

RESEARCH PAPER

Civil society and global copyright reform advocacy: incoherent frames as missed opportunities?

Sherry S. Marcellin^{a*} and Dick Kawooya^b

^aDepartment of Government, London School of Economics, London, UK; ^bSchool of Library and Information Science, University of South Carolina, Columbia, SC, USA

After almost a decade of civil society (CS) efforts aimed at reforming the global intellectual property (IP) system, this study examines whether the paucity in global copyright reform is a result of the failure by civil society to mobilise around an explicit or coherent frame. While previous episodes of global intellectual property rights (IPR) reform advocacy involving CS were effectively contested under a human rights frame, there have been less successful framing attempts in the space of copyright reform advocacy. Using semi-structured interviews with key civil society stakeholders involved in the reform of the global copyright system, the study explores possible explanations for this lapse in framing in copyright reform advocacy. It also questions the extent to which framing has been an intelligible lens through which to understand the success or failure of global IPR advocacy. It reveals that frame analysis does not comprehensively capture success or failure in global IPR policymaking. Lastly, the study looks at problems with civil society and what these mean for copyright reform and ultimately the future of the global IPR system.

Introduction

The resurgence in calls for social justice in the administration and operation of the global intellectual property rights (IPR) system began in the mid-1990s, almost immediately after the Uruguay Round of trade negotiations that resulted in the establishment of the World Trade Organization (WTO). Typically, past debates over the merits or demerits of IPR structures ensued along statist and specialist lines. It was primarily a conversation among academics, specialist lawyers and state bureaucrats, not necessarily communicating with each other, about whether IPRs were good for states (see Plant, 1934; Machlup and Penrose, 1950). States were the ultimate focus of the conversations since the realm of international intellectual property law existed as an instrument in which states were *the* subjects. Notwithstanding the assumption that the IPR system should benefit producers and users of intellectual products, the conversation tended to focus on what was good for states or groups of countries as opposed to how the IPR system affected *people*. These debates, therefore, rested on states as both producers and users of the system, thereby masking who really owned, used or was denied access to intellectual property (IP) (see Cutler, 1997, 1999, 2000, 2001).

What is new in the current debate is not only that civil society organisations (CSOs) have entered the fray, but also that it has arguably shifted to consider *people*

*Corresponding author. Email: Sherry.Marcellin@gmail.com. Sherry Marcellin is currently a freelance researcher.

as beneficiaries and/or victims of the IP system. CSOs can be credited, at least partly, with tilting the discourse in that direction. However, as we note later, the slight shift in IPR discourse has not translated into widespread change in the global IPR system, especially in the realm of copyright law. We attribute this to the failure by the copyright reform movement to articulate and rally around a coherent argument or frame aimed at changing copyright to better reflect the needs of people.

Based on interviews with CSO representatives, among others, the remainder of this paper examines the reasons why copyright reforms have been slow and largely unsuccessful. First, we examine the social movements built around IPR reform, the access to medicine (A2M) and access to knowledge (A2K) movements, respectively, situated in the patent and copyright areas of IPR. Next, we examine frame analysis as a theoretical construct relevant to the copyright movement and social movements in general. Finally, we provide an analysis and discussion of the findings from the study as well as conclusions and recommendations based on the findings.

Copyright reform as a social movement

One of the first signs that a social movement was coalescing around reforming the global IPR system was in October 1995 when Ralph Nader and James Love of the US-based Consumer Project on Technology (CPTech)¹ wrote to the then United States Trade Representative (USTR), Mickey Kantor, indicating that the USTR was too narrowly focused on protecting the interests of US-based international pharmaceutical companies while ignoring important public health and development needs of poor countries (Nader and Love, 1995).² They argued that there were different and legitimate views about healthcare that showed the negative consequences of IPR on A2M. Yet the USTR was only focusing on advancing the needs of pharmaceutical companies without considering poor people in the United States and elsewhere who needed medicines but could not afford branded products. This event is one of several that marked the beginning of civil society engagement with IPR reforms around the world.

On the copyright front, early signs of a social movement unfolding were in relation to the two 1996 World Intellectual Property Organisation (WIPO) 'internet treaties' – the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT). WIPO is the agency in the United Nations (UN) system primarily responsible for coordinating, regulating and administering IP issues and agreements. Numerous changes have been made in the long history of the copyright system, but these largely reflect the interests of copyright holders rather than those of the general public. The WCT and WPPT were specifically designed for the digital environment to provide additional protection for copyright holders and public performances, respectively. Musungu and Dutfield (2003) argue that of the two treaties, the WCT was perhaps the more controversial because it went beyond the standards required by the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and WIPO's Berne Convention, the other two key IP agreements. Musungu and Dutfield (2003), citing Litman, indicate that Bruce Lehman, then US commissioner of patents and trademarks, and previously a lobbyist for the software industry, played a key role in convening the 1996 WCT diplomatic conference³ and sought to ensure that US copyright standards would become the international norm with which all countries, including the US, would have to comply. Opponents of the treaty, who included academics, librarians, consumer electronics

manufacturers and CSOs in the US and beyond, followed Lehman to Geneva for the diplomatic conference. As many as 76 CSOs were represented at this conference in Geneva, a clear indication that the global copyright reform movement was starting to gain momentum. Lehman's story is symptomatic of the influence of the corporate agenda on global IPR policymaking. CSO engagement with various aspects of the world economic system suggests that it is no coincidence that global IPR reform has been high on their agenda. By extension, the WTO's assumption of IPR issues under the TRIPS agreement meant that the issue was bound to attract CSO attention by virtue of a strong civic presence and interest in everything trade-related.

While the campaign to reform the global IPR system may have started with the A2M movement in the context of pharmaceutical patents as part of the Doha Declaration on the TRIPS Agreement and Public Health,⁴ the post-Doha climate has been dominated by CSOs advocating global copyright reform in the context of A2K campaigns. However, as reported in this study, CSOs, along with formal government delegations, shifted or expanded the IPR reform debate to WIPO, away from the WTO. This is important insofar as it helps to explain three dynamics:

- (1) First, while the CS IPR reform advocacy began as a trade-related issue by virtue of its concern with how TRIPS, a trade-related agreement, affected access to healthcare in the developing world, the next-generation IPR reform focus on copyright has had a broader remit and did not emanate merely from a concern with trade and the global economy, despite the trade subtext.
- (2) Secondly, prior to Doha, CSOs generally, as well as the wider society, did not fully appreciate the range of possible impacts of the copyright system on people's livelihoods. Doha can be described as a watershed moment because prior to the Doha Development Agenda, copyright did not pose the level of life and death urgency that pharmaceutical patents presented in the earlier part of the last decade. At the very least, the debate on copyright suggests that both areas of IPR policy have very real socioeconomic consequences for the entire global community, and not just the developing world.
- (3) Third, the evolution in civic challenges to global IPR policy suggests that as the possible impacts of other areas of IP law and policy come to be better understood, so too will the level of civic engagement in these newer areas.

Sell and Prakash (2004), Odell and Sell (2006) and Kapczynski (2008) have placed framing at the heart of a successful bid by CSOs to alter aspects of the global IPR framework. This study examines the paucity in global copyright reform as a possible function of the failure by civil society to mobilise around a coherent frame. The next section examines frame analysis in the context of copyright reforms and reveals that it does not completely capture success or failure in global IPR policymaking. Consequently, the study looks beyond framing to some of the problems or challenges faced by CSOs and what these mean for copyright reform and, ultimately, the future of the global IPR system.

Frame analysis and global copyright reform

We decided to utilise frame analysis as the theoretical framework and methodological tool for this study because it has been effectively applied to different areas of social movement inquiry (Snow *et al.*, 1986), particularly media studies (Iyengar,

1991; Entman, 1993) and public relations (Hallahan, 1999). Zald (1996) discusses framing as a strategic activity whereby movements actively engage in the construction of meaning, the portrayal of injustice and the definition of pathways to change, all the while emphasising the centrality of ideas and culture in political mobilisation. He suggests that the contemporary framing of injustice and political goals almost always draws upon larger societal definitions of relationships, rights and responsibilities to highlight what is wrong with the current social order and to suggest directions for change. He defines frames as 'specific metaphors, symbolic representations, and cognitive cues used to render or cast behaviour and events in an evaluative mode and to suggest alternative modes of action' (Zald, 1996, p.262).

Keck and Sikkink (1998) add that network actors try to frame issues in ways that make them fit into particular institutional venues and that make them resonate with broader publics, use information and symbols to reinforce their claims, identify appropriate targets and try to make institutions accountable in their practices to the norms they claim to uphold. Pointing to an episode in network advocacy framing, they contend that, with remarkable speed, violence against women emerged as a 'common advocacy position' (p.166) around which women's organisations in many parts of the world could agree and collaborate – a frame, they posit, which was more effective than the previous Western feminist discrimination frame or the women in development frame. They conclude that transnational advocacy networks have organised most effectively around issues involving bodily harm to vulnerable people, especially when there is a short and clear causal chain. Similarly, Boyle (2007) suggests that in order to gain traction, 'one must convince people that one's arguments are good ... and one's horror stories disturbing' (Boyle, 2007, p.18); or, according to Drahos (2008), when there is a major crisis and a concerned mass public. The question of whether civil society has presented copyright reform as the necessary response to a major crisis is debatable. In fact, every CSO practitioner interviewed for this research, when asked for a frame or reference point for his or her work, responded along the lines of creating balance and facilitating access.

Further, Odell and Sell (2006) observe that during the GATT (General Agreement on Tariffs and Trade) Uruguay Round, powerful transnational firms and their governments framed IP protection as a trade issue. These firms argued that strong patent protection promotes trade and investment for mutual benefit and that the alternative was to tolerate piracy. Odell and Sell further note that more recently TRIPS critics have attempted to frame IPR protection as a public health issue, arguing that strong IPR protection could be detrimental to public health provision. They argue that outcomes will vary with reframing attempts, placing framing or reframing at the centre of a stakeholder strategy in seeking to influence the political opportunity structure. Notably, however, this argument is built on the hypothesis that a weak state coalition that seeks to claim value from dominant states in any regime will increase its gains if it captures the attention of the mass media in industrial countries and persuades the media to reframe the issue using a reference point more favourable to the coalition's position, other things remaining equal.

In an earlier paper in which they specifically address CSOs, Sell and Prakash (2004) maintain that success in influencing policy processes lies in the network's superior abilities to create and make the most of political opportunities by exploiting a crisis, constructing a problem, mobilising a coalition and grafting its agenda onto policy debates. They assert that the CSO campaign for A2M was not dissimilar to the earlier business campaign for a TRIPS Agreement and that, in fact, both groups

of actors utilised the same tactics to secure their relative victories. More recently, in attempting to account for the new A2K mobilisation in global IPR reform, Kapczynski (2008) has touted the power of framing processes, particularly the gravitational pull of law in such processes. She contends that by using framing theory, we can see that the recent flux in IP law has been filtered and organised by conceptual frames that are non-trivial. Like Sell and Prakash (2004), she maintains that framing theory can be applied not only to A2K mobilisation, but also to the industry mobilisation that preceded it. She adds that whether a particular frame is adopted or successful is likely to depend on contextual factors that vary across time and space, and that in order to succeed, frames must resonate with their intended audience.

In the A2M campaign, there was a direct link between patents, the price of pharmaceuticals, and HIV/AIDS-related deaths in developing countries. The frame was, categorically, a human rights one and had some parallels with 'just war' and humanitarian intervention discourse. A just cause for war or intervention is based on an act that is sufficiently grotesque that it shocks the moral conscience. This kind of framing, according to Keck and Sikkink (1998), is more effective and more likely to succeed.

Furthermore, Joachim (2003) maintains that CSOs are able to influence the policy agenda because they engage in strategic framing processes to set the agenda in three stages: the definition of problems, the development of solutions or policies, and politicisation. Indeed, 'the concept of framing draws attention to the fact that power results not only from military and economic resources ... but also ... from the power to (re-)define and (de-)legitimize' (p.269). In effect, the ability to sway the political opportunity structure in one's favour also depends on the ability to win the subjective contest in addition to persuading the media in industrial countries to reframe the issue using a reference point that is more favourable to one's position (Odell and Sell, 2006).

However, these two variables present only a partial picture of the relative victory behind the A2M campaign and give us a glimpse into the arguably dimmer record of the second-generation civil society contestations regarding A2K. Odell and Sell (2006) list a set of circumstances that were peculiar to the A2M campaign. Throughout the paper, they show how southern governments worked with the public CSO campaign to raise popular awareness of the problems in the north and reframe the existing regime in a manner more favourable to their proposal. However, returning to Keck and Sikkink (1998), to increase the likelihood of success, a frame also requires a moral underpinning emphasising bodily harm. By extension, this could encapsulate some kind of abuse which denies some fundamental human right or which shocks the moral conscience. The A2M campaign can be said to have been 'won' on a very effective human rights frame. One may recall, for instance, the Pharmaceutical Research and Manufacturers of America (PhRMA)-led lawsuit against South Africa in 2001 which became a high-profile event of protesters, grim images of dying mothers and babies, street demonstrations and extensive media coverage (Sell, 2003) – a set of stimuli that propelled many people to act, forced international organisations to include patents and public health on their agenda, compelled politically powerful transnational corporations to retreat from their litigation against Nelson Mandela, obliged politicians to take a stance in favour of the pharmaceutical poor and, ultimately, led to the Doha Declaration on TRIPS and Public Health and a further negotiation of Paragraph 6 issues. The powerful cocktail of exogenous circumstances that influenced the results of this case cannot be discounted.

Yet, the point advanced by Keck and Sikkink is instructive insofar as it provides a possible intimation for the paucity of copyright reform. The impact of CSOs and the A2K movement in terms of global copyright reform has been less than clear in the light of the active involvement of developing countries, themselves pushing for reforms. Notwithstanding, while we may doubt the real impact of CSOs on Doha, others maintain, for instance, that one of the most important factors contributing to the advancement of the Development Agenda (DA) was the active engagement of a broad range of non-governmental stakeholders (Muñoz Tellez and Musungu, 2010). However, active engagement by CSOs does not necessarily mean a coherent agenda, let alone coherent framing. Drezner (2005), for example, notes that by focusing on description rather than causation, the empirical work conflates CS activity with affecting outcome, and even in cases where CS activity is deemed to be pivotal, the magnitude of policy shifts is often exaggerated. After examining the literature on TRIPS and public health which touts the causal effects of CS involvement and framing of issues, Drezner concludes that while the narrative and evidence put forward to support the CS paradigm is compelling, there was a neglect of alternative explanations and an overestimation of the policy shift. Drezner sees outcomes as greater than the efforts of CSO actors, certainly in terms of their framing of the issues. Notwithstanding, as per the research questions below, this study attempts to examine the role of CSOs in copyright reforms, the kinds of frames used to inform and advance the reforms, and successes or failures in CSO attempts to frame the narrative around copyright reforms.

Research questions

In this study, we focused on the following research questions:

- (1) What are the overriding frames or themes used by civil society actors in the copyright reform movement, and where did they originate?
- (2) Have frames or themes changed over time? If so, in what way?
- (3) What is the nature and extent of collaboration amongst civil society actors in the copyright reform movement?
- (4) What success have CSOs scored in terms of framing and reforming copyright?
- (5) What is the future of the copyright reform movement, and do CSO frames and/or tactics need to change in the future?

Methodology

This research was compiled using semi-structured interviews with key stakeholders involved in global IPR reform. Thirty-three individuals were interviewed, all of whom were involved in IPR reforms or IP-related research. Many interviewees crossed different categories; for instance, some academics were also advocates or activists; some entrepreneurs were also reform advocates and were involved in businesses challenging traditional copyright models; some librarians were also active reform advocates. Some operated globally, while others operated at the national level with some regional and international portfolios. Four participants were from international intergovernmental organisations, two of whom were involved with decision-making. One worked closely on copyright advocacy. There were nine academics,

some of whom consulted on the reform agenda, three librarians, two funders of IPR-related advocacy, one funder of academic research, 10 CSO and/or charity representatives, three entrepreneurs and two creative commons (CC) representatives. The participants were chosen for their expertise and/or intimate involvement in global, regional or national copyright and/or IPR reform initiatives.

Findings and discussion

Overriding frames or themes used by CSOs

Questions on the frames or themes used by CSOs involved or interested in copyright reform enlisted varied responses, which, for the most part, reflected the differences in, or the multiplicity of, frames or issues of interest in copyright. Common themes mentioned by participants revolved around global justice issues. These included: balance, development and developing countries' interests, enforcement, copyright term extensions, exceptions and limitations, internet service provider (ISP) liability, open educational materials, knowledge without boundaries, orphan works, IP and innovation, fair dealing, state surveillance and privacy, and disabled access. Evident in this list of frames or issues is the lack of a coherent thread around which copyright reform or A2K campaign efforts could be built.

A few dynamics capture the lack of a coherent or overriding frame on the part of CSOs. First, compared with A2M, participants generally indicated that copyright reform is more complex. This complexity was not only technical in nature; it also had to do with the vast number of issues under the remit of copyright reformers. Consequently, grasping the complexity of these issues and framing them in a manner that shocks the moral conscience has not resonated in a coherent frame. The sheer complexity of the different issues associated with copyright has meant that their framing, or lack thereof, has not successfully undermined the counter-narratives of the property-theft-piracy frame of those advocating the *status quo*, most of whom our participants identified as representing IP holders. IP holders have been able to frame theft or piracy in a way that speaks to the moral conscience of society. However, two participants admitted to seeing evidence of really good work in the area of educational materials, with specific reference to the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled (also known as the Treaty for the Visually Impaired – TVI). This treaty, adopted in June 2013, sought to alleviate the 'book famine' for the visually impaired, blind or print disabled. Even then, a participant noted that while CSOs and some developing countries did a good job of framing the debate on the TVI as a human rights issue, given that one group of people is being denied access to information, the level of resistance encountered was quite startling. A participant interviewed in the early stages of negotiating the TVI noted:

I am surprised at the level of stubbornness and resistance by the right holders because to oppose a treaty for the blind is basically to discriminate against the blind. I thought they'd capitulate on this one because it's a hard one to oppose.

For most participants, the case of the TVI was instructive insofar as framing or re-framing is seen as pivotal to influencing the political opportunity structure. 'If the thought of blind people being denied access to learning materials is not conscience-revolting, what is?', one participant asked. The fact that those seeking to alter this

dynamic are encountering opposition suggests that the success of reform efforts cannot rely exclusively on framing.⁵ Some argued that perhaps the success or failure of reform efforts lay in exogenous circumstances that were yet to manifest themselves into actionable reform drivers.

One possible explanation highlighted by some participants was the strength of the opponent. One participant put it succinctly: ‘the problem that we face is that the content industry is so strong that the legal framework protects an industry that is failing to adapt to the times’. Any attempt to reform the system is blockaded by so much pushback from industry that no amount of framing can easily overcome that level of resistance. As one participant stated, very often CSOs were involved in one area of activity, namely prevention. This participant observed that because there has been a permanent avalanche of enforcement initiatives for quite some time, CSOs spent so much ‘time fighting against enforcement that we find very little time to look at the legislative package that we’re campaigning against [or for]’. Although the issue of funding will be examined below, this admission confirms that CSOs were forced into issues and narratives that have nothing to do with positive framing around copyright reform. This made any possibility of framing fraught with difficulty.

Another explanation for the success or failure of reform efforts concerns the precise meaning of reform. Participants expressed such diversity of opinion and meaning that it became difficult to classify the reform initiative. Although not representing the CSO community, one participant observed that ‘we haven’t even reached agreement on the nature of the problem, let alone agreeing on the beginnings of a solution’. This definitional paralysis captures one of the main weaknesses associated with the A2K campaigns. It suggests that without agreement on the nature of the problem, a coherent frame proves elusive. During the A2M campaign, the nature of the problem was clear to the CSOs involved. There was the recognition that TRIPS 31(f) presented a problem for countries with little or no manufacturing capacity in the pharmaceutical sector. TRIPS therefore needed clarification on allowing developing countries to take measures to protect public health. While developing countries did not get all they bargained for, as in any negotiation, the problem was clear, and the solutions to this problem were universal from the standpoint of advocacy organisations. This level of clarity and unity of purpose has been lacking in copyright reform efforts. Instead, only a few unifying themes or issues were identified, namely preventing the ratcheting-up of copyright protection and attempting to roll back some of the existing norms that are considered extreme. This may account for the success differentials between the A2M and A2K campaigns. The directions in which both campaigns were thrust may have impacted their framing/reframing capacities.

While the A2M campaign scored relative successes using a human rights frame, which coincided very vividly with what Keck and Sikkink (1998, p.27) describe as an emphasis on ‘bodily harm to vulnerable people’, there appears to have been a less effective human rights framing of copyright reform efforts around A2K. Some participants were surprised by what appears to have been an insufficient human rights framing. One participant argued that framing is done through the lens of development – instantiated through the WIPO DA and what was good for developing countries. However, this development frame reinforced the idea that the IP system was good for rich countries and bad for poor countries, a conclusion which did not necessarily stand up.

Nonetheless, Muñoz Tellez and Musungu (2010) believe that the development frame was the winning factor of the DA. They maintain that one key ingredient in the success of the DA was the solid conceptual framework on which it was built, namely that neither IPR protection nor harmonisation of IP can be seen as ends in themselves. Therefore, WIPO, a specialised UN agency mandated to promote technological innovation and technology transfer, had to support explicitly the UN's broader development goals. For these authors, the DA was adopted or supported because of its development frame and not in spite of it. One participant's argument, however, was that a human rights frame would have been more effective as it would cut across jurisdictional boundaries to represent the true nature of IP maximalism, as opposed to a development frame, which is country- or region-specific. This standpoint has its parallels in the development-versus-feminist-versus-violence frames that Keck and Sikkink (1998) address above in relation to the women's movement in earlier periods of CSO activity.

All this begs the question of why a human rights frame did not prevail, especially since it was the human rights community that first took notice of shortcomings in intellectual property law (Helfer, 2003). There has been an ongoing debate on the nexus between intellectual property protection and human rights. For instance, to mark the fiftieth anniversary of the Universal Declaration of Human Rights (UDHR), WIPO and the UN Commission for Human Rights held a seminar on intellectual property and human rights in 1998 and then published a volume⁶ on the topic (Chapman, 2002). Moreover, the November 2001 Statement on Human Rights and Intellectual Property Issues adopted by the Committee on Economic, Social and Cultural Rights addressed issues at the intersection of human rights and IP. Since then, the literature on the subject has expanded, albeit not exponentially (see Cullet, 2003; Helfer, 2003; Yamin, 2003). However, what appears to be evident from this literature is an overwhelming focus on the human rights implications of pharmaceutical patents and traditional knowledge (Helfer, 2003). According to Helfer, the reasons are twofold: an emphasis on the neglected rights of indigenous peoples and the issue of TRIPS and access to medicines. Evidently, these are not necessarily copyright issues, which probably explains why the human rights frame was not widely adopted by the copyright reform movement. That said, this muted human-rights frame in copyright reform debates requires deeper probing than this paper allows.

More poignantly, one participant bemoaned what he saw as a corresponding failure to frame on the part of CSO actors. He maintained that with respect to A2M, there was a great deal of success, whereas for other patent issues, there has been little – a result of what he described as 'hypo-cognition, or a failure to engage in deep analysis'. The participant noted that:

there is an urgency to try and fix things and impatience with the longer-term sort of academic projects ... and a failure to frame is obviously due to a failure to think deeply and long enough about a particular issue.

In the A2K campaign, not only are the issues more complex compared with those of the A2M campaign, but agreement on a universal or shared definition of the problem and possible remedies remains elusive. Moreover, a participant maintained that:

when you look at WIPO and the DA, there is a general lack of leadership, a lack of clarity regarding what issues to focus on and what directions to take, and a lack of long-term interest and goals amongst the different CSOs.

This participant continued that when you look at the issue of IP and development, CSO understanding is quite often very limited, and different people are looking at different things within that broad concept. Consequently, some CSOs within this umbrella ‘access movement’ have disagreed on the direction WIPO should take on the implementation of the DA: ‘I think this is due to the fact that there is no clear understanding of the nexus between development and copyright’. Accordingly, the A2K movement lacks coherence even under the development frame. That a resonating frame has not prevailed in defence of A2K is not surprising.

However, one participant warned that:

you cannot have a single copyright system for everyone because different markets have different needs. If you have a copyright system that works for creators and you are a country that imports more than you export, clearly this system is not working for you (see Penrose, 1951).

Notwithstanding, what we have seen hitherto is that reform from the point of view of many of the mainstream CSOs has meant a focus on limitations and exceptions (L&Es) in copyright, and these have featured very prominently in both the academic and CSO literature and advocacy platforms on copyright reform (see Okediji, 2006; Franz, 2010). While an examination of L&Es is beyond the scope of this paper, the apparent prioritisation suggests either pragmatism or misguidance from CSOs. Reforming the copyright system beyond L&Es was practically difficult at the time of this study and will probably remain beyond the reach of CSOs for years to come.

On the level of pragmatism, a focus on L&Es suggests that CSOs are aware of what is realistic and what is not. A participant noted that ‘if we could draw up a new system, we would draw up one that would look much different. But I don’t think that’s at all likely ... I am very realistic about what sorts of reforms are possible’. Similarly, another participant suggested that perhaps CSOs may be focussing on such issues because they are complete realists. He further noted that there are two factors at work here:

On the one hand, we see the interplay of pragmatic politics. Most people involved in the day-to-day lobbying and position-making fight pretty hard and have a very pragmatic view of what is changeable. On the other hand, however, there are fundamental reforms of basic principles, such as reproduction rights, which are at the core of the copyright system. There are so many ways in which the basic transition to digital technology has eroded the control of reproduction rights, and that inability to ever prevent copying is the reason we have to think again about the model.

While inadvertently critiquing CSOs, a participant contended:

By focusing on exceptions, we diverted attention away from a conversation about the fundamentals. As such, we have not tackled the question of change in terms of principle and have made the legislation more complicated because instead of changing the principles, we’re adding more complexity around the edges to try and find further ways of circumventing something that is not working in the middle.

The other inference from this critique is that by continuing to focus on L&Es, CSOs give further legitimacy to a framework that is at odds with current digital reality. Correspondingly, by giving legitimacy to an out-of-step framework, CSOs have

effectively forfeited an opportunity to create a coherent frame that encapsulates systemic reform. Moreover, as previously mentioned, there was no consensus on what those reforms ought to be.

Related to this system-legitimizing aspect of CSOs' work is the issue of the political economy of IP reforms. The geopolitics of IP negotiations and attendant interests make for difficult framing:

I don't think that when NGOs analyse IP issues they fully appreciate the broader international political context in which these things take place. They often treat what's going on in TRIPS as if what we're seeing are international negotiations on IP. But TRIPS is embedded in a broader set of negotiations on the global architecture.

He continued that 'there are health activist CSOs that are interested in pharmaceuticals, and that's what they're studying, and they don't see the way in which the entire global political economy is stitched together'. There appeared to be a consensus from non-CSO personnel and some within CSO networks that more robust political economy understandings of the global IPR framework, along with empirical research, are the necessary preconditions to getting the attention of policymakers. This, coupled with the complexity of the copyright system, has made it difficult for CSOs to articulate an effective frame (or frames) around which copyright reform efforts can be built.

Have the frames or themes changed over time?

Participants generally agreed that there were changes to the frames used in the A2K and copyright reform campaign. However, some themes, especially L&Es, remained constant amongst CSOs, thereby reflecting their prioritisation of L&Es as realistic areas of reform. Most of the changes, however, reflected a shift from CSO issues to issues or frames fronted by the pro-*status quo* industry groups. According to most participants, the shift was necessary to push back the ever-encroaching framing by the pro-*status quo* industry groups of copyright reform in the context of piracy and related issues. While piracy is not new to the copyright or IP lexicon, renewed interest in piracy in the context of copyright reform has given it a new milieu in which it could be successfully deployed. For instance, relating to copyright in cultural goods, such as music, one participant admitted:

It seems fairly obvious to me that non-profits have not really been the primary framers of that debate. The language of piracy and theft is still rampant and, in fact, the people who have been most involved in challenging that [*status quo*] have not tried to reframe it. They've championed the pirate parties of Europe. Certainly, they've tried to re-appropriate that language by saying that piracy in the commons is good because the current system represents a monopoly.

According to this participant, attempts by CSOs to use such frames to support their cause have detracted from efforts to craft their own messaging or frames. Consequently, the once-popular frames, such as the DA and the like, have been slowly but steadily replaced by talk of piracy. That shift has come at a price for the copyright reform campaign.

The result, arguably, has been an enforcement counter-attack from industry lobby groups utilising the piracy frame, which has been sufficient to stalemate progress on

copyright reform. In this vein, a participant noted that the rhetoric about piracy supporting terrorism and organised crime, as well as the language of the enforcement agenda, have become more prevalent than the L&E frames championed by CSOs. According to another participant, piracy is the frame utilised by a few conservative organisations. Therefore, for CSOs to re-appropriate this language as if it incontestably crossed subjective lines has not resulted in a frame that resonates with a change in discourse or direction favourable to CSOs. While there has been a shift in framing, this has not benefitted CSOs or the copyright reform campaign.

Another explanation for this shift relates to the issue of CSO funding. This study was conducted almost six years after the start of the WIPO IP reforms (of which copyright is a part), and the reform effort has since been affected by funding fatigue and shifts in donor funding priorities. Funding agencies rely on a catalogue of results in order to justify further spending and donations. According to a participant:

funding agencies want to see impact, and impact is slow to demonstrate ... Anyone involved with the IP reforms in WIPO knows that it has been approximately six years, and that, depending on how you look at it, you may say that there has been very little progress in terms of actual change. However, if you are a funding agency that understands that even a change in discourse is impact enough, then you can appreciate that what you are supporting is actually helping in terms of reform.

Another participant noted that ‘in policy advocacy, you can spend years trying to do something and end up with absolutely nothing’. Consequently, some funding agencies have changed priorities or strategies in the process, thereby shifting the framing of the issues. For instance, a CSO representative noted that her organisation has started to look at non-traditional perspectives and alternative sources of funding, shifting to such issues as capacity building and education in research as an indirect way of attracting funding for IP reform advocacy. The politics of copyright reform, therefore, demands the constant updating and changing of frames or issues as and when funding priorities change.

The nature and extent of collaboration amongst CSOs

In the early days of the copyright reform campaign, CSOs collaborated a great deal, to the point of coordinating their messaging in public forums at WIPO and elsewhere. Arguably, this unified voice was necessitated by the shared goal of changing a dysfunctional copyright system. Indeed, early participants in the IP reform movement were motivated and unified by the successes of the A2M campaign:

The reform movement could have stopped at TRIPS and public health. It was not natural at all that the focus then went on to WIPO. So a colleague and I and some other people thought that the message of the Doha Declaration on balance and a fairer IP system needed to be brought to WIPO.

This participant observed that the unity and collaboration persisted for a few years until CSOs started focusing on different aspects of copyright reform alongside one shared issue, L&Es. For instance, libraries and related CSOs focused primarily on issues relating to libraries, with occasional participation in other issues, but only to the extent that they affected libraries. The disparate make-up of the movement has seriously affected collaboration amongst CSOs. One participant admitted that ‘if we

had a more consolidated front, we would probably be a lot stronger'. The absence of collaboration was seen as a serious issue stymieing CSO efforts. There was a sense among participants that competition amongst CSOs for recognition, funding and results was 'cutthroat and unhelpful'. According to Haunss and Kohlmorgen (2010), groups of actors should have a greater chance of exerting influence if they appear as a cohesive collective actor with a clear profile and a persuasive collective action frame rather than as a loose alliance of disparate special interests. The absence of a consolidated front was, therefore, bound to affect any potential framing that could resonate with an intended audience.

As previously noted, initially, there were intense collaborations amongst CSOs, and this largely continues. However, because of the multiplicity of issues under the remit of the A2K movement, CSOs are not always focused on the same issues. This necessarily impacts on framing, but also applies to CSOs on the other side of the copyright spectrum. Importantly, there are some in the CSO world who represent copyright holders. One of the most poignant criticisms has been what one participant termed 'CSO maximalism': 'CSOs are maximalist as opposed to pragmatic. While some CSOs won't be satisfied until the TRIPS regime is gone, many developing countries would be satisfied if they could negotiate lower drug prices' (see Matthews, 2011). While some might argue that this kind of path dependence *is* the business of CSOs and that their purpose is not to teach give and take in negotiations, the criticism points to their effectiveness. Another participant linked to WIPO asserted that while

CSOs are one of the best sources of information we have simply because they are issue-oriented, there are CSOs on both sides which take a more strident approach than others, and this stridency sometimes gets in the way of effectiveness.

Some CSOs were singled out on either side of the spectrum. One was characterised as 'taking a pretty extreme IP-is-always-right position' and the other as 'an example of a CSO that doesn't provide useful input as much as it stirs up passions over issues and leads very crudely on these issues'. Such criticisms are useful insofar as they portray a broader picture of how CSOs are perceived within the policy-making and opinion-generating ensembles and give an idea of their influence in decision-making. According to one participant, a certain organisation was very instrumental in terms of building the capacity of African Group members in the WTO. That organisation also assisted in the negotiating process that eventually brought about the Doha Declaration, one of the hallmarks of the success of the A2M campaign. Therefore, while collaboration is not as strong as it was at the beginning of the copyright reform campaign, CSOs remain important actors in the reform process.

Collaboration amongst CSOs was also affected by, or was a function of, their relationships with official government delegations whose work it is to negotiate the kinds of reforms CSOs needed to see. In this sense, most, if not all, CSOs played a supportive role in the reform process, even though they were not directly linked to the reform itself. The make-up and position of different CSOs on different issues affected cohesion in the CS movement and their relationships with official government delegations. Therefore, some of the internal dynamics of advocacy organisations also need to be scrutinised to understand the dynamics of collaboration.

While most people commended the job of CSOs, many still questioned their real contribution. One participant linked to WIPO noted that some CSOs do not encourage member states to negotiate:

They will assist us [developing countries] with research and structure that would help us pursue an initiative, but I do not recall them saying ‘there comes a time when you have to back away from this, you have to give in here, you have to compromise here, in order to get a result’. They don’t give negotiating advice to make sure that we as developing countries understand that we have to live with developed countries. CSOs create the impression in the minds of the younger mission that developed countries had it all good in the past, and now it is our time and we should milk the cow or at least try to. I do not think that’s the way to approach negotiations in the current environment.

Finally, like many movements, the A2K campaign experienced some tensions where some actors did not subscribe to the views of other CSOs. According to one participant, ‘when reform movements succeed, you start to have tensions about where to go, and we are starting to witness differences in views within the reform community about which direction to go, and how’. The participant noted that this happened to the environment movement in the 1970s and 1980s. It was very successful in changing the framing and putting the environment on the global agenda. ‘But then it was hijacked’, this participant argued. In relation to the copyright campaign, this participant noted that:

everyone is now talking about reform but I am not sure that we all mean the same thing ... If you look at the September 2011 press release of the WIPO Assembly, it says that countries agree to a WIPO reform agenda. This could just mean adapting to a changing environment. It does not necessarily mean a change of paradigm.

While some CSOs were happy with WIPO’s claim of agreement on a reform agenda, others did not see the proposed agenda as amounting to reform. Without a unified voice on copyright reform, some CSOs did not feel they owned the discourse on copyright reforms or the reform process itself. Consequently, collaboration amongst CSOs has suffered.

CSO successes in copyright reform advocacy

The success of CSOs was not seen strictly in terms of framing or, for that matter, reforming the entire copyright system. All participants interviewed saw CS activity as only part of the policy-shift explanation. One participant explained that ‘while we have not been able to stop the problem, we’ve changed the climate of the debate’. One area where CSOs gained some success, though not single-handedly, was prevention. This participant noted that ‘while we don’t have a Doha in the area of copyright, we have spent a lot of time fire-fighting’ (see Muñoz Tellez and Musungu, 2010):

We have achieved rewards in terms of what could have happened and did not happen. For instance, when we started working on the Broadcasting Treaty, it was far down the road to being a done deal, and that was the main topic on the agenda of the SCCR [Standing Committee on Copyright and Related Rights]. That hasn’t happened, and it is not a coincidence that that didn’t happen.

Another pertinent example of preventive advocacy, although US-specific, was in 2012 when two bills, the Stop Online Piracy Act (SOPA) and the PROTECT IP Act (PIPA), were successfully defeated by the combined campaign efforts of CSOs, information technology companies such as Google, and other businesses with an extensive web presence, such as American Express. SOPA and PIPA were introduced in the US House of Representatives and the Senate, respectively, supposedly to fight online piracy and trading in counterfeit goods (see Samuelson, 2012). However, the bills placed significant burdens on online advertising sites, payment platforms, search engines and websites perceived to be hosting or facilitating the distribution of infringing or counterfeit materials. In so doing, SOPA and PIPA were to reorganise the web with significant consequences for internet freedom and web openness. CSOs working with other actors mobilised against both bills, which led to the first ever major internet blackout (on 18 January 2012), making content on major websites inaccessible for 24 hours. The message to Congress was unequivocal, resulting in the quick withdrawal of both bills and a major victory for preventive advocacy.⁷

While prevention is perhaps as important as achieving legislative victories, it is not synonymous with reform. The CS community may now have a tougher battle with copyright reform advocacy than the earlier A2M campaign. While the A2M campaign fought against what it saw as an entrenched interest, it pursued a legislative amendment to TRIPS and did not spend time or resources fighting an inundation of proposed enforcement procedures. The A2K campaigns do not have this luxury. Their advocacy battles are twofold: prevention *and* rollback.

Most participants (85%) interviewed for this research acknowledged that, alongside preventive advocacy, CSOs' biggest gains have been in changing the discourse and politicisation of IP. In relation to pharmaceutical patents, for instance, a participant noted (see also Schultz and Walker, 2005):

When I was growing up, both as a citizen and as a student, nobody talked about this stuff. Now when I teach, it always amazes me how much knowledge the students already have, which if I were taking that class at that age, I did not have. I attribute a lot of that to the publicity that CSOs have given to this topic.

Another participant, when asked whether WIPO's current engagement in the area of global copyright reform has had anything to do with CSO pressure, asserted that 'we only have to go back to the DA, which is the main driving force in WIPO at this time. That's an activity in which CSOs played a very strong role'. Notwithstanding, as participants argued, funders are more interested in substantive progress, and the business of CSO advocacy is a lengthy process.

Therefore, while a failure to frame can explain the current policy paralysis in CS attempts at copyright reform, it captures only part of the story and may well fail to be *the* central component of a stakeholder strategy to influence the political opportunity structure (Odell and Sell, 2006). Perhaps, as Keck and Sikkink (1998) suggest, framing is most effective when it emphasises some kind of bodily harm. However, rights holders' initial opposition to the human rights-oriented TVI defies this explanation. There may be some validity in Odell and Sell's (2006) argument that stakeholders are more likely to succeed when they are able to convince the media in industrial countries to reframe a particular issue. It is certainly the case that the A2K communities have not attracted the level of media visibility from which the A2M

campaign benefitted. Identifying some of the problems with CS may provide further clues. It is also worth noting that the reform effort is not an exclusive CS terrain.

Policy shift deficits and the future of the copyright reform movement

Participants grappled with the question of whether framing analysis could provide an intelligible lens through which to understand CSOs' record in global copyright reform. While the literature on framing provides a useful mechanism to aid understanding, its causative impact remains inconclusive. The causative impact of the A2M campaign regarding pharmaceutical patents and the human rights frame that encased it were conceptually clearer. To use Drezner's (2005) descriptor, the A2M took the form of an 'easy test' in the explanatory schema of framing as causatively linked to policy shifts. Conversely, the A2K campaign impetus has not fared well as an easy test in seeking to explain why CS activism has not resulted in actual policy shifts or Doha Declarations despite active civic engagement and actual treaty proposals by CSOs. This section looks at some of the problems with civil society in global copyright reform as a way of providing alternative explanations that may or may not be linked to framing.

One of the major difficulties faced by CS actors in this space has been the sharp shortfall in funding in recent years. One participant associated with a funding organisation confirmed that up to three years ago, there were four major US foundations funding in this space, but that at the time of the study, only one funded CSOs involved in reform activities. This organisation funded the majority of the organisations involved in A2K-related advocacy. In many cases, it was the only funder, prompting concern over the future of the advocacy effort should this organisation's priorities change.

Another participant (from a research-focused funding agency) noted that 'while the funding position remains stable within [my organisation], the future agenda will be global in scope, and therefore the same amount of money will be divided among three regions'. He argued that we need to look at this from the perspective of the global funding environment which at the time had suffered from the global recession: 'I know that some donors' agency programmes were cut by 30–40%, so they had to make choices on which programmes to continue to fund. The explanation for me lies in bottom-line funding priorities and funding availability'. He warned that if the global economic climate did not stabilise over the next few years, his organisation's budget would have to be reduced.

Many participants raised the funding issue in relation to the future of the copyright campaign. One participant noted that funding has been problematic for a number of groups and that his organisation had responded by scaling back its operations. In 2010, his organisation gave grants of about US\$40,000 to its members who were conducting national campaigns. In 2011, the amount dropped to US\$8,000. As a result, his organisation no longer paid contributors to one of its campaigns and was instead offering a prize for the best contribution. Another participant spoke of funding travails that southern CSOs face, particularly non-English speaking ones. He noted that his organisation was first funded by the Ford Foundation because of essential work in distributing free software to otherwise under-resourced areas in South America: 'it is sad that Ford does not support anymore'.

Another participant (from an intergovernmental organisation) confirmed the above claims, noting that:

We definitely do not have the same civil society structure operating in the space of global IPR reform. We have sensed that a lot of groups are less able to do the same work at the same level they did before because of lack of funds. Getting certain groups to send representatives to negotiations in Geneva is no longer possible because they do not have the same stream of funding as they did before.

At the time of this study, the funding situation was dire for the future of the copyright reform effort. Advocacy groups were beginning to think hard about how to design their proposals to make them more attractive in a funding climate in which major foundations no longer had bespoke IP programmes. This was important, especially against the backdrop of a better-funded and better-organised pro-*status quo* lobby. Arguably, funding is the single most important predictor of the future of CSOs and the copyright reform campaign; its shortfall means less CSO involvement and perhaps a failure to change the system that many had hoped to change when the campaigns started close to 10 years ago.

Notwithstanding the funding and framing challenges faced by CSOs, the future of the copyright reform effort was considered strong. One participant noted that as the economic centre moves from the global north to the global south, states in the former group may come to realise that a maximalist approach to IPRs is not in their best interest. The tendency is to see a state of balanced protection as organically derived rather than derived through contest. Nevertheless, another participant saw a general misunderstanding of the growing power of emerging economies: ‘abolitionists in emerging economies will become increasingly strong and will roll back IP, if not completely, in ways which we may struggle to imagine’. He argued that if the movement to reform IP does not succeed in substantial reforms, ‘we will see a black swan type event, unpredictable to the policymakers in Geneva and Washington in much the same way the financial crisis surprised many financial experts’.

Another participant saw the future of copyright reform as residing in the hands of the real owners of copyright:

Artists have a lot of power which they are afraid to use. And the main reason is because they are very dependent on investment from a very small number of players who have very conservative views. In a self-preservation sense, artists have a built-in inertia that is very difficult to break.

Another argued that the pressure from collecting societies and producers is so intense that it is very difficult for authors and artists to speak up against a system that does not work for them as well as it should. He remained convinced, however, that ‘they will be the cornerstone to switch’. Yet other participants believed that the future would not necessarily entail a reform of the system since infringement, not copyright law, was facilitating access to knowledge. Technology industries are also pushing for freedoms, not only because of the issue of commercial liability, but also to reap financial return from fair use around the world. Civil society is therefore only a minute part of this large puzzle of how the global IPR system in general, and the global copyright system in particular, will evolve.

Conclusions

This paper has analysed the problem of incoherent frames by civil society in the copyright reform campaign. While Odell and Sell (2006) found the initial human

rights frame by CSOs to be at the centre of a successful bid in the A2M campaign, this paper suggests that the incoherence of frames in global copyright reform advocacy partly explains the paucity in copyright reforms. Incoherent framing was a result of too many frames or messages used by CSOs in their copyright reform campaigns. A few frames, such as L&Es, that were consistently employed by most CSOs failed to emphasise bodily harm or shock the moral conscience. In a few exceptions where the 'moral conscience' was invoked, CSOs saw some level of success, as in the case of the TVI. But even the process of negotiating the TVI demonstrated the limit of coherent framing since the *pro-status quo* lobby remained opposed to it until its adoption. Generally, CSOs working on copyright reform have not attracted the same level of moral outcry as the A2M campaign with its unpalatable story of unconscionable death.

The paper looked at several reasons why this incoherent framing may have prevailed. A focus on enforcement at the expense of reform, funding shortfalls and other factors suggests that a persuasive framing of the issues is not necessarily the only factor determining the success of a campaign. Other important factors include the failure to understand and articulate the meaning and nature of the desired reform, a sense of an agenda at a crossroads, hypo-cognition and a lack of development and political economy understanding. All these suggest that in the current phase, advocacy actors are not usually equipped to create a frame that resonates with intended audiences. Moreover, unlike the A2M campaign, the copyright reform campaign was complicated by the number of issues involved as well as their technical nature. As Drahos (2008) puts it, framing is not a master mechanism. It needs the support of other mechanisms to bring genuine structural change.

Funding constraints and shifts in donor priorities have hampered framing attempts as well as the overall operations of CSOs. Some of the most basic CS functions were scaled back, and in many instances CSOs competed against each other for funding. Based on funding challenges, therefore, the paucity in global copyright reform may have nothing to do with an incoherent frame. Despite their relevance in raising awareness as well as in fighting against the further ratcheting-up of protection and enforcement measures, the question persists as to whether CSOs are essential players in the reform debate. If one were to look at CSO activism as causative of legislative change, their work would be vilified. However, their continuing presence ensures at least a minimum level of balance in the discussions on how the global IPR architecture should evolve. Notwithstanding, many other players are involved, though they are not necessarily as visible as CSOs. Funding agencies are some of the silent players influencing the level of CSO effectiveness in the copyright reform campaign. Since CSOs have to compete against each other for funding from a few agencies, CSO activities and priorities often reflect the priorities of funding agencies rather than those of CSOs as a community. These agencies arguably shape the direction of reforms based on their funding priorities.

Acknowledgements

We would like to thank Frances Pinter for the opportunity to work on this project, and for providing guidance throughout. We also thank Graham Dutfield and two anonymous reviewers for commenting on an earlier draft.

Notes

1. CPTech is now Knowledge Economy International.
2. It is significant that the patent provisions in TRIPS (Trade Related Aspects of Intellectual Property Rights) were concluded amidst great controversy and conflict (see Marcellin, 2010).
3. The Diplomatic Conference on Certain Copyright and Neighbouring Rights Questions, held in December 1996.
4. For more information about the Doha Declaration on TRIPs and public health, see http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm [accessed March 2014].
5. The United States was alone in opposing a WIPO treaty on copyright exceptions for blind and other print-disabled readers (see Intellectual Property Watch, 2012).
6. This volume is the World Intellectual Property Organisation and Office of the United Nations High Commissioner for Human Rights (1999).
7. Despite their domestic specificity, these bills would have had a major impact on global copyright enforcement. For some transnational action against these bills, see point 25 of the joint motion for a resolution on the EU-US summit of 28 November 2011 (European Parliament, 2011). See also Baker (2011) on the European Parliament's condemnation of SOPA.

References

- Baker, J. (2011) *European Parliament Joins Criticism of SOPA*, available from http://www.pcworld.com/article/244247/european_parliament_joins_criticism_of_sopa.html [accessed March 2014].
- Boyle, J. (2007) 'Cultural environmentalism and beyond', *Law and Contemporary Problems* 70, 3, pp.5–21.
- Chapman, A. (2002) 'The human rights implications of intellectual property protection', *Journal of International Economic Law*, 5, 4, pp.861–82.
- Cullet, P. (2003) 'Patents and medicines: the relationship between TRIPS and the human right to health', *International Affairs*, 79, 1, pp.139–60.
- Cutler, C. (1997) 'Artifice, ideology and paradox: the public/private distinction in international law', *Review of International Political Economy*, 4, 2, pp.261–85.
- Cutler, C. (1999) 'Locating "authority" in the global political economy', *International Studies Quarterly*, 43, 1, pp.59–81.
- Cutler, C. (2000) 'Globalization, law and transnational corporations: a deepening of market discipline' in Cohn, T. (ed.) *Power in the Global Economy: Grounding Globalisation*, Macmillan, London, pp.53–66.
- Cutler, C. (2001) 'Critical reflections on the Westphalian assumptions of international law and organization: a crisis of legitimacy', *Review of International Studies*, 27, pp.133–50.
- Drahoš, P. (2008) 'Does dialogue make a difference? Structural change and the limits of framing', *Yale Law Journal*, 117, pp.268–73.
- Drezner, D. (2005) *Gauging the Power of Global Civil Society: Intellectual Property and Public Health*, available from <http://danieldrezner.com/research/gauginggcs.pdf> [accessed December 2011].
- Entman, R. (1993) 'Framing: toward clarification of a fractured paradigm', *Journal of Communication*, 43, 4, pp.51–8.
- European Parliament (2011) *Resolution on the EU-US Summit of 28 November 2011*, available from <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P7-RC-2011-0577&language=EN> [accessed March 2014].
- Franz, V. (2010) 'Back to balance: limitations and exceptions to copyright' in Krikorian, G. and Kapczynski, A. (eds) *Access to Knowledge in the Age of Intellectual Property*, Zone Books, New York, pp.517–30.
- Hallahan, K. (1999) 'Seven models of framing: implication for public relations', *Journal of Public Relations Research*, 11, 3, pp.205–42.
- Haunss, S. and Kohlmorgen, L. (2010) 'Conflicts about intellectual property claims: the role and function of collective action networks', *Journal of European Public Policy*, 17, 2, pp.242–62.

- Helfer, L. (2003) 'Human rights and intellectual property: conflict or coexistence?' *Minnesota Intellectual Property Review*, 5, 1, pp.47–61.
- Intellectual Property Watch (2012) *US Isolated in Opposition to WIPO Treaty for the Blind, Group Says*, available from http://www.ip-watch.org/2012/12/03/us-isolated-in-opposition-to-wipo-treaty-for-the-blind-group-says/?utm_source=post&utm_medium=email&utm_campaign=alerts [accessed December 2012].
- Iyengar, S. (1991) *Is Anyone Responsible? How Television Frames Political Issues*, University of Chicago Press, Chicago IL.
- Joachim, J. (2003) 'Framing issues and seizing opportunities: the UN, NGOs, and women's rights', *International Studies Quarterly*, 47, 2, pp.247–74.
- Kapczynski, A. (2008) 'The access to knowledge mobilization and the new politics of intellectual property', *Yale Law Journal*, 117, 804, pp.803–85.
- Keck, M. and Sikkink, K. (1998) *Activists Beyond Borders: Advocacy Networks in International Politics*, Cornell University Press, New York.
- Machlup, F. and Penrose, E. (1950) 'The patent controversy in the nineteenth century', *Journal of Economic History*, 10, 1, pp.1–29.
- Marcellin, S. (2010) *The Political Economy of Pharmaceutical Patents: US Sectional Interests and the African Group at the WTO*, Ashgate, Farnham, Surrey.
- Matthews, D. (2011) *Intellectual Property, Human Rights and Development: The Role of NGOs and Social Movements*, Edward Elgar, Cheltenham.
- Muñoz Tellez, V. and Musungu, S.F. (2010) 'A2K at WIPO: the development agenda and the debate on the proposed broadcasting treaty' in Krikorian, G. and Kapczynski, A. (eds) *Access to Knowledge in the Age of Intellectual Property*, Zone Books, New York, pp.175–94.
- Musungu, F. and Dufield, D. (2003) *Multilateral Agreements and a TRIPS-Plus World: The World Intellectual Property Organisation (WIPO)*, TRIPS Issue Paper 3, Quaker United Nations Office, Geneva.
- Nader, R. and Love, J. (1995) *Letter to Michael Kantor on Health Care and IPR*, available from <http://www.cptech.org/pharm/kantor.html> [accessed September 2011].
- Odell, J. and Sell, S. (2006) 'Reframing the issue: the WTO coalition on intellectual property and public health, 2001' in Odell, J. (ed.) *Negotiating Trade: Developing Countries in the WTO and NAFTA*, Cambridge University Press, New York, pp.85–114.
- Okediji, R. (2006) *The International Copyright System: Limitations, Exceptions and Public Interest Considerations for Developing Countries*, UNCTAD-ICTSD Project on IPRs and Sustainable Development. Issue Paper 15.
- Penrose, E. (1951) *The Economics of the International Patent System*, John Hopkins University Press, Baltimore.
- Plant, A. (1934) 'The economic aspects of copyright in books', *Economica*, 1, 2, pp.167–95.
- Samuelson, P. (2012) 'Can online piracy be stopped by laws?' *Communications of the ACM*, 55, 7, pp.25–7.
- Schultz, M. and Walker, D. (2005) 'How intellectual property became controversial: NGOs and the new international IP agenda', *Engage*, 6, 2, pp.82–98.
- Sell, S. (2003) *Private Power, Public Law: the Globalisation of Intellectual Property Rights*, Cambridge University Press, Cambridge.
- Sell, S. and Prakash, A. (2004) 'Using ideas strategically: the contest between business and NGO networks in intellectual property rights', *International Studies Quarterly*, 48, pp.143–75.
- Snow, D., Rochford, E., Worden, S. and Benford, R. (1986) 'Frame alignment processes, micro-mobilization and movement participation', *American Sociological Review*, 51, pp.464–81.
- World Intellectual Property Organisation and Office of the United Nations High Commissioner for Human Rights (1999) *Intellectual Property and Human Rights*, WIPO Publication 762(E), Geneva.
- Yamin, A. (2003) 'Not just a tragedy: access to medications as a right under international law', *Boston University International Law Journal*, 21, pp. 325–71.
- Zald, M. (1996) 'Culture, ideology and strategic framing' in McAdam, D., McCarthy, J. and Zald, M. (eds) *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures and Cultural Framing*, Cambridge University Press, Cambridge, pp.261–74.