

LIBRARIANS' INVOLVEMENT IN THE PROTECTION OF COPYRIGHT IN NIGERIA

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ABSTRACT

This study investigated the librarians involvement in the protection of copyright in Nigeria. The study adopted a descriptive survey design. Questionnaire was the primary tool used for data collection. The study population consisted of 63 professional librarians from the five selected universities in Ogun State. A total of 49 questionnaires were retrieved out of 63 administered and given a response rate of 77.8%. It was found that librarians are aware of the provisions of copyright law and take some measures to prevent its infringement. It was recommended among others that librarians should be more intentional in ensuring that copyright is not violated in the library by engaging all the available measures to ensure compliance.

Key words: *Copyright, Librarians, University Libraries, Nigeria.*

INTRODUCTION

Librarians play an important role in the free access to information. They are responsible for dissemination of information. They are also expected to protect intellectual property rights of creators. However, intellectual property rights are limitations to access of information. This dilemma has caused librarians, according to Aguirre (2010) to tend to swing towards either of two extremes: towards a strict interpretation and implementation of the rules, thus, hampering service; or towards complete disregard of them, bordering on irresponsibility that can open them to charges of copyright violation, or abetting violation of the law by their clients. Access to information makes for better people, more efficient and effective workers, and more responsive and responsible citizens, and a library's main role is as a provider of that access to information (Nkondo et al., 2014). It must be noted that the right of access to information is not an unqualified right, but is subject to limitations regulated by law. Copyright law is created to limit the access to information with the intention to secure authors' exclusive rights to their intellectual creations. The law, however, also makes provision for exceptions. The exception is expected to create a balance between users' access to information and the protection of the intellectual property of creators.

Copyright is one of the two branches of the law known as intellectual property. The other branch relates to industrial property. Copyright is a legal right that protects the owner of an intellectual property from exploitation. It comprises two main sets of rights: the economic rights and the moral rights. According to Jadhav (2012), copyright essentially relates to those

acts which the creator reserves to himself or his near and dear ones in his creative works. These include right to reproduce, right to modify, right to commit for translation, right to transmutation, right to commit to other forms like cinematographic reproduction, etc (Jadhav, 2012). This law protects the indiscriminate copying and distribution of an author's work without the permission of the author. Copyright law in Nigeria is governed by the Copyright Act 1988 with its amendments of 1992 and 1999 which is now re-codified in 2004 in the Laws of the Federation of Nigeria 2004 Cap. C28. The primary function of Copyright under the law is to protect from annexation the fruits of a person's work (Babafemi, 2007). Jadhav (2012), assert that in any educational institution, librarians play a key role in many spheres, including copyright. The main role of librarians is to make available library collections to students and faculty in support of teaching, learning, research and scholarship. Libraries are fills in a unique position as custodians of copyrighted materials.

Statement of the problem

The copyright law which protects the right of the creators of copyrighted materials tends to be a barrier to the freedom of access to information. Librarians as custodians of information are charged with the responsibility of granting free access to information and protecting the interests of copyright owners. Access to information is a universal right that is protected by law to be enjoyed by all. Some studies have indicated the ignorance of librarians in their responsibility in granting access to information and in the protection of copyright. In light of this, this study undertakes to investigate the awareness of librarians' role in the protection of copyright in Nigeria.

Objectives of the study

The objective of the study is to examine the role of librarians in the protection of copyright, specifically, the study will:

1. Identify the copyrighted information materials available in libraries.
2. Determine the level of awareness of copyright law by librarians.
3. Assess the measures taken by librarians to restrict copyright infringement.

LITERATURE REVIEW

History of copyright law

Copyright law was governed in Nigeria by the English Copyright Act 1911 which was made applicable to Nigeria by virtue of an order-in-council under Section 25 of the Act of 1911 of Great Britain. Nigeria applied the 1911 Act until 1970, when it was replaced with the Copyright Act of 1970 (Babafemi, 2007). Umaru (2002) noted that the 1970 Act was inadequate as it could not combat the increasing rate of piracy and other copyright infringement and there was need to increase the penal sanctions and provide adequate remedial measures. Hence, the birth of the 1988 Act. In 1992 vide the Copyright Amendment Decree No. 98 of 1992, the Act was amended.

Copyright is one of the two branches of the law known as intellectual property. The other branch relates to industrial property, chiefly inventions, trademarks, industrial designs etc. Copyright law protects the rights of the owner of the literary and artistic works against those who adopt the exact form of words or arrangement employed by the author in the production of his work (Odunowo, 2002). The House of Lords remarked in the case of *George Routledge V. Sampson Low* (1868), that the great objective of the law of copyright is to stimulate, by means of the protection secured to literary labour, the composition and publication to the world of works of learning and utility.

The primary legislation now is the Nigerian Copyright Act Cap. C.28, Laws of the Federation of Nigeria 2004, initially passed in 1988, amended in 1992 and 1999 and recodified in 2004. (UNESCO World Anti Piracy Observatory 2009). Nigeria is also a signatory to a number of international conventions. The aim of conventions is to ensure that countries give the same protection to the works of the nationals of other countries as they give to their nationals. Adewopo (2012) asserts that the concern about the protection across borders and the limitations of national solutions to multinational problem led to the emergence of international agreements aimed at securing copyright protection across borders. Nigeria ratified the Berne Convention in September 14, 1993 and became a member of the Universal Copyright Convention on February 14, 1962. On 29th October 1993, Nigeria also signed the Rome Convention, and ratified the WIPO Copyright Treaty and WIPO Performers and Phonograms Treaty in 1996.

Nature of copyright materials

Section 1 (1) of the Copyright Act lists six categories of materials that qualify for copyright protection. They include the following:

- a). Literary works.
- b). Musical works.
- c). Artistic works.
- d). Cinematograph films.
- e). Sound recordings.
- f). Broadcasts.

A literary work includes novels, stories, poetical works, plays, broadcasting scripts, textbooks, treatises, articles, reports, addresses, law reports and so on. Musical works include works composed for musical accomplishment. Artistic work includes painting, drawing, engravings, maps, photographs, diagram, work of sculpture, and many more. A violation of copyright occurs when a person without the consent of the owner of a copyright reproduces, communicates to the public, or broadcasts a literary, musical or artistic work in which Copyright subsists. For a work to enjoy copyright protection, sufficient skill must have gone into it to give it an original character. In addition, the work must have been put in tangible form (Asein 2002). The law provides that violation of copyright occurs when without the permission of the owner, a reproduction by photocopying of the whole copyrighted material is done. Infringement also occurs where the sale, translation, transcription, adaptation, public lease, rental and public performance of a copyrighted material is done without the authorization of the copyright owner.

Copyright situation in Nigeria,

Babafemi (2007) opines that the primary function of copyright under the law is to protect from annexation the fruits of a person's work. This protection is of immense importance to actors, playwrights, performers and other artists, to musicians and composers of music, to authors, publishers, newspaper proprietors and librarians, to architects, designers, lawyers, doctors, pharmacists, engineers, to editors of law reports, lecturers, professors and institutions of higher learning; to broadcasters; to makers of cinematograph films and photographers and to producers of computer systems, laptops and their numerous software. Copyright are rights given to creators for their literary and artistic works. Literary works include novels, poems, plays, reference works, newspapers etc. Artistic works include paintings, drawings, sculpture, maps etc. The duration of copyright is 50 years after the death of the author, or the last surviving author in case of joint authorship (Aina, 2008).

Copyright law refers to a legal concept that concerns rights to copy as it protects the labour, skill and judgment that some author, artist or some other creator expends in the creation of an original piece of work (Feather and Sturges 2003). In the case of Yerritau V. Daily Times Nigeria Ltd (1980), Belgore asserts that the primary function of copyright is to protect from annexation by other people, the fruits of another's work, labour, skill or taste. Babafemi (2007) argues that in a country like Nigeria, the importance of copyright cannot be overemphasized because, Nigeria is a country where book piracy, film piracy and music piracy still reign supreme, with attendant losses of income to authors, publishers, film makers, musicians and many other copyright owners. Guobadia (1989) insists that copyright does not come under pressure in a largely illiterate society like Nigeria as the purveyor of pirated audio and video cassettes, the shopkeeper who sells pirated copies of popular textbooks and the student who makes a photocopy of an entire textbook for his use are all reacting in their own way to the situation.

According to Odunowo (2002), the violation of copyright legislation can lead to loss of income, can discourage creativity, retard industrial, economic and cultural growth, and deprive the government a huge amount of taxes especially in copyright related industries. Uviegbara (1992) argues that there is need to raise the level of awareness of people about the copyright law. Faeji (2002) concurs when he asserts that the level of copyright awareness in Nigeria is low and this has militated against effective copyright administration in the country. Copyright is very important because, a country's development depends to a great extent on the creativity of her nationals. For a country to develop, it needs to encourage national creativity. It is in this context that copyright has become an essential instrument in the development process. The higher the level of copyright protection, the greater the encouragement for authors to create (Ekpere, 2002).

Copyright exceptions

The copyright system maintains a balance between the intellectual property interests of authors and copyright owners and the larger public interest. Asein (2012) asserts that this balance is achieved by introducing various exceptions to the rights granted under the copyright law. Asein (2012) summarized the exceptions under the following heads:

1. Fair use.
2. Parody, pastiche and caricature.
3. Ephemeral use of artistic works.
4. Use for educational purpose.

Fair dealing (fair use) provisions have been described as the most significant, and most venerable limitation on the copyright holder's prerogatives (Asein, 2012). Babafemi (2007) has posited that fair dealing means that the dealing with the work must be genuine and reasonable. The Nigerian copyright law specifically grants exceptions to acts done by way of

fair dealing for the purposes of research, private use, criticism, or review of the reporting of current events. Asein (2012), posits that it is impossible to lay down any hard and fast definition of what fair dealing is, because it is a matter of fact, degree, and impression, but the court endorsed three factors in determining if there was indeed fair use, viz.

1. Whether the alleged fair dealing is in commercial competition with the owner's exploitation of the work.
2. Whether the work has already been published or otherwise exposed to the public.
3. The amount and importance of the work which has been taken.

Role of librarians in Copyright protection

In any educational institution, librarians play a key role in many spheres, including Copyright. The main role of librarians is to make available library collections to students and faculty in support of teaching, learning, research and scholarship. Libraries are often the only entities that provide access to the vast majority of copyrighted works that lose market vitality long before the expiration of the copyrights, and are often the only entities that preserve public domain materials (Jadhav, 2012). Libraries promote the use of the information resources it manages for purposes of education and research. Libraries as educational agency is poised to ensure that knowledge is acquired and disseminated and to ensure that equal access to information is enjoyed by all. Kharamin and Siamain (2011) citing Machell (1996), stated that the ideal library service is one where each individual has access to the materials and information at the time they are required, in a format that can be used, in the quantities that are needed, and where the needs of the users are understood by the staff. Jadhav (2012) highlights the importance of librarians' role in copyright protection to include, among others, to enable users to access copyright and public domain works and to exercise their rights under the exceptions and limitations to creator' rights in the law. Cochran (1997) also reiterates that librarians have the professional duties concerning copyright materials, to both serve the client's needs using copyright-protected resources to provide the information requested, and to respect the intellectual property rights in the protected works that are used each day. Fabunmi (2009) stress that librarians can provide assistance to library users in order to properly enforce the copyright laws in the library by ensuring that research projects in the library are made available to researchers for consultation only, that photocopying an entire work is disallowed, and that the principle of fair use be strictly adhered to, if photocopying is to be made for educational purposes. Librarians should ensure that precise citation is done by any researcher for any piece of information collected from a given source in the Library.

METHODOLOGY

The study adopted a descriptive survey design. Questionnaire was the primary tool used for data collection. The study population consists of 63 professional librarians from the five selected universities in Ogun State, namely Babcock University, Ilishan- Remo, Crescent University, Abeokuta, Bells University, Ota, Federal University of Agriculture, Abeokuta, and Olabisi Onabanjo University. The five universities were selected from the 13 universities in Ogun State. The population was made up of all the 63 professional librarians of five sampled universities. A total of 49 questionnaires were retrieved out of 63 administered and given a response rate of 77.8%. The questionnaires were analyzed using descriptive statistics which results were displayed in tables.

Data Analysis and Results

Table 1 shows there were 15 librarians from Babcock University, 8 librarians from Bells University, 4 librarians from Crescent University, 21 librarians from Federal University of Agriculture, and 15 librarians from Olabisi Onabanjo University, respectively.

Name of Library	Population
Babcock University	15
Bells University	8
Crescent University	4
Federal University of Agriculture	21
Olabisi Onabanjo University	15
Total	63

Table 2 shows that out of the 63 questionnaires that were administered, a total sum of 49 (77.8%) were retrieved from the five universities and analyzed.

Name of Library	Questionnaires Distributed	Questionnaire Returned	Percentage
Babcock University	15	15	30.61
Bells University	8	5	10.21
Crescent University	4	3	6.12
Federal University of Agriculture	21	20	40.82
Olabisi Onabanjo University	15	6	12.24
Total	63	49	100

Table 3 shows, that there are seventeen (34.7%) male respondents and 32 (65.3%) female respondents.

From Table 4, it is shown that 18.4% of respondents have a Bachelor’s degree, 71.4% have Master’s degree, 2% have MPhil while 8.2% have doctoral degree.

Table 5 shows that 36.7% of respondents have worked for between zero and five years, 24.5% have worked for between six to ten years, 18.4% have worked for between eleven to fifteen years, 10.2% have worked for between sixteen to twenty years, 4.1% have worked for between twenty-one to thirty years, while 2% have worked for between thirty-one to thirty-five years.

Table 6 shows the availability of copyrighted materials in the various libraries. The high rate of agreement to the items as indicated in Table 7 reveals that librarians are aware of copyright law and appreciate their role as protectors of copyrighted materials. Responses as shown in Table 8 reveal that libraries have not exhausted the various measures to combat copyright infringement.

Gender	Frequency	%
Male	17	34.7
Female	32	65.3
Total	49	100

Table 4: Educational Qualification of Respondents

Educational Qualification	Frequency	%
Bachelors	9	18.4
Masters	35	71.4
MPhil	1	2
PhD	4	8.2
Total	49	100

Table 5: Work Experience of Respondents

Work Experience	Frequency	%
0-5	9	18.4
6-10 yrs	35	71.4
11-15yrs	1	2
16-20yrs	4	8.2
21-25 yrs		
26-30		
31-35		
Total	49	100

Table 6: Availability of Copyrighted Materials in the Library

Availability of Copyrighted Materials	Available		Not Available		Not Sure	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
Textbooks	49	100				
Journals	49	100				
Dissertation/Thesis	46	93.9	3	6.1		
Magazines	48	98			1	2
Compact disk/DVD	44	89.8			5	10.2
Cassette (Audio/Video)	26	53.1	10	20.4	13	26.5
Electronic Databases	48	98	1	2		
E-Journals	48	98			1	2

Table 7: Librarians' roles of copyright, and knowledge of copyright Law

Role of Librarians	SA		A		D		SD	
	Freq	%	Freq	%	Freq	%	Freq	%
There is need for Librarians to have copyright education in order to familiarize themselves with the basic principles of copyright law	33	67.35	16	32.65				
Knowledge of Copyright law will enable librarians to render their services without violating copyright laws	30	61.22	19	38.78				
It is the duty of librarians to protect users' rights	29	59.18	20	40.82				
It is the duty of librarians to protect authors' right	23	46.94	21	42.86	5	10.2		

Librarians must provide the right guidance to their users on how to make use of library stock without infringing on the copyright of the authors	25	51.02	24	48.98				
If there is the need to photocopy, the principle of fair use should be strictly adhered to	26	53.06	23	46.94				
Fair use means that a user can copy a very small amount of a work for educational purposes and not for commercial purposes	25	51.02	24	48.98				
It is not an infringement of copyright law if a portion of a document is copied for criticism and review or for reporting in the newspaper	20	40.82	18	36.73	8	16.32	3	6.12
Any copying carried out for commercial purpose requires prior permission from the copyright owner.	23	46.94	23	46.94	3	6.12		
It is possible to obtain permission to copy or use copyrighted material by contacting the copyright owner.	17	34.69	27	55.1	5	10.2		
Abuse of copyright deprives the creator of gains accruing from his intellectual property	26	53.06	21	42.86	2	4.08		

Table 8: Measures to combat copyright infringement

Measures taken by library to curb copyright infringement	Yes		No		Not Sure	
	Freq	%	Freq	%	Freq	%
Copyright Warnings are displayed in conspicuous locations in my library to pass the message across to the users	7	14.29	37	75.51	5	10.2
Research Projects are made available to researchers for consultation only	43	87.76	3	6.12	3	6.12
Photocopying an entire work is not allowed in my library	45	91.84	3	6.12	1	2.04
Librarians ensure that precise citation is done for any piece of information collected from the library	32	65.31	9	18.37	8	16.33
Photocopying of an entire journal is restricted in my library	33	67.35	10	20.41	6	12.24
Agreement between libraries and database providers are made available to users	15	30.61	24	48.98	10	20.41
License agreement on database use is displayed prominently while users browse content	20	40.82	18	36.73	11	22.45
Copying (dubbing) of multimedia resources (CD/DVD and Cassette) is prohibited in my	32	65.31	12	24.49	5	10.20

library						
My library has a policy on copyright	25	51.02	11	22.45	13	26.53

Only 14.29% of librarians indicated that their libraries display copyright warnings in conspicuous locations in the library.

Also, 30.61% indicated that their libraries' agreement with database providers are made available to users, while only 40.82% indicated that license agreement on database use are displayed prominently while users browse database content.

DISCUSSION

Librarians as custodians of information are charged with the responsibility of protecting the interests of copyright owners as well as the interests of users of information. The study found that librarians are aware of copyright law as it relates to their role as custodians of information. These findings however contrasts with the findings of Dicen (2014) who found that librarians' awareness of copyright is low, and Charbonneau and Priehs (2014) who also found in their study that librarians are only fairly aware of copyright policies. The study also showed that librarians are adopting some measures to curtail infringement of copyright. However, they do not take exhaustive steps in discouraging library users from infringing copyright.

Conclusion

The roles of librarians who are the custodians of intellectual property make them important in the administration of copyright law. Copyright law gives protection to creators of information resources and also provide for a balance between promoting the users' rights and creators' rights.

Recommendations

It is therefore recommended that:

1. Libraries should ensure that copyright warnings are displayed at conspicuous locations in the library.
2. Agreement between libraries and database providers should be made available to users to prevent them from abusing copyright law.
3. Libraries should have policy on copyright. Every library worker and user should be educated in this regard in order to familiarize them with the copyright provision.
4. Librarians need to create more awareness in order to ensure that libraries protect the rights of creators.

REFERENCES

- Adewopo, A. (2012). Nigerian copyright system, principles and perspectives. Lagos: Odade Publishers.
- Aguirre, V. (2010). Ensuring access to information: a librarian's dilemma. *Journal of Philippine Librarianship* 30:1-20. Retrieved from <https://paarl.wikispaces.com/file/view/Vyva+Aguirre.pdf>
- Aina, L. O. (2008). Intellectual property rights in digital age. In: L. O. Aina, Mutula SM, and Tiamiyu, M. A. , (Eds.) Information and knowledge management in the digital age: concepts, technologies and African perspectives. *Ibadan: Third World Information Services*. pp. 335-354.
- Asein, J. (2002). Nigerian copyright law: A juridical overview. In: J. O. Asein and E. S. Nwaneche (Eds.), A decade of copyright law in Nigeria (pp. 54). Abuja: *Nigerian Copyright Commission*.
- Asein, J. (2012). Nigerian copyright law and practice. 2nd edition. Abuja: *Books and Gavel limited*.
- Babafemi, F. O. (2007). Intellectual property: the law and practice of copyright, trade marks, patents and industrial design in Nigeria. *Ibadan, Justinian Books Limited*.
- Charbonneau, D. & Priehs, M. (2014). Copyright awareness, partnerships, and training issues in academic libraries. *School of Library and Information Science Faculty Research Publications*, Retrieved from <http://digitalcommons.wayne.edu/cgi/viewcontent.cgi?article=1122&context=slisfrp>
- Cochran, W. (1997). *Copyright and law librarians' ethics*. AALL Spectrum, December 1997. Retrieved from http://www.aallnet.org/mm/Publications/spectrum/archives/Vol-2/pub_sp9712/pub-sp9712-copyright.pdf
- Dicen, J. B. (2014). Copyright Literacy of Librarians in France. *Presentation at the European Conference on Information Literacy, 20-23 October 2014*. Retrieved from <http://ecil2014.ilconf.org/wpcontent/uploads/2014/11/Boustany.pdf>
- Ekpere, J. A. (2002). Nigerian copyright law and national development: philosophical and economic paradigm for the next millennium. In: J.O. Asein and E.S. Nwauche (Eds.), A decade of copyright law Nigeria. Abuja: *Nigerian Copyright Commission* pp. 88-109.
- Fabunmi, B. (2009). *The roles of librarians in copyright protection in Nigeria*. Retrieved from <file:///C:/Users/HP/Downloads/93-369-1-PB.pdf>
- Faeji, A. F. (2002). Copyright and the music industry. In J.O. Asein & E.S. Nwauche (Eds.), A decade of copyright law Nigeria. Abuja: Nigerian Copyright Commission. George RV, Sampson L (1868). LR 3 HL 100. pp. 40-46.

- Feather, R. & Sturges, D. (2003). The Library and Information Services (LIS) Transformation Charter. Retrieved from http://www.nlsa.ac.za/Downloads_01/2014_Final_LIS_Transformation_Charter.pdf
- Guobadia, D. (1989). Fair dealing and copyright in Nigeria. *The gravitas review of business and property law* 2(4):40-45.
- Jadhav, V. (2012). *Intellectual Property Rights with special reference to Copyright Laws in India*. Int. J. Sci. Res. Retrieved online DOI 2310- 7064.
- Kharamin, F. & Siamian, H. (2011). visually impaired and blind in public libraries (case study Mazandaran province librarian: Iran). Singapore: *International Association of Computer Science and Information Technology* (IACSIT) Press.
- Machell, J. (1996). Library and information services for visually impaired people: National Guidelines. London: *Library Association Publishing*.
- Nkondo, M., Brown, A., Dick, A., Hart, G., Molawa, S., Nassimbeni, M., Seleti, A. & Teffo, Y. L. (2014). *The Library and Information Services (LIS) Transformation Charter*. Retrieved from http://www.nlsa.ac.za/Downloads_01/2014_Final_LIS_Transformation_Charter.pdf
- Oduowo, T. A. (2002). Nigerian copyright law: A judicial overview. In: J. O. Asein and E. S. Nwauche (Eds.), *A decade of copyright law in Nigeria Abuja: Nigerian Copyright Commission* pp. 54-65.
- Routledge, V. & Sampson, L. (1868) Nature, subsistence and scope of copyright in Nigeria. In : J.O. Asein & E.S. Nwauche (Eds.), *A decade of copyright law Nigeria*. Abuja: Nigerian Copyright Commission p p. 88 -109.
- Umaru, M. J. (2002). Nature, subsistence and scope of copyright in Nigeria. In: J.O. Asein & E.S. Nwauche (Eds.), *A decade of copyright law Nigeria*. Abuja: *Nigerian Copyright Commission* pp. 88-109.
- UNESCO World Anti Piracy Observatory, (2009) Retrieved from http://www.unesco.org/culture/pdf/anti-piracy/nigeria_cp_ennce
- Uviegbara, G. (1992) Funding for collection development activities at Chancellor College Library, University of Malawi. *Collection Building* , 29(4), 142 - 147.
- Yerritau, V. (1980). *Daily Times Nigeria Ltd* FHCLR 186.