

Impact of New Media on Intellectual Property Rights in Malawi

Flywell Samir Simkonda

ORCID: <https://orcid.org/0009-0002-5036-5553>

Department of Humanities, The University of Livingstonia, Malawi

Email: ssimkonda@unilia.ac.mw

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Abstract

Technology is rapidly changing the communication setting of the today's social and economic world. The emergence of new media brought about by modern technologies is significantly influencing the way people access literary, audio and video products. This experience has affected the protection of intellectual property rights in the world. Furthermore, little is known about copyright issues in Least Developed Countries. To that effect, the Malawi government enacted a Copyright Act in 2016 and an Intellectual Property Policy in 2019 to help safeguard the creation of the mind. However, even with the Policy and the Act in operation, Malawi still faces increased cases of intellectual property infringement, mostly through the use of new media technologies. In response, this study aimed at investigating the impacts of new media on intellectual property rights in Malawi. It employed a mixed research design and data was collected from artists in music and literary industries and from IP consultants. Analysis was anchored on two theories. The study established that new media has greatly impacted the protection of intellectual property rights in Malawi, affecting both the economic aspect and creativity of the artists. The study also found that new media has helped protect the copyright through legitimate digital markets. Legal structures such as the National Intellectual Property Policy and Copyright Act are not implemented and enforced enough to protect creators' rights. Thus, the study suggests that government should provide more awareness programs to users and artists.

Keywords: Intellectual property; copyright; new media; digital technologies; WIPO; Berne Convention.

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Introduction

The usage of media in the twilight of the 19th century and the dawn of 21st century have undergone fundamental transformations, perhaps the most fundamental after the advent of the penny press of the mid-19th century (Pavlik, 2001). This transformation has allowed the emergence of new forms of media, whose distinguishing qualities include global information access, interactivity, multimedia content and extreme content customization. Since the transformation is as a result of technological change of the 21st century, this kind of media has been christened new media. The qualities of what is referred to new media

have made it simple for people to easily access published protected materials without plight. This has given rise for the need to enact laws that can protect and halt the increased abuse of peoples' creation of the mind.

However, the question of what is new media remains open and ongoing, generally because of the difficulty to specify what qualifies to be new media or old media. While some definitions of new media exclusively emphasize computer technologies, others place more emphasis on the cultural contexts and forms in which technology is used for example art, films, commerce, science and above all, the internet (Dewdney & Ride, 2006). As Siapera (2011)

states, there are a lot of issues with the term new media: it introduces a somewhat arbitrary split between old and new media and it overlooks that new media such as the internet, already have a forty-year history while it also fails to denote any of the dimensions along which the 'new' differ from the 'old' other than their age difference. Yet, these problems, especially the failure to specify what may qualify as a new medium, actually allow us to include attributes such as digital, online and others as well without limiting or prioritizing any single one.

In addition, although for some critics the reference to 'new' may appear to disregard the ways in which more mature media have evolved in recent years, it denotes a dynamism and penchant for constant change (Bell, 2009). The term can therefore include all kinds of media formats as long as they are indeed evolving.

Problematic in defining the term new media has led to the availability of profuse definitions of the term by various scholars who define it based on what they perceive as new media. Thus, for the purpose of what this study is intended for, the term new media in general refers to those digital media, which are interactive, incorporate two-way communication and involve some form of computing as opposed to old media, such as the telephone, radio and television. However, Dewdney and Ride (2006) noted an overlap between work being described as new media and that defined as digital media. They assert that main problem with the term digital is that it has the tendency to privilege technology itself as the defining aspect of a medium, as if all digital media practice will be first and foremost about or will reflect the character of digital technology.

The phrase "new media" contrasts this by referring to contemporary cultural notions and the context of media practices rather than a new set of technology. Certainly, to say the least, it is important and absolutely central to this way of thinking that technologies and cultural and expressive practices are thought of as inseparable. The relationship between technologies and cultural, and media practices needs to be understood as linked at every stage, from invention to development and use (Dewdney & Ride, 2006). It is vital to note that

new media incorporates its own redundancy even though this paper will use the term new media rather than digital media. It takes a little mental thought to imagine that all media must have been novel at some point in their development and this begs the question, "when will new media stop being novel and become old or just media?" Of course, the prevailing consensus is that when something new and radically different emerges, new media will eventually pass into obscurity. Superficially, the word new media suggests that at the core of its meaning it is its newness or novelty that interests and excites.

One notable effect of the new media is that it has made it difficult to protect intellectual property rights. According to the World Intellectual Property Organization (WIPO), intellectual property is widely defined as the legal rights that result from intellectual effort in the sectors of industry, science, literature and the arts. In this case, intellectual property right acknowledges the ability of human mind to invent or create something that has never been created or invented by anybody before. It is absolute and central to note that every creation or invention demands a highly intellectual effort to achieve something new, thus, countries have laws to protect intellectual property for two key reasons, according to WIPO. One is to give formal expression to the public's right to access these works of art as well as the moral and financial rights of authors to their works. The second is to actively stimulate creativity as well as its dissemination and application, as well as fair dealing, which would support both economic and social development. Certainly, by allowing them specific, time-limited rights to regulate how those creations are used, intellectual property laws and rights strive to protect the creators and other inventors of intellectual goods and services. Therefore, in accordance with the law, the inventor or creator is granted legal rights or monopoly rights in order to reap the financial rewards of their invention or production. It is for this reason that intellectual property right, being a legal right lays down that a person who is holding such rights can sell it, buy it, lease it, will or rent it, similar to physical property. However, it has to be noted that those rights do not apply to the physical object in which the creation may be embodied but instead to the intellectual creation as such. Broadly, intellectual property

rights are categorized into two dimensions namely; industrial property and copyright. The broad application of the term industrial property was set out in Paris convention of 1883. Various types of industrial property exist, the main types of which include patents for invention, industrial designs, trademarks, geographical indications and trade secrets. In copyright, the following aspects are involved; academic works, musical works, artistic works, audio-visual works and computer programs. Since the paper centers on new media, which involve academic, musical artistic and audio-visual works, copyright is the main focus of the study.

Copyright laws have become an integral aspect in regards to protecting intellectual property rights. It is essential to note that the definition of the word copyright is literally in the word itself; it simply means the right to copy and it describes the legal rights of the owner of intellectual property. Also known as author's rights, copyright refers to a bundle of exclusive rights over an author's or creator's work for a limited but lengthy period of time (IP office of Philippines, 2010). These rights enable the author or the creator to control the economic use of his work in a number of ways and to receive payments. In addition, copyright law also provides moral rights, which protect, among other things, authors' reputation and integrity of the work. Apart from moral rights, other rights, such as the right to make copies, can be exercised by third parties with the author's permission, for example, by a publisher who obtains a license to this effect from the author. According to WIPO (2006), unlike protection for inventions, copyright law and the associated concept of related or neighboring rights protects only the form of expression of ideas, not the ideas themselves. The works protected by copyright are creative with regard to the choice and arrangement of the medium of expression, such as words, musical notes, colors and shapes.

Copyright protects the owner of the exclusive property rights against those who copy or otherwise take and use the particular form in which the original work was expressed. It is possible for authors and creators to create, have rights in and abuse a work remarkably identical to the creation of another author or creator without violating copyright, as long as the work of another author or creator was not

copied. It is possible for authors and creators to independently produce a work that is substantially similar to that of another author or creator and still retain full rights over it, without infringing copyright, provided that no copying of the other work has occurred (WIPO, 2006).

The essential distinction between inventions, literary and artistic works underscores the corresponding differences in the legal protection afforded to each category. Since protection for inventions gives a monopoly right to exploit an idea, such protection is short in duration, usually about twenty years. The fact that the invention is protected must also be made known to the public. This entails making a formal declaration that an exact, completely defined invention belongs to a certain owner for a predetermined period of time. In other words, the protected invention must be disclosed publicly in an official register (WIPO, 2006). By contrast, the legal protection of literary and artistic works under copyright prevents only unauthorized use of the expressions of ideas. This is one reason that the duration of protection for copyright and related rights is much longer than for patents. Copyright law can be, as the case in most countries, simply declaratory, that is to say, the law may state that the author of an original work has the right to prevent other persons from copying or otherwise using the work.

Thus, a created work is regarded as protected as soon as it comes into existence, negating the need for a public registry of copyright-protected works. In terms of creations protected by copyright, the Berne Convention for the Protection of Literary and Artistic Works (Article 2) states that, the term "literary and artistic work" refers to all literary, scientific and creative productions, regardless of the style or form in which they are expressed. The convention further outlines the works that are highlighted as examples. Among others, these include books, pamphlets and other publication lectures, addresses, sermons, dramatic or dramatic-musical works, choreographed works, dumb show entertainments, musical compositions with or without words. They also include films, drawings, paintings, sculptures, engravings and lithographs, photographs, works of applied art, translations, adaptations, arrangements of music, and other alterations of a literary or artistic work, as well as collections

of literary or artistic works, such as encyclopedias.

However, it is central to note that not every aspect of literary and artistic works listed above is protected by copyright. It must be known that copyright law only protects the way ideas or concepts are expressed in a particular work. It does not protect the underlying idea, concept, discovery, method of operation, principle, procedure, process, or system, irrespective of whatever form it takes in the description or embodied in a work. While a concept or method of doing something is not subject to copyright, written instructions or sketches explaining or illustrating the concept or method are protected by copyright (IP office of Philippines, 2010).

Copyright Law and Challenges in the New Media

Copyright law protects the creator who by skill, capital and labour creates an original work. It does so by providing exclusive rights to create and reproduce the work. However, as one of the finest creation of human mind, the advancement in technology towards the concluding decades of the 20th century has opened gates to various possibilities in every aspect, media inclusive. The development of technology has made it possible to duplicate, reproduce, and distribute works in an error-free, affordable, and quick manner, which goes against the objective of copyright law which is to strike a balance between rights of the copyright holders and the general public.

Technology has brought a new wave of communication in which media personnel use digital devices to share information on the internet. It is now incredibly simple to copy, duplicate, and sell the works of copyright holders without their permission because of the digitalization of media, and it might be challenging to catch such infringement. This has posed a great threat to the right of the copyright holders and creators than did the previous episodes of technological advancement. A particularly significant aspect of that challenge is that digital technologies continue to increase the ways in which individuals can consume and enjoy creative works. In the same manner, advances in digital technologies provide copyright owners with growing capacity to either restrict or charge for subsequent uses of their creative works (CBO,

2004). Noteworthy is the fact that, initially, the protection for copyrighted work provided under the primary treaty within the existing international framework was the Berne Convention of 1886. However, primarily, it might not have adequately provided for the protection of internet works. The Berne Convention was developed primarily according to the standards and requirements of the industrialised countries, and has been revised on several occasions since its inception in 1886. Each revision has brought with it expanded coverage and more extensive minimum rights.

Ironically, under the Berne Convention of 1886, it was not made clear whether the interpretations given to these terms would accommodate works accessible online. Then over the years, a separate new right to make works accessible online was required. But it was not possible to do this by amending the Berne Convention itself, for the fact that the Convention requires unanimous approval of any changes. Trade-Related Aspects of Intellectual Property Rights (TRIPS) took over the charge to protect the intellectual property rights globally taking the Berne Convention provision as a base for the protection of the copyright issues. The Berne Convention attempted to merge copyright doctrine in the internet era. The internet has put on their heads some of the traditional concepts. When the first copyright law was passed in 1710, inventions such as the internet and the personal computer, equipped with the technological capabilities could not have been foreseen (Bowrey, 2005). Therefore, these further technological developments over the centuries necessitate the need for stricter measures in protecting people's creative works. In this regard, the law has to be changed to move along with the dynamic landscape of technology. It has to be noted that, initially, copyright had been confined to media like television, radio and book publishing. However, the internet has allowed the mass production of individual works. Many times it is mistaken that copyright law does not apply in the digital world due to the vulnerability of information available on the internet.

The industrial revolution allowed publishers of books and music to make their entry into the scene. The internet being a digital medium of communication has removed the middleman between a writer and their readers, creator and their consumers. The author can put their work

on the internet and the reader can access it directly. If printing press had given birth to publishing industry, the internet, by empowering every writer to be their publisher, has sounded a warning bell of that industry (Seith, 2014). The genesis of copyright law pursues to achieve a twin objective, whereby the authors are awarded for their original creation and public derives the right to receive information. Because the internet has no boundaries, the copyrighted work can be easily infringed online. However, convention and treaties like TRIPS agreement and Convention on Protection of Copyright do not require mandatory registration of copyright to enforce this right in member nation. As long as a country is a signatory to the convention or treaty for copyright protection, if rights are infringed in another country, it can be legally enforced. Many countries have passed legislations to protect copyright and other forms of intellectual property in the cyberspace by adopting the multilateral treaties and conventions to streamline the varying approaches to protect intellectual property rights but others have not paid even little attention to addressing this pertinent aspect (Van Tassel, 2006).

On the internet, apart from conventional infringement of intellectual property, hybrid infringement, such as framing, deep linking, and sale of pirated products poses a high challenge. Many unscrupulous people through the websites offer freeware installations, sell pirated software copies and engage in other literary criminal activities. Not only brand protection is at stake in cyberspace but also copyright protection is at high risk as technology rampantly misused through new methods of unauthorized exploiting copyrights. Despite technological measures and legal framework, combating copyright infringement continues to be a major challenge in cyberspace (Bowrey, 2005). To achieve homogeneity in intellectual property rights is fairly a challenging task because intellectual property laws are territorial in nature and different countries adopt different approaches on requirement of registration, protection of moral rights, terms of protection and other issues. In some countries, performer's right or compilations, databases or business methods may not be adequately protected by the traditional intellectual property right legislations.

Therefore, failures in dealing with the infringement of copyright issues in the digital world, which is a new media platform, has brought far reaching impacts on the copyright holders in many parts of the world, especially in Least Developed Countries (LDCs), including Malawi. As a response to the challenges in protecting intellectual property rights, Malawi developed and enacted a Copyright Act of 2016 and an Intellectual Property policy in 2019 that recognizes the nation's problems with intellectual property and provides a framework for promoting its creation, protection and utilization. However, with the proliferation of modern technologies, it is not yet established as to how the new media has impacted the intellectual property rights in Malawi.

According to statistics, the percentage of people using internet in Malawi has increased from 0.7% in 2005 to 13.78 % in 2017 (Clement, 2020). The Organization for Economic Cooperation and Development (OECD), reports that in most countries, the digital technologies are used mainly for e-mail and searching for information relating to goods or services (OECD Report, 2002). However, there is a shift toward other types of activities, such as making purchases of goods and services, watching movies, downloading and sharing files or listening to the radio using internet through new media. Since these activities involve works covered by intellectual property rules, these new advances in the usage of new media have an impact on the preservation of intellectual property rights, more specifically, copyright. This has brought far reaching impacts on rights holders in Least Developed Countries (LDCs), Malawi inclusive. Efforts such as enactment of various laws have been made to toughen the protection of such rights. However, even with tough laws fully operational and stiff punishment spelt out in that regard, there seem to be an upsurge of cases of copyright infringement in Malawi. It is from this background that this study focused on copyright issues in the new media era: the impact of new media on intellectual property rights in Malawi.

Theoretical Framework

This study was anchored by two theories namely: the Fairness Theory of Copyright and John Locke Theory of property. According to Meindertsma (2014), the premise of the fairness

theory of copyright is that the law should give authors what is deserved of them. This means that creators should maintain control over the products of their labors and that their efforts should be recognized. For instance, exclusive rights provide authors a limited monopoly and the chance to make money off their work. Additional applications of this approach would include stronger protections for factual works as they are not currently covered by copyright and just recompense for contributions to composite works. In general, this theory argues that the law should be crafted to give creators of intellectual property what they deserve. This notion is based on the idea that authors of original works of literature, art and other creative endeavors should either have control over their works or be compensated for their labors. In other words, the law ought to acknowledge and uphold the moral entitlements of creators. Similarly, John Locke's theory to intellectual property suggests that, an owner of a property or a creator has the right to exclude others from interfering with their property or creations. This right is viewed as a right against the entire world, and as such, others are required to uphold it. The right to exclude others is frequently asserted to be the fundamental component of property. When it comes to intellectual property rights, the owner can forbid others from utilizing their creation, and anyone who does so will be undermining the owners' ability to exercise their right in accordance with natural law.

Locke contends that the right to intellectual property may be enforced in a civil society and that the state is in charge of upholding natural law. In the state of nature, he claims, the right to intellectual property becomes a legal right that must be upheld. Worth to note is the fact that these two views are complementary to one another because the fairness theory of copyright is founded on the idea that authors, artists and other producers of original works should have some ownership over their works or be compensated for their labor. In other words, the law ought to acknowledge and uphold the moral entitlements of creators. To put it another way, it would be unfair to deny creators legal protection. Similarly, according to Locke, anyone who works on a piece of land that is owned in common gets a natural right to it. Once a government is established, it is its responsibility to uphold this right.

Methodology

This section presents the methodological framework that was used in conducting the study. It outlines the steps undertaken to design, plan and implement this study.

Study Design

The study involved a descriptive phenomenon design. It employed a mixed research method. This design was opted firstly because the study aimed at finding the trends on the impacts of new media on intellectual property rights and that not much is known about this topic in Malawi. Secondly, the design was used because it is effective in analyzing both quantified and non-quantified data. It describes the distribution of phenomena in a population, thereby establishing facts.

Population and Sampling

Since there is no recorded exact numbers of music and literary artists as well as Intellectual Property consultants in Malawi, the researcher opted for purposive non-probability sampling since the study focused on a small specialized population. Thus, a total of 80 representatives from various media stakeholders were issued with a questionnaire to fill in for the study while interviews were conducted with two participants. Thus, 40 music artists and 40 writers were selected as questionnaire respondents whereas 2 intellectual property consultants were selected for interviews.

Instruments

Data was collected by means of a questionnaire and interviews. The researcher prepared the instruments that were distributed to relevant stakeholders and conducted interviews with intellectual property consultants in Malawi.

Validity and Reliability

In this study, validity was considered in three dimensions. Firstly, content validity was established by aligning the research instruments with the study objectives and theoretical framework, as well as incorporating feedback from subject matter experts in Intellectual Property. Secondly, construct validity was ensured by grounding the design of the instruments in relevant literature and ensuring the questions reflected the key variables of interest. Lastly, face validity was addressed through pretesting, which confirmed that the questions appeared to measure the

intended concepts and were contextually relevant to the Malawian socio-political setting.

Reliability was ensured through the standardization of data collection procedures and the consistent administration of research instruments across all participants, thereby minimizing variability and enhancing the dependability of the findings. The use of qualitative and quantitative data enhanced the reliability of the findings.

Data Analysis Procedure

In analyzing the data, the researcher employed a referential method in which data was analyzed based on the theories explored, in this case Fairness Theory of Copyright and John Locke Theory of Property. Data analysis followed the underscored steps: Identification and classification of the collected data according to particular classifications was done. Selected and classified data was analyzed to identify common patterns within the responses. The identified common patterns within the responses was critically analyzed using the two theories. The analyzed data was discussed and interpreted in order to respond to the research questions and to achieve the research's objectives. Finally, conclusions was drawn.

Ethical Consideration

The researcher promised to protect the rights of the respondents by abiding to the terms and conditions as stated by the constitution. The researcher also assured the respondents that their responses would strictly be used for academic purposes only, and will only use the data collected to find out the impacts of new media on intellectual property rights in Malawi. Additionally, the researcher had an agreement with the respondents that there would be strict confidentiality regarding their identity. This view emphasizes the anonymity of the subjects and integrity of the source of data. Thus, the goal was to ensure that the individual's actual identity would be kept away from publicity. Furthermore, the agreement covered the fact that the name of the institution will be safeguarded, as well as the storage of the data, until the end of the study.

Results and Discussion

This section presents the findings of the study. The discussion has been enhanced by the existing literature.

Registration with the Copyright Society of Malawi (COSOMA)

The respondents were asked whether they are registered with the Copyright Society of Malawi (COSOMA). The results show that out of 28 music artists who were involved in the study, 17 were registered with the Copyright Society of Malawi, representing 60.7% of musicians registered while 11 musicians were not registered with COSOMA, representing 39.3 percent. In terms of writers, of the 32 writers who took part in the study, 10 were registered with COSOMA, representing 31.3% whereas, 22 were not registered with COSOMA. Thus, overall the findings manifest that of the sixty respondents, writers and musicians combined, 27 were registered with the Copyright Society of Malawi, representing 45%. On the other hand, out of the sixty respondents involved in the study, 33 were not registered with the Copyright Society of Malawi, representing 55%. therefore, despite having less musicians who were involved in the study, a large number of them are registered with COSOMA than the writers who have a large representation in terms of the responses. However, the majority of artists are not registered with the Copyright Society of Malawi as evidenced by the percentage of those not registered with COSOMA.

Knowledge of Intellectual Property Rights

Participants were asked if they have knowledge of intellectual property rights. Findings indicate that out of the 28 musicians involved in the study, only 11 are conversant with the intellectual property rights while 17 do not have any knowledge of the intellectual property rights. On the side of writers, out of 32 writers that were involved in this study, 24 indicated that they have knowledge of the intellectual property rights while 6 admitted not to have any knowledge of the intellectual property rights. It can therefore be assumed that writers in Malawi are well conversant with the intellectual property rights than musicians as it has been evidenced by the numbers of writers who have knowledge of the intellectual property rights compared to the number of musicians.

Furthermore, respondents were asked if they have any knowledge of Malawi's intellectual property policy which was launched in May, 2019. It was that of the 28 musicians involved in the study, only 6 were aware of the existence

of the intellectual property policy, representing 21.4% of the musicians involved in the study. Of the 32 writers involved in the study, 14 were aware of the existence of the intellectual property policy, representing 43.8 percent of the writers involved in this research. This again indicates that writers are well represented when it comes to the knowledge of intellectual property policy.

Findings further indicate that for most artists who are aware of and conversant with intellectual property rights and Malawi's intellectual property policy admit that these two have been beneficial to their work. Some of the respondents agreed that the intellectual property rights and the intellectual property policy provide legal defense of their work. They also admitted that intellectual property rights and the intellectual property policy provide them the moral right to protect and safeguard the works of their intellect. However, a group of other respondents stated that despite having the knowledge of intellectual property rights and the policy, these things have never been beneficial to their work. They agreed that the intellectual property policy to some extent is non-existent. They claimed that there is no proper system that checks on the intellectual property rights. They further stated that there are a lot of photocopying and duplicating of materials and the creators of such materials benefit nothing. One respondent claimed that despite being the responsibility of the intellectual property policy and rights to protect online publications, until now, nothing is documented as regards to online publication and that there is no depository of eBooks where International Standard Book Number (ISBN) is given.

Knowledge of Copyright

In the case of copyright, findings indicate that the majority of the respondents had the knowledge of the copyright laws. This is evidenced in the responses from both musicians and writers in which of the 28 musicians involved in the study, 22 were conversant with copyright laws, representing 78.6% of the musicians involved. On the other hand, of the 32 writers involved in the study, 28 had the knowledge of copyright laws, representing 87.5%. This, therefore indicate that most artists especially writers have the knowledge of the copyright laws. Out of 60

participants involved in the study, 50 had the knowledge of copyright laws, representing 83% of the total respondents.

Regardless of their knowledge of copyright laws, most participants in the study were not conversant with the existence of the Malawi's Copyright Act. Out of 28 musicians involved in the study, 10 are aware of the existence of the Copyright Act in Malawi. On the other hand, out of the 32 writers who took part in the study, 17 were conversant with the Act.

Furthermore, respondents were asked if they have an idea of what piracy or copyright infringement is about. findings indicate that a good number of Malawian artists have an idea of what copyright infringement or piracy is about. This has been manifested in the study in which 20 of the 28 musicians responded that they have an idea of what piracy or copyright infringement is about; this represents 71.4% of the total musicians involved. Whereas, in the case of writers, all the 28 writers who admitted to have the knowledge of copyright laws had an idea of what copyright infringement or piracy is about, representing 88 percent of the writers involved in the study. Overall, 48 of the 60 respondents involved in the study had an idea of what copyright infringement or piracy is about.

Knowledge of Pirated Work

Respondents were asked if they have had their work pirated. The gathered data established that a good number of respondents have had their work pirated. This is manifested in the fact that of the 28 musicians involved in the study, 13 admitted to have the knowledge of their work pirated. These musicians stated that the piracy of their music was done through illegal downloading, redistribution, illegal sharing, lyric theft and manipulation of content.

One of the intellectual property consultant admitted that there are WhatsApp groups that are solely created to share copyrighted materials, such songs. However, according to copyright law, sharing of copyrighted materials is an infringement. On the other hand, of the 32 writers involved in the study, 15 acknowledged to have their work pirated. Those who had their work pirated agreed that their work was pirated through illegal copying and translation of publications. For example, one of the respondents claimed that his story was

translated from English to Chichewa and published in an academic anthology, all without his knowledge.

The study found out that most of the artists who had their work pirated did not take any legal action. For instance, out of 13 musicians who had their work pirated, only six reported their case to either COSOMA or police. Out of the 15 writers who acknowledged that their work was pirated, only seven (7) reported their case to the law enforcers. Most artists agreed that they become reluctant to report their cases to responsible authorities because such cases are not taken seriously. Additionally, some musicians stated that they become reluctant to report their cases to COSOMA because the organization is biased in dealing with piracy cases. One respondent said that his song was reproduced by other artists without his consent or the approval of COSOMA; however, COSOMA did not take action against the culprit. In extension, most artists agreed that they do not report their cases to COSOMA because they view it as toothless as it has failed to deal with several obvious cases. Moreover, all the artists who claimed to have reported their work to either COSOMA or police were not satisfied with the outcome of the verdict. One respondent even claimed that he was told to report his case elsewhere as the police of that station were busy with other serious cases. Other artists claim that upon reporting their cases to COSOMA, they have been told to settle their cases with the offenders without their involvement.

The study has also established that copyright infringement or piracy through new media technologies has contributed to the death of creativity and innovation as most artists have abandoned the music industry and ventured into other businesses due to increased piracy in the country. Artists who used to enjoy massive airplay in the country have now stopped composing new songs and some have taken a completely new direction. The study further observed that increased piracy in the country has hindered upcoming artists from establishing themselves into the industry. Most of the people with potential to make it to the top in either literary or music industries have taken a different direction altogether due to increased piracy in Malawi. Thus, because of the copyright infringement, people tend to be less creative since they are not offered what

they deserve. According to the fairness theory of copyright, authors should receive the justice they are due under the law. In other words, authors should maintain ownership of the products of their labors and should be rewarded for their efforts. For instance, having exclusive rights gives creators a small monopoly and the chance to make money off of their work. However, since new media has made it difficult to protect copyrights, most artists are not given the rewards they deserve as such they choose other professions and their artistic creativity declines.

Effects of Copyright Infringement

The study found out that copyright infringement has affected commercial or financial gain of artists in Malawi. For example, the digitization of music and its migration on to the internet, which has a direct bearing effect on copyright, has been one of the biggest economic challenges on artists in Malawi. Copyright infringement interferes with the way copyright holders are supposed to financially benefit from their work. In contrast, the notion behind applying John Locke's theory to intellectual property is that a property owner or creator has the right to stop others from interfering with their assets or works. Contrary to this, new media, which has massively affected intellectual property rights in Malawi, has interfered with the way right holders are to benefit financially.

The study has established that through copyright infringement, artists are getting fewer or no royalties that are to be accumulated from their labour. Furthermore, since copying, sharing and distribution of copyrighted materials has been made easy through the use of new media, sales of Compact Discs (CDs) has declined, depriving artists from enjoying the economic fruits of their labour. This is supported by Maulidi (2018), who stated that the only reliable music distributor in Malawi, O.G. Issa, quit the business after succumbing to the negative impacts of rampant piracy, which made it financially unsustainable to continue operations. This therefore, contradicts John Locke's theory of labor, according to which everyone has a right to the fruits of their own labor. As a result, intellectual property might be seen as the result of someone's mental labor. According to the labour theory, a person has a right to the tangible or intangible

results of their effort. Thus, it can be established that copyright infringement has the impacts on creator's economic gain.

Knowledge of Malawi's Copyright Act

The study sought to understand the knowledge of participants with regards to their knowledge of the country's Copyright Act and Intellectual Property policy. The study established that despite the Malawi government's effort to let people know of their copyright laws through the enactment of the Copyright Act of 2016, which replaced the less effective Act of 1989, most people are not conversant with the Act. This was evidenced through the fact that of the 60 respondents involved in the study, only 23 were conversant of the Act. This therefore, indicates that most people do not know the provisions provided under the Act. Consequently, they do not know how the law protects their work and they are not aware of how they can claim their benefits, such as royalties and remuneration that accrue as a result of their rights.

Conclusion and Recommendation

Based on the findings, the study concludes that despite having a greater proportion of musicians registered with COSOMA compared to writers, the majority of artists overall remain unregistered, limiting their access to formal protection mechanisms. Writers have higher awareness of intellectual property rights and the national intellectual property policy than musicians. However, many artists view the policy as ineffective due to weak enforcement and lack of practical benefits. While most artists in musical and literary industries possess general knowledge of copyright laws and piracy, the awareness of specific provisions of the Malawi Copyright Act remains low. While a significant number of artists have experienced piracy, few report such cases due to perceived bias, inefficiency and lack of seriousness from enforcement agencies. This experience has discouraged creativity and pushed some artists out of the industry.

Copyright infringement has severely undermined the artists' economic gains, reducing royalties and sales, and contradicting the principles of fair reward for creative labour. Despite legislative updates, awareness and understanding of the Act remain limited, leaving many artists unable to fully protect or benefit from their work. However, much as the new media continue to raise novel questions for

copyright, there are positives that new media technologies have brought to the protection of intellectual property rights through legitimate digital markets, which have helped to promote the artists' copyrighted works and make them known and visible.

Based on the study conclusion, the following recommendations are therefore made. Artists should thrive to get registered with the Copyright Society of Malawi (COSOMA) so as to have their work protected under copyright laws. Registration with COSOMA will also allow the artists to have access to the royalties as well as remuneration realized from their work.

The government should thrive to provide more awareness programs to the users and artists on intellectual property rights and copyright laws. Additionally, as Maulidi (2018) suggests, copyright as well as intellectual property courses should be introduced in primary and secondary schools in Malawi so that people start to learn and understand the importance of copyright and respect holders of the rights at a tender age. Relevant stakeholders, such as the police and COSOMA, should take serious actions on the defaulters of copyright laws. Lastly, the Malawi government should promote the establishment of more legitimate digital markets to avoid copyright infringement.

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