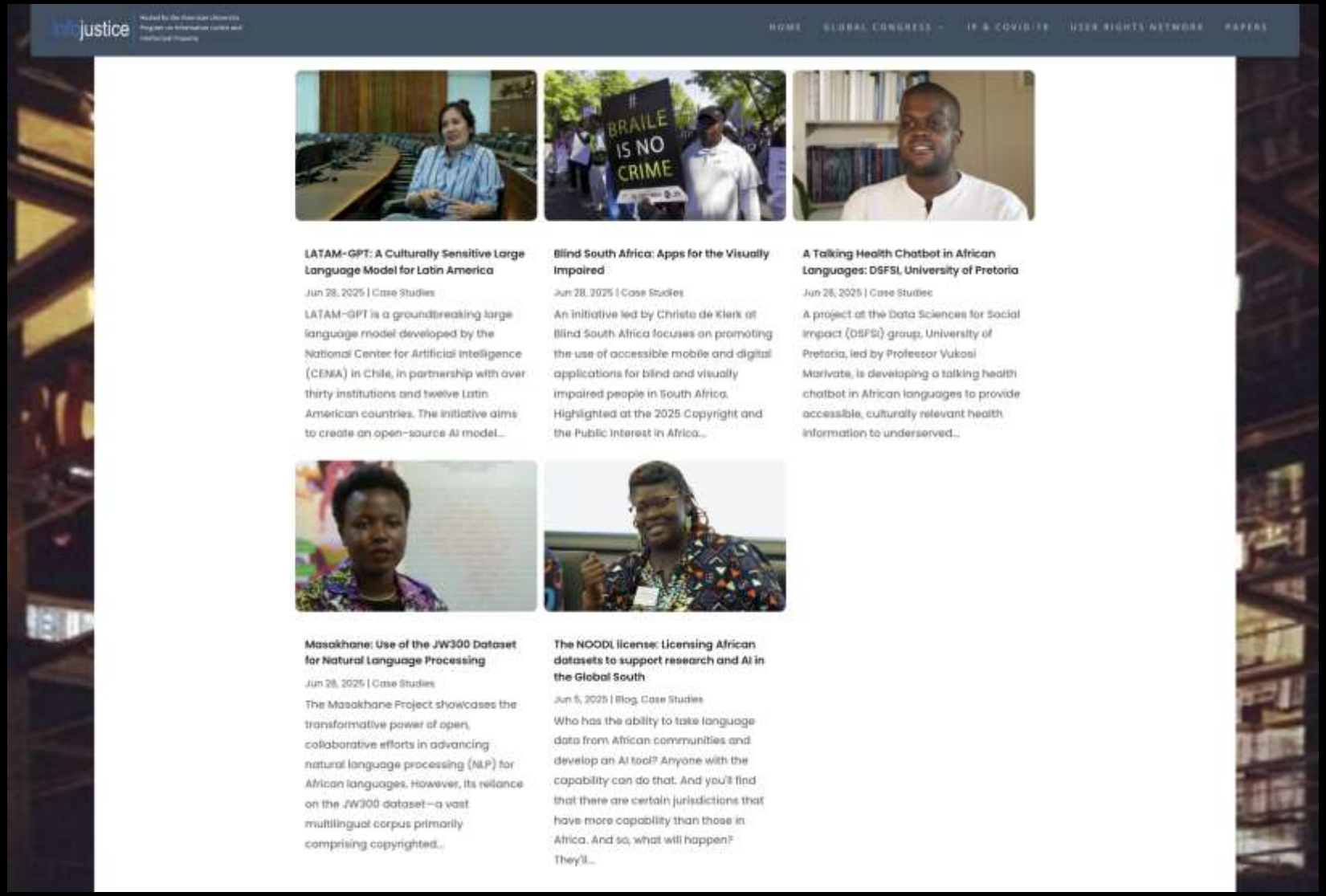
… but: finding the right balance between access and control is a delicate task, not least because we may also need to consider the legitimate concerns of custodians of indigenous knowledge and data and their quest for self-determination.

Cradle Principles On Knowledge Governance

March 11, 2024

IJIP's project on Copyright and the Right to esearch organized a group of leading opyright academics, stakeholders, and omputational researchers for a policy retreat the Cradle of Humankind, South Africa, ebruary 23-25, 2024. The subject of the eeting was enabling African and other lobal South uses of digital research tools ithout promoting "data colonialism" oncerns, including wrongful uses of raditional knowledge and community-held nformation.

Case Studies



https://blog.knowledgegov.org/46496-2

Thank You.