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Copyright, access to learning materials and the role of University Libraries

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What is copyright?

Copyright is understood to protect the economic and moral rights of creators of literary, music and other works. The copyright law gives creators exclusive rights to authorise different uses of their works.

The law however attempts to provide a balance between the private rights of creators and the public interest in a work. Knowledge is a public good and so the public interest in any work must be protected.

In the past, copyright legislation provided generous exceptions and limitations (i.e. uses permitted by the law for which a user needs not seek authorisation from the copyright owner). The Uganda Copyright and Neighbouring Rights Act, 2006 for example provides for these under section 15.

Otherwise standard authorisations can be got from collective management organisations (organisations set up by right holders to protect copyright, license users, collect and distribute royalties). In the case of Uganda there are 3 examples i.e. for literary, scientific and artistic works- the Uganda Reproduction Rights Organisation; for music- the Uganda Performing Rights Society and for films- the Uganda Federation of Movie Industries.

Current Trends in Copyright Legislation

In recent times ,international treaties such as WTO-TRIPS (World Trade Organisation Trade Related Aspects of Intellectual Property); bilateral arrangements through the EPAs (Economic Partnership Agreements) and even legislation such as anti-counterfeits bills have introduced measures which if adopted by Uganda would negatively impact access to learning materials and limit the work of libraries. Some of these measures include:

- a) Elimination of exceptions and limitations – libraries and universities would have to pay for permissions to do the things they ordinarily were able to do in the past
- b) Extension of the copyright term to a minimum of 70 years before a work can revert to the public domain. The public domain is important for supporting learning, and research as it enables copying without limitations.
- c) Outlawing copying - the Anti- counterfeit laws have provisions that make it illegal to hold a copy that is similar to an original. Photocopying is a great help in bridging access gaps.

- d) There is still no agreement about orphan works and extending exceptions for the visually impaired at the international level. Visually impaired learners are part of our universities and they should be enabled to access content in their preferred medium without breaking the law.
- e) Prohibition of circumvention of technological protection measures for any reason including teaching purposes or preservation and conservation by libraries.
- f) Disallowing compulsory licenses –compulsory licenses would enable Uganda to acquire publications which are currently out of reach because of prices or being out of print or any other reason.
- g) A ban on parallel importation- provisions on parallel importation in the copyright law would enable university libraries to source for the same quality content from cheaper suppliers.

The above measures make access to learning content impossibility for developing countries. Although several developing countries have raised a red flag, developed countries are smuggling the restrictive measures in the Economic Partnership Agreements. The academic community as well as activists need to remain vigilant on these issues and safeguard the development interests of Uganda.

What is the Creative Commons Initiative?

Scholarly dialogue as should happen in a university requires that researchers have almost unimpeded access to content and communication. The current copyright legal system however may impose impediments by way of skyrocketing prices for journals, books in different disciplines etc. We have noted over the years, that even universities in Uganda have played to the gallery of restrictive copyright in regards to their own research outputs.

In a bid to encourage openness and wider communication of research, NABOTU (National Book Trust of Uganda), CEHURD (Centre for Health Human Rights and Development) and most recently CUUL (Consortium of Uganda University Libraries) have been working on a system that would largely remove the constraints of greater copyright protection and allow sharing through the Internet. Working with 10 lawyers we have recently finalised the Uganda Creative Commons License which is to be launched anytime soon.

Creative Commons Licenses enable the copyright owner to grant rights to users in advance for free, irrevocable, worldwide, perpetual right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship. Some of the Creative Commons Licenses however provide limitations to protect the copyright owners interests such as limitations on commercial usage and limitations on derivatives.

We believe that research especially publicly funded research must be made available free for public access. We also believe that the application of one or a mix of the several Creative Commons Licenses would provide a viable option for encouraging further scholarship.

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