

The legal implications of providing information services in PUL in Kenya

Salome Waigumo Mathangani¹ and Japheth Otike²

¹*Department of Information Science, Kenya Methodist University, Nairobi, Kenya*

²*Department of Information Science, Moi University, Eldoret, Kenya*

Abstract

This is a research paper on Public University Libraries (PULs) which are charged with the responsibility of providing the university community with information for the parent institutions' core activities of teaching, learning, study and research. In carrying out this responsibility, PULs have to address issues of law as these relate to the provision of information services. The purpose of this study was to investigate the legal implications of providing information services in public university libraries in Kenya. The study applied the qualitative methodology but also used a limited application of quantitative approach with issues of statistical significance. Basing on a sample of 77 librarians from public universities libraries, data was collected and analyzed using the narrative method. The study established the actual and potential implications of laws that support information (UDHR, CK, FOI, IFLA and WSIS declarations) and those that put limits to information (Copyright law, penal code, Official Secrets Act). Although librarians were knowledgeable and had skills regarding their work, evidence from the study showed that they needed to extend their knowledge and understanding in the area of laws that have implications on the provision of information as a way of enhancing their work. In conclusion the paper notes that there is scope for librarians, using their wealth of knowledge and expertise, to seek interaction with policy makers and make relevant and useful contribution on law and information. These findings are significant in that they give general direction with regard to law and the provision of information services. The research highlights the importance for librarians to create links with policy makers in order to set up a relationship with mutual benefits.

1 Background Information

1.1 University libraries and information services provision

As a constituent part of the university, the university library is charged with the key responsibility of meeting the users' learning, teaching and research needs for information. Universities in Kenya are concerned about the need to ensure quality and relevance of education with regard to national development. In this connection, the university libraries' role in facilitating the core activities of the parent institution is critical to the achievement of the institutions. This places the university library in a focal position where they must provide their users with information that is current and relevant to their needs. In this context the libraries are assisted by the guidelines and stipulations from the International Federation of Library Associations (IFLA) on open and wide access to information.

1.2 Kenya legal framework relevant to the provision of information services in PULs

The following overview is aimed at establishing an understanding of the legal environmental context within which the libraries provide information services. The Kenyan legal system is made up of the Constitution and written laws legislated mainly by Parliament. International laws, protocols and treaties also become part of the country's law once ratified by Parliament.

The Constitution of Kenya

A constitution has been defined as the state's primary source of legal authority (De Smith 1971). The constitution is accorded higher status than all the other laws, and it includes explicit guarantees of the rights and freedoms of the individual in what is referred to as the Bill of Rights. A scholar on constitutionalism defines constitution as "the scheme of organization of public responsibilities which must be performed in any community. It identifies or prescribes the public organs of the community and rests in them particular roles which are to be performed in the interest of the people as a whole" (Ojwang 1990). With regard to information, the Constitution of Kenya (CK) makes provision for information in Chapter four under the Bill of Rights. In Article 33 it is provided the Constitution states that

"Every citizen has the right of expression which includes freedom to seek, receive or impart information or ideas, freedom of artistic creativity, academic freedom and freedom of scientific research." (Government of Kenya 2010)

Further to the function mentioned in Article 33 above, the Constitution gives added significance to the dissemination of information through Article 35 which provides on the citizens' right to information held by the state. According to this Article, every citizen has the right to information held by the state while the state is also required to publish and publicize any important information affecting the nation.

Acts of Parliament

Acts of Parliament are laws that have been passed over time by the successive assemblies. They include laws that were inherited from England at the time that Kenya was a British colony. For example, both the Copyright Act (CAP 130) which is based on the intellectual property and the Official Secrets Act (CAP 187) which uses state security to restrict the dissemination of information have a history that demonstrates this development of inherited laws. Other laws with similar effects on the provision of information are the Penal Code (CAP 63) whose sections 52–54 are on the prohibition of certain publications, and the Defamation Act (CAP 36) which restricts information dissemination on grounds of libel or injury to a person's character. At the time that this research was carried out, Kenya did not have a law on Freedom of Information, but the FOI Bill of 2012 had been through Parliament and was waiting for the necessary assent from the President for it to become law.

International laws

International laws and treaties become part of the country's legal system once they go through the ratification process by Parliament. Relevant examples of such international treaties are those contained in the international legal framework on intellectual property and copyright, namely, the Berne Convention (1886); the Universal Copyright Convention (1952); the

Rome Convention (1961); the WIPO Copyright Treaty (2002); the WIPO Performance and Phonograms Treaty (1996); and the Agreement on Trade Related Aspects of Intellectual Property (1994). International declarations can also be considered under the country's legal system in that while they do not form actual laws, they nevertheless influence the legislation of specific laws. The United Nations Declaration of Human Rights (UDHR), for example, does not have the force of law. However, the provisions of the declaration have been domesticated in the Constitution as part of the Bill of Rights. Article 19 of the Universal Declaration of Human Rights provides that

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." (United Nations and General Assembly 1948)

It can be observed that the above provision and others in the declarations had some influence in the drafting of the rights and freedoms in Chapter four of the Constitution. In particular, the provisions in Article 33 of the Kenya Constitution are closely aligned to the provisions in Article 19 of the UDHR. The key words with regard to provision of information services, namely, seek, receive and impart information are used by the two articles.

Professional bodies have also made declarations that have had an impact on the provision of information services. It is more the work of the International Federation of Library Associations (IFLA) than that of any other organization that has been most specific and directed at stating the role of information in study and research. Of particular note is the IFLA Glasgow Declaration which provided guidance and the general direction in access to the provision of information services.

2 Statement of the problem

The importance of information in most aspects of human life has led to its recognition at very high level as well as global legal recognition. For example, the United Nations has accentuated information as a human right in Article 19 of the Universal Declaration of Human Rights (UDHR), while the Constitution of Kenya (CK) does this under Article 33. The above provisions form a vital background that provides support to libraries and information services. They both give national and international legal backing to information and elevate it to the level of human rights which are taken as entitlements or claims that are due to every person by the virtue of the fact that they are human beings. Despite this elevated status of information, the situation is contradicted by other laws that for various reasons inhibit freedom of information and end up limiting access to information. The laws in question create obstacles and restrictions on information services. The act of denying access to certain types of information is seen as going contrary to the goals of library and information services as summed up by the International Federation of Library Associations (IFLA) in their declaration on full access to information (International Federation of Library Associations and Institutions 2002). A position that contradicts the right to information is, for example, given by the copyright law which governs the use of copyrighted works. Copyright law is founded on the right to property which is strictly protected by law. In essence the application of copyright law inhibits, to some extent, the work of librarians and creates obstacles especially in the area of lending and reproduction of copyrighted works. Similarly, the provisions on prohibited publications under

the Penal Code (CAP 63), and the Official Secrets Act (CAP 187) all restrict and limit access to information and its dissemination, thus affecting the work of librarians in the provision of information services. This study considers as a problem the scenario emanating from these laws that put limits to information and subsequently to the provision of information services.

A further problem is introduced by the capacity required of librarians in as far as having the necessary working expertise and knowledge of law is concerned. In this regard, librarians function in an environment that presents them with challenges that are peculiar and which may end up exposing them to criminal and civil charges. This situation is complicated even further by current developments. For example, by the emergence of e-resources introduce technicalities and complex legal terms and interpretation. Despite these conditions and the uncertainty presented by conflicting laws as presented in the foregoing, librarians are generally not well equipped with the basic expertise and knowledge required to give information services in a society where the application of law is on the increase (Nasri 1987). This lack of expertise and knowledge in an important area affecting their work, means that librarians cannot have any dialogue or discourse with policy makers as a way of resolving issues that may introduce hurdles to their work.

3 Aim of the study

The aim of this study was to investigate the legal implications of providing information services in public university libraries in Kenya.

4 Objectives

The study objectives were to:

1. Identify the laws and declarations in Kenya that support the provision of information services in public university libraries in the country;
2. Identify the laws in Kenya that put limits to the provision of information services in public university libraries in the country;
3. Establish the knowledge of aspects of law required by librarians in public university libraries to enable them provide information services to their clientele.

5 Research questions

1. How does law influence the provision of information services in PUL in Kenya?
2. What are the laws that give support to information and the provision of information services in public university libraries in Kenya?
3. What are the laws that put limits to information and the provision of information services in public university libraries in Kenya?
4. What knowledge of aspects of law do librarians require for the provision of information services in public university libraries in Kenya?

6 Literature review

Various authors and organizations have written on different aspects of law and information. The International Federation of Library Associations (IFLA) has presented a stance that guided this research in interpreting the right to information within the library and access to information. For example, through its committees and personnel, IFLA has consistently taken up the issue of right to information by providing clarification, and raising awareness on access to information and intellectual freedom as constituents of the right, and also pointing out the correlation between the library and intellectual freedom (Sturges 2005; Ristarp and Frederiksen 2000). They have also pointed out that intellectual freedom is an indication of the core responsibility held by librarians. Darch and Underwood (2010) have given a critical appraisal of the Freedom of Information concept, while Kuunifaa (2012) and Mutula (2006) contextualise the concept within Africa and Kenya respectively.

Among the laws that put limits to information, copyright forms an example of a law whose scope has been widely covered by literature. Aspects covered include the need for a balance between the intellectual property rights of authors, and the needs of users (International Federation of Library Associations and Institutions 2002). Writing on the subject, Crews (2001) states that copyright attempts to balance the author's interests with those of the society by granting exclusive rights to the copyright owner. He goes on to say that the rights are however limited through a series of exceptions that serve as opportunities for the public to use copyright protected works without committing copyright infringement. Copyright law in Kenya and the challenges it poses for librarians has been aptly covered by Olaka and Adkins (2010), Otike (2012) and Wasike (2013).

7 Methodology

To carry out this study, the researcher opted for the qualitative method which was considered and selected as the most suitable for the major part of this investigation. A limited use of the quantitative method was applied especially with regard to statistical data.

Study population

At the time of the study, there were seven (7) public university libraries in Kenya based in the respective public universities. The study based its research on these seven public universities libraries, namely: University of Nairobi Library (UoNBI); Kenyatta University Library (KU); Moi University Library (Moi); Jomo Kenyatta University of Agriculture and Technology Library (JKUAT); Egerton University Library (Egerton); Masinde Muliro University Library (M.Muliro); and Maseno University Library (Maseno).

The study's sample population

Using the purposive sampling strategy, the researcher was able to arrive at a sample population of 77 respondents who were in the following four categories: University librarians; Deputy University librarians; Senior university librarians; and Librarians. Table 1 below shows the distribution of the study sample population among the seven public university libraries in the two categories, namely, the administrative level category made up of Senior (Snr) Librarians and Librarians; and the management level category consisting of University Librarians (U.

Table 1: The study's population by university library and level of responsibility

#	Name of Library	Administrative Level (Snr Librarians and Librarians)	Management level (U. L. and D. U. L.)	Total
1	UoNBI	16	3	19
2	KU	11	2	13
3	Moi	12	3	15
4	JKUAT	12	2	14
5	Egerton	6	2	8
6	M. Muliro	2	2	4
7	Maseno	2	2	4
	Total	61	16	77

L.) and Deputy University Librarians (D. U. L.).

The researcher used semi-structured interviews to collect data from respondents. By using semi-structured interviews, the researcher was able to check and clear possible misunderstandings in the research instrument. The method also provided the researcher with the opportunity to observe, probe, follow up, and to have firsthand and personal assessment of the situation.

8 Findings and discussion

(a) Laws that give support to the provision of information services in Public University Libraries

Universal Declaration of Human Rights (UDHR): Article 19

The importance of Article 19 is its capacity to facilitate the rights whose attainment is dependent on information and its access. For this reason, Article 19, on the right to information has been referred to as the bedrock of all the other rights. Regarding the respondents' awareness of the UDHR, the study established that 44 (81.5%) respondents were aware of the Universal Declaration of Human Rights' Article 19. The remaining 10 (18.5%) respondents reported that they were not aware of Article 19. It was further found that media played the highest role of informing respondents about UDHR Article 19. Twenty-two (45%) respondents learned about Article 19 from the media, while 11 (22%) of them knew about it from fellow colleagues, nine (19%) respondents learned about the Article from a seminar/workshop, while seven (14%) respondents learned about the Article from other sources which included a Library Information Science (LIS) academic course.

On the significance of Article 19 in the provision of information services, the study established a number of facts as shown below.

The responses received indicated that UDHR argued the case for non-discrimination, equality, fairness in the library providing access to all, but each library had to interpret this in the context of its budgetary provision and limit access accordingly. A respondent referred to the above in the following words:

"Our library recognizes information as a basic requirement that should be made available to all. Accordingly we provide information services widely and try to go beyond the immediate university community to serve researchers and scholars outside the university. We also donate books and other university materials to schools around the university. Within the university, the library has designed special services for disadvantaged users and has implemented a system to serve the blind users. Unfortunately our services are, however, restricted by the availability of resources."

Other responses referred to the support and encouragement that the Article provided to the libraries in the provision of information services. A respondent saw the UDHR as presenting an opportunity for the library to be accorded better treatment, for example, in budgetary allocation. He thought that the critical role of information as articulated by the UDHR was important for the library and it could be used as a base for an advocacy that presented the case to university management and the government for the better recognition of information within learning and beyond. He put this in the following terms:

"The inclusion of Article 19 on information in the UDHR is an important fact of recognition for libraries. It is an illustration of the critical contribution of information to research and learning, and to other aspects of human life. University libraries can use the Article to argue for a better appreciation of its contribution to the core activities of the institution, namely, learning, teaching and research. It can be used to advocate for increased financial allocation from the university."

Another respondent highlighted the universal nature of the UDHR. According to him this showed that information and information services had wide international appeal. This implied further support for libraries and information services in the country since Kenya had an obligation to also adopt what was in practice in other countries. He put his observation in the following words:

"It is a positive sign that UDHR Article 19 is internationally recognized. Kenya is a member of the United Nations and the Government and other institutions including universities need to adopt what others in the international community have endorsed."

Constitution of Kenya: Article 33

Among the rights recognized by the Constitution of Kenya is the right to information through Article 33 of the Constitution. The researcher wanted to find out the PUL's awareness of the Article. According to the responses 38 (70%) of the respondents were aware of the CK's provision on information under Article 33. The remaining 16 (30%) respondents were not aware of this provision. It was further established that 17 (40%) respondents of those who claimed to be familiar with the Constitution of Kenya Article 33 had heard about it from the media, while information from colleagues accounted for 13 (31%) of the respondents. Only 4 (10%) of the respondents learned about the Constitution of Kenya Article 33 in seminars or workshops, while 8 (19%) learned about it from other sources.

Respondents had various views regarding the significance of the Constitution of Kenya Article 33 in the provision of information services. One of the respondents interpreted Article 33 as introducing a benefit for the library and said as follows:

"Article 33 provides further high level acknowledgment of libraries and their work. It is crucial for libraries to seize the opportunity availed by the Article and use it in their strategies to convince their sponsors to allocate more financial support for the procuring, organization and dissemination activities which the Constitution recognizes and supports."

A respondent presented an interesting view of Article 33 implying that research and scholarship were processes that were essential for the country's development. According to her, information gains further prominence this way because of its central role in these two processes. Her statement went as follows:

"The article is also a reflection of the importance and recognition attached to research and scholarship. Since information is a key element in research, it acquires added value through its contribution to the two activities. Library's work of providing information for study and research makes it stand out as national output in the development process."

Another respondent had a perspective that acknowledged that the Constitution expected librarians to deliver on the aspects identified by the Article. His view was reflective of the assumption that the implementation of a right has a side that has requirements and related obligations which librarians had to first interpret and then implement. He commented as follows:

"The Constitution recognizes and provides support for librarians and their work of providing information services. I think it also presents them with the challenge of interpreting this and designing practical ways of implementation."

Freedom of Information (FOI)

At the time that this research was carried out, Kenya did not have a Freedom of Information Act. However, a Freedom of Information Bill had gone through Parliament and was waiting for the President to give his assent. On FOI's familiarity among the respondents, the study found out that 44 (82%) respondents were familiar with the Freedom of Information concept while the remaining 10 (19%) said they were not familiar with the FOI concept. Further findings revealed that among the respondents who indicated that the FOI concept was familiar, 18 (37%) of them learned about the concept from the media, 11 (23%) of the respondents learned about the concept from both colleagues and seminar/workshop, while 10 (20%) of the respondents learned from seminars/workshops respectively. Two (4%) respondents and 8 (16%) respondents respectively learned about FOI from conferences, and other sources, as for example LIS training.

International Federation of Library Association (IFLA)

The International Federation of Library Association (IFLA) has a well-known stand on access to information using Article 19 of the Universal Declaration of Human Rights as the rationale

for this. Working with library associations IFLA argues for widest access to information and has specifically linked it to intellectual freedom, a fact that should be of keen interest for academic libraries. The researcher asked respondents how they implemented IFLA's declaration on wide access to information, and obtained the following insights: according to one respondent, the library's facilitated access by applying standardized methods of retrieval; another respondent referred first to the access they provided to the university community, and also extended this to others. Finally, initiatives introduced through ICTs, namely the use of e-resources, and the implementation of Institutional Repositories (I.R.) were cited by a respondent as the libraries' new approach to increasing access to information.

World Summit on Information Society (WSIS) Declaration

The World Summit on Information Society was an international initiative sponsored by the United Nations in form of conferences held in Geneva in 2003 and in Tunis in 2005 (International Telecommunication Union 2005). The Summit envisaged an environment allowing for the creating, accessing, and utilization and sharing of information, thus enabling the individual and wider society to achieve their full potential in promoting development and improving the quality of life. When asked how in their view, PUL's information services contributed to the development anticipated by the WSIS, respondents gave the following views: the library had a catalytic role of providing information to researchers who in turn used the information to produce results that were directly applied to development projects; the library played a key role in the implementation and use of ICTs which was itself a major focus of WSIS; cooperation and collaboration among institutions as recommended by WSIS, was a wide practice among libraries. The respondent mentioned that his library had always collaborated with other libraries and gave an example of interlibrary loans. This had now been formalized through Kenya Library Information Services Consortium (KLISC).

(b) Laws that limit access to information and the provision of information services

The Copyright Act 130 of 2014

The Copyright Act of Kenya (CAP 130 of 2014) regulates copyright and other related rights in the country. According to the study's findings a big majority of the respondents at 51 (94.4%) were aware of the Copyright Act (CAP 130 of 2014) and only three (5.6%) respondents were not aware of Kenya's Copyright Act. Respondents' answers on the source of their knowledge on copyright reinforced the thinking that copyright was of great concern to librarians and that there had been some organized effort to provide them with information on the Copyright Act. The data received revealed that 24 (47%) of the respondents had heard about the Copyright Act from a seminar/workshop, while 7 (14%) of them learned about the Act from colleagues, with 8 (16%) of the respondents and 12 (23%) learning about the Act from the media and other sources respectively.

A respondent provided more detail on how she learned about copyright and said as follows:

"I read about copyright in a feature article in the newspaper. Although the article was detailed, it was not written with the librarian or information user in mind. It was more focused on the publishing business and spoke more on the economic rights of authors and their infringement by users including libraries. In these circumstances, I'm not clear how to respond to such a situation and I do not know

of an existing library policy on this. I have also not heard of the University's stand on this."

Another respondent who heard about copyright from her colleagues spoke about this in a way that illustrated a concern over infringement and the consequences this had for librarians. Regarding the manner in which copyright law put limits to information, and the implications that this had for the information services, responses received touched on the following: a confirmation that copyright law limits information access, the need to allow the library to reproduce copyrighted materials for noncommercial purposes including research and teaching, copyright owners to be compensated for their work, library staff were fearful about the implications of infringement, and the university's responsibility on copyright.

The following is a sample of the responses:

"It would be extremely difficult for an academic library to offer information services without some form of reproduction service like photocopying especially given the environment where students and even lecturers rarely buy books";

"University terms of service for library staff do not include any statement or cover for the infringement of copyright by librarians in the course of their work. Yet this is clearly possible. If infringement occurs, leading to a fine or jail term, I do not think staff have any cover as there is no policy regarding this."

The Kenya Penal Code (CAP 63) Sections 52 to 54: prohibited publications

In the above Code, Section 52 gives the Minister power to prohibit the importation of any publication and also to declare any publication a prohibited publication in the interests of public order, health or morals, and the country's security. A person committing an offence against the provision may be sentenced to imprisonment for a period of three years. The study noted that the prohibition of publications was a limit to the principle of open access to information which forms the base for library work. According to respondents, some of the effects of prohibited publications on the provision of information services by PULs included its close association with censorship; there was skepticism on the genuine implementation of the prohibition; the prohibition presented risks for library staff; it interfered with the principles of freedom of access to information as provided by the right to information and protected by the Constitution; and it was contrary to the librarians' professional ethics and principles.

A respondent gave a graphic view and said that

"Librarians' operations revolve around the activities identified in the provision, namely, the importation and distribution of publications through dissemination of information. They also work with a huge number of publications and information materials and it would be difficult to ascertain whether any of these materials may contain prohibited elements. The provision places a lot of unnecessary risk on librarians who have neither policy nor guidelines to go by."

Official Secrets Acts (CAP 187)

The above Act is based on state security which is defined as the requirement of a country to maintain the survival of the state through the strategic use of economic and political, and diplomacy, among others (Open Society Foundations, 2013). Basing on this definition, Kenya's Official Secrets Act (CAP187) regulates access to information on the grounds of state security.

The relevant provision of the Act says as follows:

"Any person who obtains, collects records or communicates any article, document or information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power or disaffected person shall be guilty of an offence." (CAP 187, Sec 3 (1) (c))

In the study, responses indicated that 31 (57%) of the respondents were aware of the existence of the Official Secrets Act. The remaining 23 respondents (43%) were not aware of the Act. Comments on the effects of the Act on the provision on library services brought out the fact of seemingly close association between the Act's provision and the operations carried out in the library. According to him the words used in the provision were an indication of the extent to which the work of librarians' put them in the limelight with regard to the provisions. The Act's provision was summarized by a respondent as conflicting with the right to information and its access, thus effectively negating the concept of intellectual freedom as excised in the university.

The following were this respondent's remarks:

"The library and the university's work flourishes on information to which both the scholars and researchers must have uninterrupted access. Regardless of the Government's justification of the provision, it puts barriers to information and so it becomes a handicap to the scholarly pursuit for research and generation of knowledge."

9 Library staff and training in legal aspects of information

The researcher wanted to obtain information on how the training of librarians assisted in preparing them to deal with issues of law. Respondents' views on training indicated that on the whole, staff in public university libraries were trained in a wide range of areas with the aim of supporting the libraries' objectives. This covered the following core areas: technical functions; user services; management of libraries; data management; and Internet and digital resources. The training had been carried out through academic LIS programs as well as workshops that addressed the issue of continuous professional development. However, respondents were of the opinion that existing modes of training tended to downplay aspects of law and ended up omitting them altogether or leaving gaps. As a consequence, learners were left without the understanding and confidence necessary for making decisions on matters of law and information, or advising library users on the same. This sidelining of aspects of law in the curriculum resulted to respondents either having no awareness of the existing of such courses, or concluding that such a course was not a priority and would add no value to their work. Respondents noted that training workshops addressed issues of licensing and negotiation skills adequately. This notwithstanding, they made the observation that

such training did not take the existing local conditions into consideration. They noted that such facts as the publishing industry, for example, not being fully developed, and Kenyans not having a culture of buying books had implications that should be addressed and fully understood. These views resonate with what has been referred to as relevant training which rightly takes into account cultural values and norms. Against the above general background, respondents were specifically asked whether they had received any training related to issues of law and information.

On training acquired on legal aspects of information responses showed that 31 (57%) of the respondents had had training on legal aspects that related to information, while 23 (43%) of the respondents had not received such training. The study established a sequential rating of the areas of training that had taken place as follows: copyright and intellectual property (54%), information censorship (41%), licensing (22%), legal provisions and ICT (15%). Most of the respondents 18, (49%) trained through seminars/workshop, 14 (38%) respondents received training from a LIS academic course, 3 (8%) respondents trained online, while 2 (5%) respondents received training through other non-mentioned methods.

Respondents gave comments on the programs offered in the area of law and information as follows:

"The course was useful in introducing students to legal aspects of information. Areas of intellectual property, copyright, right to information, and Freedom of Information (FOI) were adequately covered. It was interesting that one or two colleagues went on to study Law after their degree in Library Information Science.";

"The unit on Law and Information was an interesting addition to the usual Library and Records Management coverage. It helped in introducing students to the emerging reality in the information world.";

"The course was interesting and informative. However, it did not fully prepare one for the intricate detail involving, for example, the acquisition of e-resources."

10 International Network for the Availability of Scientific Publications (INASP)

The International Network for the Availability of Scientific Publications (INASP) has worked in Kenya for a period of about twenty years. Part of their mandate involves working with international publishers to ensure researchers have affordable access to the latest scholarly literature in their discipline, and supporting library consortia to negotiate successfully with publishers for the purchase of journals and books (Powell, Farrow, and Burnett 2014). Discussions with INASP personnel revealed that they applied the Continuous Professional Development (CPD) approach to mount training workshops. Information from INASP gave the outline for a training workshop on licensing and negotiation skills for librarians covering four broad areas, namely: introduction; parties to the agreement; licensing principles; and license Models. The respondent further said that the organization offered training as part of a Library Development component which:

"aims to a) help equip librarians with appropriate skills to support scholarly research and communication, recognizing that the changing environment demands constant re-skilling of staff, and b) help librarians develop the infrastructure to enable them to deliver sustainable services in the digital library environment and provide integrated management of digital resources, the goal of which is to support research, teaching and scholarly communication."

11 Conclusions

A universal understanding of law is that it has the capacity to provide facilitation and support on the one hand, while creating restrictions and limitations on the other. This is clearly manifested in the manner that law applies in the area of information and the implications that emanate from this application. This outcome presents two challenges to the public university libraries. An initial and important challenge for public universities is to identify those aspects of the law with the potential of adding benefit to their core responsibility of providing information services to the university community, and thereafter to design ways of appropriating this potential. The second challenge is similarly important and will require the libraries to establish the areas in which law has a prohibitive effect on the provision of information services. The provisions in question and their implications are not necessarily simple or clear. Libraries in other parts of the world have worked in collaboration with others to address, for example, the effects of copyright on access to information. In the United States lobbying and seeking of clarification by libraries led to the inclusion of section 108 of their Copyright Law as a way of providing more legal support for libraries and their interlibrary loan services.

The above considerations suggest new added knowledge to get the capacity required by the librarians to effectively address the issues raised by legal aspects of law and their implications for the provision of information services. It was noted that the training institutions have initiated programs that incorporate the legal aspects of information within their curriculum. This is a positive step that puts the profession at par with others in the training initiatives elsewhere in the world. Secondly, librarians have an advantage in that their work is knowledge based which positions them at a vantage point where they will be able to acquire the needed skills and understanding. What would appear to be lacking is the dynamism through which training institutions collaborate with other stakeholders to for example formulate guidelines, organize forums like seminars and conferences through which some of the knowledge required will be created. Currently, the skills gap introduced by the new developments and the demands they put on PULs has been filled by the International Network for the Availability of Scientific Publications (INASP). INASP has worked through the Kenya Libraries and Information Services Consortium (KLISC) to acquire e-resources for the libraries that are members of the consortium. This has set up a good foundation for further follow up.

12 Recommendations

Recommendations for the Government

The study noted that the above law was inherited from the England's Copyright Law. It was also established that since then the law in England has gone through major reviews

that attempt to address the contemporary an emerging issues introduced by ICTs and the digitization of information resources. This study recommends a review of the above Act in line with developments elsewhere in the world. Examples of the issues to be the focus of the suggested review include the use of definitions that are clearer, aspects of electronic resources, and the representation of librarians in the Copyright Board.

The study noted that at the time the study was done, Kenya had not passed the FOI law although the Bill was in place and has been in line to receive accent from the President. This study recommends that based on the benefits of FOI as well as the universal global practice, Kenya completes the legislation process that will put the country at par with the other nations in the world. Given their knowledge and skills in the management and organization of information, librarians should play a role in the implementation of the FOI law once legislated.

Recommendations for librarians

According to this study, although there was a link between the Government and the PULs through the laws that touched on information, there was no reciprocating action, dialogue or feedback. This one sided relationship leads to a negative impact through the loss of the benefits and variety that would be achieved through a better balanced discourse among the parties. This study therefore recommends that librarians seize the opportunities available to get in touch with policy makers and make relevant suggestions and proposals using their wealth of knowledge and expertise in information.

The findings from the study also established that librarians in the PULs were fully aware of and well acquitted with their own role and that of information in the core business of their universities. Over and above this, librarians need to get a keen awareness and an acknowledgement of the elevated status accorded to information by law. This will provide a platform upon which to base an enhanced philosophy of information that will bolster and strengthen their rationale and strategy as they advocate and lobby for better recognition and increased resources to provide support for information services.

Librarians will also need to be well versed with the limiting laws and their effects. For example, it will be necessary to have knowledge of the extent to which such laws put limits and how these limits can be addressed by the library. In other words, how far do these laws erode the scope allowed by the UDHR and the Constitution, for example, and is there any leeway through which the library can circumvent their effects without necessarily breaking the law?

This study thus recommends that librarians in the PULs seek to acquire a purposeful, well planned and focused understanding of legal provisions that both support and limit information and its service provision. This can be done through attending academic courses, and seminars/workshops organized under the auspices of Continuous Professional development (CPD).

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