



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**INVESTIGATION INTO NEWSPAPERS' ADHERENCE TO COPYRIGHT REGULATIONS  
IN NAMIBIA**

BY

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***Declaration***

I, David Adefore Adetona hereby declare that the work contained in the thesis, entitled: Investigation into Newspapers' adherence to copyright regulations in Namibia is my own original work and that I have not previously in its entirety or in part submitted it at any university or other higher education institution for the award of a degree.

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## **Abstract**

This study sought to investigate how Namibian newspapers are adhering to copyright laws and regulations, especially in the era of media convergence. It also investigated how selected mainstream media organisations are either empowered or disempowered by the current copyright regulations, which were passed in 1994. It also assessed whether the current copyright laws used in Namibia made provisions for the use of open copyright licensing like Creative Commons. This study used a qualitative research methodology, consisting of document analysis and in-depth interviews. In order to collect primary data, interviews were conducted with journalists and editors from three media organisations in Windhoek, Namibia. These were *The Namibian*, *New Era*, and *Economist*. These media organisations were purposively sampled. According to the study, the majority of interviewees at *The Namibian*, *New Era*, and *Economist* newspapers follow the copyright regulations enshrined in the Copyright and Neighboring Rights Protection Act 6 of 1994. However, despite their religious adherence to the Act, most of the respondents explained that the legislative framework was now outdated and applied in the digital age, where content creation, distribution, and consumption are driven by multi-platforms. In the context of media convergence, respondents indicated that their content is often plagiarized by content vultures, which are dotted across the globe. They also observed that there are no safeguards in the current law to protect them from copyright transgressors.

It was also revealed that most editors and journalists are aware of copyright regulations and their importance in publishing or unpublishing editions of news, articles, or information dissemination. It was also found that newspapers in Namibia follow copyright regulations with regards to attribution and referencing materials sourced from online and archival sources. The findings also demonstrated that the three media organizations recognized the importance of progressive copyright regulations. It was also found that editors and journalists are making efforts toward copyright regulations' provisions for open access copyright licensing or fair use dealing exceptions like creative commons. The study found that attribution is compulsory when journalists and editors use or reuse copyrighted works with the provision of creative commons or fair use dealing exceptions. Conversely, the study revealed that the majority of the newspaper institutions, editors, or journalists are less aware of the International Copyright Act or treaties such as the Berne Convention, WIPO's Copyright Treaty (WCT), WIPO's Performances and Phonograms Treaty (WPPT), and Trade-Related Aspects of Intellectual Property Rights (TRIPS).

In light of the above, the study recommends the following practical interventions: The government of Namibia must urgently reform or amend the outdated Copyright and Neighbouring Rights Protection Act 6 of 1994. BIPA, which is the implementing and enforcing agency of the copyright law, must engage in strategic public awareness campaigns targeting media houses in Namibia. It is essential that workshops, information sharing sessions, and seminars be organised by the Ministry of Justice (MoJ), Ministry of Information and Communication Technology (MICT), Editors' Forum of Namibia (EFN), or Office of the Media Ombudsman targeting editors and journalists so that these stakeholders are made aware of their rights and responsibilities. This may lead to a reduction in copyright infringements. The Editors' Forum of Namibia (EFN), the Media Practitioners Union of Namibia (MPUN) and the Office of the Media Ombudsman must organise refresher courses for editors and journalists on emerging issues related to copyright regulation in the digital age. An oversight mechanism must be set up by the Office of the Media Ombudsman for appeal and arbitration in the event of ethical transgressions related to copyrights in the digital age.

**Dedication**

This research is dedicated to God Almighty, who generously gave me the wisdom, strength, health, and finance to successfully accomplish this research. In addition, I also want to dedicate this research to my supportive family and to everyone that participated in the accomplishment of this project.

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## CHAPTER 1

### INTRODUCTION TO THE STUDY

#### 1. Introduction

This chapter introduces the whole study; general statement of the problem, research question, explanation of why the topic is important, and the research approach of the study. It is divided into eight separate sections. The chapter begins by summarising the research context and background that framed the study. The second section that follows explores the theoretical framework guiding the study. The third section provides the rationale and significance for undertaking such research in Namibia, as well as providing the statement and justification of the research problem. The fourth section covers the goals of the study and research questions. The fifth section explores the methodological route adopted and the methods used for this study. The seventh section outlines the general overview of the overall structure of this thesis. The final section concludes this chapter.

#### 1.1 Background

The rights of creators over their literary and artistic works are defined as copyright (World Intellectual Property Organization (WIPO), 2014). It could be viewed as a set of exclusive rights for a creator to reproduce, prepare derivative works, distribute, perform, display, sell, lend, or rent their creations (WIPO, 2014). Fordham (2010) argues that copyright law can legally protect newspaper publishers' copyrighted content from unauthorized copying and distribution by digital technologies like news aggregators. Existing research has looked at how newspapers may adopt a fair use defense to prevent news aggregators from using newspapers' copyrighted content without authorization or a license (Fordham, 2010). Bomsel and Ranaivoson (2009) argue that copyright enforcement based upon legal deterrence is to stop the loss of economic value of copyrighted works from theft, infringement, and piracy. Sun (2005) states that adherence is when media organisations operate within a set of legal frameworks put in place to regulate issues related to copyright. This is important because copyright protection is now considered to be one of the most important means of regulating the international flow of ideas and knowledge-based products. In light of the above, the protection of exclusive rights of publishers or authors is necessary for the functioning of newspaper companies and to encourage innovation or creativity in published and unpublished editions by journalists and editors that develop or produce original news, articles, or pictures for the print media companies. As such, the copyright

regulations or license give the owner of a copyrighted work the exclusive right to control the reproduction of copyrighted works (WIPO, 2014). In the context of media convergence and digitisation, there is a need to raise the level of awareness and copyright regulations in order to discourage the public, journalists, editors, and print media companies from using, reusing, sharing, copying, reproducing, distributing, broadcasting, accessing, publishing, modifying, displaying, or using for profit without permission the copyrighted works such as news, articles, advertisements, or pictures produced or published by print media institutions in the new digital revolution era (WIPO, 2014). The protection and promotion of copyright in Namibia is administered in terms of the Copyright and Neighbouring Rights Protection Act 6 of 1994 (*New Era*, 2019).

There are two types of rights under copyright licenses in Namibia, namely moral rights, which protect the non-economic interests of the author, and economic rights, which allow the rights owner to derive financial reward from the use of their works by others (Kaundu, 2019). Copyright protection and regulation are vital for the development and promotion of the creative industry, which consists of original creative works from local communities (Kaundu, 2019). Schüllenbach (2019) presents a different but complementary point of view, with the fact that the landscape of the creative industry has evolved and advanced significantly, propelled by the digital era, thus introducing opportunities and challenges which were not anticipated in the current Namibia's Copyright and Neighbouring Rights Protection Act 6 of 1994. Schüllenbach (2019) states that following preliminary engagements held with various copyright stakeholders, several omissions and gaps in the current copyright act were identified: empowerment of law enforcement agencies; issue of applied art, technology, audio-visual works, use of images; treaties; publishing review of fines; exceptions, limitations, resale rights and private copy levy.

Schüllenbach (2019) observes that the current legal landscape of copyright regulation in Namibia is limited in its response to the existing dynamics of the creative industry, particularly with regard to the current digital era, which is accompanied by new technologies that reproduce and distribute creative expressions. Furthermore, Schüllenbach (2019) suggests that there is a need to review the current copyright legal framework. This is seen as instrumental in the development and promotion of the creative industry as a key driver in a knowledge-based economy. It is perhaps important to highlight that Namibia's Copyright and Neighbouring Rights Protection Act 6 of 1994 was enacted on April 14, 1994, after it repealed the Copyright Act of 1965 (Hamunyela, 2012). The Act has been under review since

2001 to accommodate some of the current changes in the evolving digital ecosystem as well as the requirements of the WIPO Copyright Treaty (WCT) of 1996 (Hamunyela, 2012).

## **1.2 Statement of the problem**

Copyright law is gaining prominence globally in recent times because of rapid developments in technology in the information space (Kretschmer, 2012). This has facilitated communication while also allowing for the copying and rapid dissemination of copyrighted works that are not constrained by time, space, or national boundaries (Adams, 2018). In view of this, copyright owners lose control over their works, and the situation therefore calls for an orderly and responsive international regime of copyright protection to address the situation (Leaffer, 1990). Bomsel and Ranaivoson (2009) suggest that copyright enforcement based upon legal deterrence is meant to stop the loss of economic value of copyrighted works from theft, infringement, and piracy. Given the increased cases of ethical and legal violations related to copyright infringements, plagiarism, theft, and reuse of published material online or offline, this particular study focuses on this issue within the Namibian context. It is therefore prudent at no other time than now to investigate how newspapers are adhering to and enforcing copyright regulations or laws and ascertain the level of impact on creators (Pavlik, 2008).

In fact, digitisation of content has facilitated the easiest way of accessing, using, reusing, sharing and reproducing published content online. It has made it easier for content vultures to transgress copyright regulations as stipulated in domestic, regional, and international instruments. Adhikari and Amarpuri (2017) posit that copyright regulation is concerned with the ethical use of news, pictures, and videos produced by newspaper companies to prevent negative newspaper content being stolen and reproduced by fake sites online. They further note that the copyright regulation gives the authority and legal consent to use, reproduce, and distribute the work (Adhikari & Amarpuri, 2017). Copyright regulations allow the creative work owner, such as a publisher or author, to permit the use or return of creative works developed or produced legally, either in the form of print or digitised form (Adhikari and Amarpuri, 2017). In this regard, media organisations often use copyright regulations in order to ring-fence themselves against identity theft, fraud, and plagiarism (Cassim, 2017).

Taking into consideration Adhikari and Amarpuri (2017)'s remark that internet and use of online and offline modes of publishing news, pictures and advertisements produced by newspaper companies have an added copyright dimension (Adhikari & Amarpuri, 2017). Thus, research and systematic analysis are needed to ascertain how newspapers are adhering to and enforcing copyright regulations in the digital age. Such research is lacking in the print media context, partly because of a lack of familiarity with the

copyright act and international treaties (Adhikari & Amarpuri, 2017). Yet, amidst all the reported ethical and legal transgressions, much of the literature surrounding copyright regulations is written from a Western perspective, which disregards views from Africa and the global South. This study, therefore, endeavours to provide a thick description of how Namibian newspapers are adhering to copyright laws and regulations, especially in the era of media convergence and digitisation. The significance of this study lies in its attempt to contribute to Namibia's perspectives on newspapers' copyright regulations in the digital age. This study also attempts to assess whether the current copyright regulations and instruments used in Namibia make provisions for the use of creative commons. It is also to ascertain how copyright regulations are (dis)empowering editors or journalists, especially in the era of platformisation and media convergence.

### **1.3 Objectives of the study and research questions**

The main goal of the research is to broadly examine how *The Namibian*, *New Era* and *Economist* in Namibia are adhering and enforcing copyright regulations or laws in the digital age. The main objectives are as follows:

- To analyze the various copyright laws and regulations governing the operations of newspapers in post-independence Namibia.
- To assess whether the current copyright laws used in Namibia makes provisions for use of open copyright licensing like creative commons.
- To ascertain how copyright regulations are (dis)empowering editors or journalists especially in the era of media convergence.

### **1.4 Delimitation of the study**

It is worth noting that this research did not investigate other works such as artistic, literary, musical, or cinematographic films, sound recordings, broadcasts, programme-carrying signals, and computer programs protected by the Namibian Copyright and Neighboring Rights Protection Act of 1994 (section 2 (1)). It did not focus on copyright like patents and trademarks, which is a form of intangible property. Rather, the study focused on newspaper copyright regulations, infringements, and violations in Namibia. It investigated how Namibian newspapers are adhering to copyright laws and regulations, especially in the era of platformisation and media convergence.

## **1.5 Context of the study**

This study sought to investigate how Namibian newspapers are adhering to copyright laws and regulations, especially in the era of media convergence. In fact, it aimed to investigate how editors and journalists in Namibia are adhering to copyright regulations. These newspapers were specifically selected. As Kasote (2014) observes, digital media technologies have brought about a wave of change for *The Namibian*, *New Era*, and *Economist* in Namibia as they have managed to increase their sales and circulation of print newspapers, partly due to the power of social media and their websites to attract readers to the hard copy. Nunuhe (2014) writes that the *New Era* newspaper took an initiative in 2014 and launched its e-newspaper, which grants subscribers access to the digital archive dating back to the first copy of the *New Era* newspaper more than 20 years ago (Nunuhe, 2014). *The Namibian* is a predominantly commercial newspaper owned by the Namibia Media Trust. The *New Era* and the *Namibian* newspapers are creatively appropriating new media technologies to enhance their news production and distribution practices (Remmert, 2019). *The Economist* is an online newspaper covering mainly economic topics. It was exclusively the first English-language publication in 1996, when it appeared as a printed weekly newspaper every Friday with a print run of 7000 copies. These case studies allowed me to get thick descriptions and an insider's perspective on how Namibian newspapers are adhering to copyright laws and regulations..

## **1.6 Limitations of the study**

This study did not involve all the journalists and editors in Namibia. Instead, the study drew its sample from three Namibian newspapers: *The Namibian*, *New Era*, and *Economist*. Because of the limited sample of interviewees, it is difficult to generalise the findings of this particular study. Some of the respondents refused to be interviewed because of their limited knowledge of or familiarity with the copyright act in Namibia. This meant, in the end, the researcher relied on convenience sampling.

## **1.7 Definition of key terms**

### **Copyright**

Copyright is a legal means of protecting creative works by an author or publisher. It is a type of intellectual property right that provides exclusive publication, distribution, and usage rights for the

author or publisher. In other words, copyright is a form of Intellectual Property (IP) law that protects the rights of the creator or owner of original expressive works since it involves the creation of such works through the mind. "Copyright" is a legal term used to describe the rights of creators over their literary and artistic works (WIPO, 2014).

### **Adherence**

Adherence is defined as conformity in fulfilling or following official, recognized, institutional requirements, guidelines, recommendations, protocols, pathways, and related standards. It is to stick, to remain loyal, to have fidelity or compliance in doing what is required by a law, rule, or regulation. Adherence means, once again, faithfully continuing in actions for the implementation, application, or putting into practice of the requirements of laws, regulations, guidelines, or codes of ethics.

### **Intellectual Property Rights**

It refers to a number of distinct types of creations from the mind for which exclusive rights are recognized. These rights are granted to creators and inventors such as editor, journalist or publisher to regulate the use of their works, services or products. Intellectual Property is divided into two categories: Industrial property, which includes inventions, patents, trademarks, industrial designs and physical indications of source.

### **Open Access**

Open access refers to the immediate free online availability of newspaper publications such as articles, journals, news stories, or research outputs without the restrictions posed by publishers, authors, or creators to keep the information or creative work hidden behind subscription records and databases (Suber, 2012). In short, open access means that a publication, information, or document can be freely accessed by anyone in the world and is free of most copyright and licensing restrictions (Suber, 2012).

### **Newspaper**

A newspaper is a periodical publication containing written information about current events and is often typed in black ink with a white or gray background. Newspapers can cover a wide variety of fields such as politics, business, sports, and art, and often include materials such as opinion columns, weather forecasts, reviews of local services, obituaries, birth notices, crosswords, editorial cartoons, comic strips,



and advice columns (Newspaper, 2021). Newspapers are like most businesses, and they pay their expenses with a mixture of subscription revenue, newsstand sales, and advertising revenue (Newspaper, 2021). Although this study uses the term "newspapers", it acknowledges that these cultural products now exist as hybrid genres. Newspapers are available in both hard copy and digital format.

### **1.8 Structure of the thesis**

The thesis is organised into five chapters. The first chapter covers the introduction, which includes general background, problem statement, objectives, questions, significant scope, limitations, and key assumptions of the study. Chapter two is a comprehensive review of comprehensive prior research literature, covering the theoretical framework applicable in the study. The chapter will look at the theoretical influences and overall context of copyright adherence by newspapers across Africa and the world, as well as the postcolonial theoretical debates within which this research takes place. The methodology adopted is discussed in chapter three. This included participants in the study, sampling procedures, and data collection procedures. It also includes analysis of data. The chapter also discusses the procedures and ethical considerations. The results and discussion of major research findings are presented in chapter four. This chapter is the core of the thesis as it presents the findings of the study and also analyses the implications of these findings in light of the literature review and theoretical framework. The research concludes with a summary of findings and recommendations in chapter five. The chapter also gives an indication as to where future research should be done. Finally, the last section provides a list of references and other materials used in the study.

### **1.9 Conclusion**

This chapter has laid out the comprehensive foundations of the thesis. It briefly introduced the context of the study, its theoretical underpinnings, the research problem, and its importance. Thereafter, the research questions were presented, and the methodology adopted and methods used have been articulated. Lastly, the structure of the thesis was also outlined. On this basis, the thesis proceeds to discuss the literature review and theoretical framework, which form the basis of the forthcoming chapters two, three, and four of the study.

## CHAPTER 2

### Literature review

#### 2.0 Introduction

In order to contextualise the issue of copyright regulation adherence by newspapers in Namibia and explore how editors and journalists negotiate preferred copyright ethical practices, this chapter gives a brief historical background. It conceptualises copyright as a form of intellectual property. This chapter discusses the relationship between copyright and newspapers, as well as copyright law and newspapers during the analogue era. It then proceeds to explore the evolution of the copyright law and newspapers during the digital age. This chapter analyses emerging research on copyright adherence by newspapers across the world. It also looks at copyright adherence by newspapers across Africa. It will also discuss the "justice as fairness" theory as conceptualised by John Rawls (2001) and make a case for its deployment in this study. Towards the end, the chapter offers a brief conclusion.

#### 2.1 A brief overview of existing literature

While there is a global concern about copyright regulation and law to fight plagiarism or piracy by offering protection for copyrighted works, the scope of regulations or protection has globally remained a very controversial aspect of copyright law. However, the evaluation of copyright in the digital age is a relatively new endeavour. Existing literature reveals the limits of regulations and laws in the protection of copyright in the present digital age. Most of this literature does not provide a historical appraisal of how today's technology came to be and how copyright has adapted over the ages to technological innovation. Wheatley (2008) talks about digital rights management, which is one way in which authors fight copyright infringement, and discusses how digital rights management affects the balance set by the copyright regime. Kleinberg (2005) focuses on the introduction of electronic communication devices and their possible effects on the protection of copyright. Ginsburg (2001) writes about the innovation of the creative commons, which allows the author to relinquish some or all of his or her rights to a work to the user (Ficsor, 2002). What has copyright got to do with newspapers? Nicholson (2005) asks the pertinent question: Fordham (2010) has explored how copyright law can legally protect newspaper publishers' copyrighted content from unauthorized copying and distribution by digital technologies like news aggregators. He has also looked at how newspapers may prevail against a fair use defense to prevent

news aggregators from using newspapers' copyrighted content without authorization or a license (Fordham, 2010).

Bailey (2013) has shown that there is a global concern about copyright regulation or law to prevent plagiarism, piracy, and other forms of infringement by establishing legal protection for creative expressive works of publishers, authors, or others such as newspaper institutions. Therefore, promoting a more flexible copyright regime in the current epoch There are some works not eligible for copyright regulation or protection. In this regard, Jones (2002) notes that copyright is not only a reward for authorship but also a protection for investment. Chapo (2010) observes that the scope of copyright protection can be a confusing area. This is partly because certain issues are not protected by existing copyright regulations. These include ideas, theories, and facts (WIPO, 2014). However, the WIPO Copyright Treaty (WCT) addresses the challenges posed by today's digital technologies, in particular the dissemination of protected material over digital networks such as the Internet. For this reason, the WCT was adopted by consensus of more than 100 countries in the world. It reflects a broad international agreement as to how copyright and related rights should be handled in today's environment, including in the context of digital technologies (WIPO, 2016). Another aspect in this literature is that individual rights to privacy and the right to freedom of expression may be relevant to adherence to copyright (Lee, 2015). Cornish (2010) reveals that copyright adherence has become the standard information technology tool for preventing the copying of most types of programs because the internet has provided an astonishingly powerful form of networked communication across the globe as an instrument governed by protocols and agreements.

## **2.2 Copyright as a form of Intellectual Property (IP)**

Copyright is a form of intellectual property (IP) law that some scholars (such as Ronan, Martin, and Lionel, 2010) define as a right that protects the creator or owner of original expressive works since it involves the creation of the mind. This definition is based on the assertion made by Montagnes (1991) that copyright is a form of intellectual property. Intellectual property rights is a collective term that includes copyrights, patents, trademarks, design registrations, protection of integrated circuit layout designs, geographical indications, and protection of information (Saha, 2010). Dankey and Akussah (2008) are of the view that copyright is part of the family of intellectual property rights. Bomsel and Ranaivason (2009) also support the fact that copyright is a property right. They further described it as a form of private ownership because some countries declare that copyright is itself a form of private property (Bomsel & Ranaivason, 2009). In other words, copyright is primarily a property right and, more

specifically, a form of private ownership (Story, 2009)., you can sell it, leave it to your heirs, donate it, or lease it under any sort of conditions; on the other hand, you can divide it into separate parts and you can protect it from almost every kind of trespass (Strong, 1981). Copyright is also defined as a legal term that describes creators' rights to their literary and artistic works (World Intellectual Property Organization (WIPO), 2014). These include books, music, paintings, sculpture, films, computer programs, databases, advertisements, maps, and technical drawings. Copyright, therefore, could be viewed as a set of exclusive rights for a creator to reproduce, prepare derivative works, distribute, perform, display, sell, lend, or rent their creations (WIPO, 2014). The goal of copyright law is to encourage authors (journalists and editors) and scholars to invest effort in creating new works of art, literature, science, and technology. Hoorn and van der Graaf (2006) argued that copyright also pertains to the exclusive rights to publish and distribute a work, including the right to exercise control over copying and other exploitation of creative works by others, because the copyright law protects the owner of property rights in literary and artistic works against those who adopt the exact form of words or arrangement employed by the author in the production of his or her work (Jones, Benson & Benson, 2002). The idea behind copyright is rooted in fundamental ideas revolving around creativity and possession.

### **2.3 Media Convergence**

The emergence of media convergence has triggered new ways of content production, distribution, and consumption for traditional media organisations. By convergence, Jenkins (2006) refers to the flow of content across multiple media platforms, the cooperation between multiple media industries, and the migratory behaviour of media audiences. There seems to be a rather widespread consensus about how media convergence results in a changing news landscape, newsroom practices, and the manner in which news or information collecting or reporting is both perceived and conceived in the media profession, as well as, to a large extent, among media scholars. Media convergence is a process in which different tools and equipment are used to produce and distribute news (Turow, 2017). Media convergence is a process whereby a media product, which is a typical representative of a sector of the media industry, is simultaneously distributed through other media platforms (Turow, 2017). The concept of media convergence is strongly associated with the development of various digital industries. It blurs the boundaries between different media and leads to the emergence of new products and services, as well as an overall cultural change in communication (Turow, 2017). Masau (2016) notes that conventional media practitioners in Africa are adapting to a new media world that is time-sensitive and more interactive.

Pew Research Centre (2012) revealed that the internet is proving to be an aggressive medium, taking over much of the traditional role of newspapers. Kreaplin and Batsell (2013) confirm that at the beginning of the century, the print media companies delayed publishing news and increasingly relied on cross-media platforms through their association with distribution, but in recent years they have re-positioned themselves as an independent category of the print media companies using social networks (Kreaplin & Batsell, 2013). As a result, Doyle (2013) agrees that the transition to new digital platforms has enabled the transmission of content to all forms of digital content reproduction. As such, Tyson (2013) points out that newspaper companies are now using social media platforms to reach their audience by uploading the expected front page publication in order to attract more people to the print published edition. Lister (2016) summarises that most newspaper companies today have already created an online presence through websites and social media platforms where they publish news bulletins in a bid to remain relevant.

In the same vein, Omenugha (2019) acknowledges that media convergence is an important aspect of changing news dissemination or collections of newspaper companies, which is currently provoking many concerns about how the internet or other technologies are redefining the operations, ethos, and tastes of the old and foundation of traditional print media journalism. In going further, Akinselure (2017) maintains that media professionals and newspaper companies are compelled to adapt to changes as a result of media convergence in how they carry out their professional duties of news or information gathering and dissemination. Akinselure (2017) concludes that the vast use of the internet allows the sharing of content among media houses, tapping of content of other media houses, interrelations beyond media boundaries, changing newsroom practices, changing professional ways of collection, gathering and dissemination of news, pictures, articles, stories or pictures developed or produced by editors and journalists for newspaper companies in the new digital era.

#### **2.4 The relationship between copyright and newspapers**

Printing was first introduced in the 1450s by Johann Gutenberg in Mainz, Germany (Edwards, 2018). When Gutenberg invented the printing press, this new print technology involved setting pages of type from individually cast metal letter forms that were then run off on a hand press. For the first time, it was

possible to rapidly and mechanically reproduce multiple copies of the same work (Edwards, 2018). The potentialities of Gutenberg's machine were quickly grasped, and printing spread rapidly throughout Europe in the second half of the 15th century (Edwards, 2018). The printing press was first brought to England by William Caxton in 1476 (Edwards, 2018). It set off a chain of events that eventually set the basis for the development of copyright, as we know it today. The first copyright law followed over two hundred years later and was a reaction, long in coming, to this seminal technology (Edwards, 2018). As a result, Nicholson (2005) asks the pertinent question: What has copyright got to do with newspapers? Fordham (2010) explores how copyright law can legally protect newspaper publishers' copyrighted content from unauthorized copying and distribution by digital technologies like news aggregators. He looks at how newspapers can prevail against a fair use defense to prevent news aggregators from using newspapers' copyrighted content without authorization or a license to appropriate permission (Fordham, 2010).

In general, copyright law grants protection for copyrighted works in order to achieve the advancement of knowledge and learning (Seidel, 1986). Bomsel and Ranaivoson (2009) confirm that copyright enforcement based upon legal deterrence is to stop the loss of economic value of copyrighted works from theft, infringement, and piracy. Kent (1971) notes that indiscriminate access may prevent the copyright holder from recovering the cost of printing a publication, the very incentive that copyright is meant to encourage. Ekpo (1992) states that copyright allows authors to enjoy the full benefits of creative works for a limited period of time. Furthermore, scholars (such as Adhikari, 2017; Amarपुरi, 2017) point out that copyright law is concerned with the usage of information legally. The copyright law gives the authority and legal consent to use, reproduce, and distribute the work. A copyright law allows the owner to legally perform all of his work, whether in print or digital form. In this case, an author and publisher become responsible for publishing and receiving royalties (Adhikari & Amarपुरi, 2017).

Furthermore, Nwogu (2015) notes that copyright law protects the expression of ideas and not the ideas themselves; it protects creative expression that has been reduced to a tangible form. She adds that it is a means of empowerment and economic sustenance for the owners of creative works for which the creators, such as writers, journalists, or reporters, expended some labour and skill in creating the work (Nwogu, 2015). The purpose of copyright laws in print media was to prevent unauthorized reproduction and distribution of works previously published by other publishing companies, robbing authors of profit (Black, 2012). Fordham (2010) corroborates the above view when he argues that newspaper industry is a

traditional, content-driven business and traditional content providers, like the music, film, television, book, and newspaper industries, derive their profits from the production and sale of their content. These industries rely on copyright law to protect their exclusive rights to copy and distribute their content. Fordham (2010) is of the opinion that newspaper institutions have to effectively compete in the digital environment by the use of copyright law to prevent news aggregators from undermining their market potential.

## **2.5 Copyright regulations and newspapers during the analogue era**

It springs from the idea that anything created is an extension of oneself and should be protected from public use (Oduowo, 2002). Copyright is germane to the continued growth of writing, performing, or creating, and without copyright protection, there would be little stimulus or incentive for people to create anything, as others would be able to take the work and use it in any way they wanted (Cornish 2004). As a result, Fordham (2010) explores how copyright law can legally protect newspaper publishers' copyrighted content from unauthorised copying and distribution by digital technologies like news aggregators. In the same vein, Wheatley (2008) focuses on digital rights management, which is one way that authors (including journalists) fight copyright infringement. He also discusses how digital rights management affects the balance set by the copyright regime. Kleinberg (2005) focuses on the introduction of electronic communication devices and their possible effects on the protection of copyright. Ginsburg (2001) examines the creative commons innovation, which allows the author to relinquish some or all of his or her rights to the work to the user. Therefore, promoting a more flexible copyright regime in the current epoch There are some works not eligible for copyright regulation or protection. In this regard, Jones (2002) notes that copyright is not only a reward for authorship but also a protection for investment. Chapo (2010) observes that the scope of copyright protection can be a confusing area of the law. This is because certain materials are not protected by copyright regulations. These include ideas, theories, and facts (WIPO, 2014).

## **2.6 Copyright regulations and newspapers during the digital age**

With the development of advanced media technologies, Pavlik (2008) observes that the new media and digital convergence may often seem synonymous with the internet and World Wide Web (www). He goes on to say that the transformation of media in the digital age involves at least twelve dimensions: the medium of digital delivery; digital media devices for accessing, displaying, watching, and listening; digital media audiences or users; digital media producers; content itself; distributors; financial investors;

media owners and businesses; media regulators and law; and digital production technologies that, in many ways, are fueling the explosive growth. Furthermore, Pavlik (2008) points out that online newspapers, downloadable music and video, bloggers, and podcasts are among the most familiar examples of digital media. But in truth, a wide host of technologies compose the full spectrum of media in the digital age. Among them are not only the internet and the Web, but wireless and mobile media, digital newspapers, television and satellite radio, digital cameras, digital music players, and other new or emerging technologies for mediated public communication (Pavlik, 2008). In the same vein, Eisenschtz (1993) observes that the ease of accessing information online has led to the growth of a large number of criminal activities, which have brought barriers to access and communication in their wake. Zhu and Hongwei (2002) posit several possible legal mechanisms for conventional database protection, such as trade secrets, contract law, and copyright. But on the Internet, many databases are made available to the general public for free access, eliminating the possibility of trade secret protection. Although some database owners have managed to negotiate licensing agreements with their users, it is costly and sometimes impossible to enforce those contracts (Zhu & Hongwei, 2002).

With regards to newspapers, Nicholson (2005) is quick to point out that they are protected under the category of literary works in the Copyright Act. However, artistic works such as cartoons, photographs, graphics, images, and advertisements are not catered for under the literary works provision. When reproducing newspapers or content in newspapers, the concept of copyright has to be considered. In the case of literary or musical or artistic works other than photographs, the term is the life of the author and fifty years from the end of the year in which the author dies, except with certain conditions in line with the law. The term of copyright in the case of photographs is fifty years from the making of the original negative from which the work is made available to the public with the consent of the copyright owner or is first published, whichever term is the longer, or, failing such an event within fifty years of the making of the work, fifty years from the end of the year in which the work is made (Nicholson, 2005). In the same vein, she adds that although the copyright law provides that works created within the course and scope of one's employment belong to the employer, newspapers do not always hold copyright in the works that they publish (Nicholson, 2005). They generally own the copyright to articles written by their own staff, such as full-time reporters and journalists. This is seldom the case with regard to works by freelancers or artists, unless the relevant copyright owners assign their rights to the newspapers (Nicholson, 2005). Extending this discussion further, Goldstein (2001) recommends that no proposed choice of law rule for copyright cases should be adopted unless the traditional rule is in fact



deficient. In the same vein, Mdlongwa (2012) observes that technology spreads at a faster pace than most industries can adapt to, either survive, or sink in the old ways. This is exactly what the media industry, particularly the newspaper industry, is facing due to technological advancement. Mdlongwa (2012) represents this situation as a moment of truth, which calls for proper analysis and solutions for survival.

## **2.7 Adherence practices and cultures in relation to copyright within the print media sector**

Bailey (2013) has shown that there is a global concern about copyright regulation or law to prevent plagiarism, piracy, and other forms of infringement by establishing legal protection for creative expressive works of publishers, authors, or others such as newspaper institutions. The first copyright law in the world was established in 1450. It was spawned by the introduction of the printing press by Johann Gutenberg at Mainz, Germany (Edwards, 2018). The length of copyright protection may vary from country to country, but it usually lasts for life and 50 to 100 years after the death of the author or publisher of expressive creative work (WIPO, 2016). For a copyright to apply to a work, it must be an original idea that is put to use. "The idea alone cannot be protected by copyright." It is the physical use of that idea, such as an illustration or a written novel, that is covered under the copyright law (Techterms 2013). The importance of protecting intellectual property rights was first recognized in the Paris Convention for the Protection of Industrial Property in 1883 (World Intellectual Property Organisation (WIPO, 2016). It is noteworthy to note that the Berne Convention was signed by many countries in Switzerland in 1886 (WIPO, 2016). In the same vein, authors in the area of copyright adherence acknowledge that the WIPO Copyright Treaty (WCT) deals with protection for authors of literary and artistic works, such as writings and computer programs, original databases, musical works, audiovisual works, works of fine art, and photographs, as well as giving creators the ability to control certain uses of their works (WIPO, 2016).

In light of the unfolding discussion, WIPO (2016) adds that copyright and related rights are provided by national laws in individual countries and international treaties that link various national laws and require the countries that join the treaties to grant certain rights specified on a nondiscriminatory basis (WIPO, 2016). However, the WCT addresses the challenges posed by today's digital technologies, in particular the dissemination of protected material over digital networks such as the Internet. For this reason, the WCT was adopted by a consensus of more than 100 countries. It therefore reflects a broad international agreement as to how copyright and related rights should be handled in today's environment, including

the context of digital technologies (WIPO, 2016). Another aspect in this literature is that individual rights to privacy and the right to freedom of expression may be relevant to copyright adherence (Lee, 2015). Cornish (2010) reveals that copyright adherence has become the standard information technology tool for preventing the copying of most types of programs because the internet has provided an astonishingly powerful form of networked communication across the globe as an instrument governed by protocols and agreements. Wilson (2018) addresses the issue of Technological Protection Measures (TPMs). This is a relatively new feature, which seeks to protect by restricting the unauthorized acts in relation to copyright works (Wilson, 2018). She has described this as a complex area of copyright law and is likely to prove to be difficult to apply in practice (Wilson, 2018).

Sihanya (2010) acknowledges that in all systems of intellectual property rights, matters that pertain to adherence, protection, definitions, registration, or duration of registration are important or useful for the building upon a foundation of enforcement or adherence. He lists some of the modes of controlling infringement of digital copyright as legislative strategies, litigation strategies, public awareness and criminal sanctions when dealing more particularly with copyright in the digital arena (Sihanya, 2010). In view of the preceding argument, Sihanya (2010) opines that copyright adherence recognizes the need for the protection of intellectual property rights by bringing them into the purview of public law and emphasizing the need for intellectual property rights protection for the benefit of the general public. On the other hand, Correa (2016) observes that bringing intellectual property rights adherence into the multilateral trade framework has the net effect of ensuring all members of the World Trade Organization (WTO) are obliged to meet the minimum standards of intellectual property and enforcement. It is important to highlight that the history and developments of copyright adherence and media in China are different from the West, but there is no consensus on the reasons why the copyright regulation system in practice remains quite different in China and western countries (Li, 2010).

Scholars (see, for instance, Alford, 1995; Oldstone-Moore, 2003) believe that the Chinese traditions, in particular Confucianism, play a determinant role in shaping the practices and cultures of copyright into what they are today. Shao (2010) questions the argument that China was a "born pirate" in copyright history and Confucian determinism. To some extent, Zhao (2010) believes that there is a universal paradigm of copyright similar to what is dominant in Western countries today. As Baldwin (2014) puts it, there is an inherent tension in intellectual works between the property of their creators and society's cultural commons and patrimony. The co-evolution in the copyright and media fields is an important angle for studying China's modernization as well. It not only helps to understand the competition and

convergence between the Western and Chinese models in the copyright field (Zhao, 2010). Yufeng (2010) observes that though China has modern copyright law similar to any other country in letter, the overall copyright regulation system in practice remains quite different. This observation summarizes the complex transitional status of copyright and media systems in China, which is partly driven by significant technological, regulatory, and economic changes (Yufeng, 2010). The age of modern copyright law, which was characterized no longer by privileges granted on an exceptional basis but by general laws, was marked by the passage of the Statute of Anne in the United Kingdom in 1710, as well as when France, in the course of the revolution, enacted copyright laws in 1791 and 1793 (Löhr, 2010).

Macharia (2015) points out that the WIPO Copyright Treaty in 1996 was implemented by national legislation throughout the European Union Copyright Directive of 2001. In United States of America copyright law, the Digital Millennium Copyright Act (DCMA) of 1998 shifted the balance of interests more in favor of right holders, such as publishers or authors. It is important at this stage to highlight that the United States of America's Copyright Office (2020) states that the statute of the country provides copyright adherence or protection for creative original works such as writing or print media of authorship fixed in any tangible medium of expression that is known or later developed from which they can be perceived, reproduced, or communicated either directly or with the support of print media, machine, or device (United States of America Copyright Publication, 2020).

Extending this discussion further, the copyright adherence acknowledges that, under the regulation or law of the United States of America, the publisher or author of the creative work, such as in newspaper institutions, is automatically the owner of the copyright in the work written, created, or developed (United States of America Copyright Publication, 2020). For copyright purposes, the employer is considered the author when an employee creates a work as part of employment (United States of America Copyright Publication, 2020). The employer or author acquires copyright in a work as soon as it is fixed in a tangible medium of expression, which in this case means as soon as it is written down on paper or electronically on the computer on some readable device (United States of America Copyright Publication, 2020). It is also important to highlight that the copyright legal right lasts for the lifetime of the natural person and fifty years for corporate authors after death. The rights granted under copyright law may be transferred individually or all of the rights may be transferred together in such a manner that the right-holder may sell or license the right to make and sell copies to another person but retain the right to create derivative works in the United States of America (United States of America Copyright Publication, 2020). Leaffer (2014) takes the view that, unlike in most European countries, in the United

States of America, once a copyrighted work has been sold, the owner has no further distribution or sale with regard to that particular copy of the work. This is known as the "first sale doctrine." Thus, the initial purchaser of a copyrighted work is free to sell or give away his copy of the work at any time, regardless of the wishes of the copyright owner (Leaffer, 2014).

However, Macharia (2015) reveals that the Australian government enacted the Copyright Act of 2000 with the intention of attaining the requirements and standards set by the Berne Convention Treaty for copyright laws, regulations, and adherence measures that protect the rights of publishers or authors of literary and artistic works. In going further, Macharia also writes that in 2011, a copyright council expert group in Australia saw the need to recognize the importance of encouraging the endeavors of publishers, authors, performers, and creators by recognizing economic rights and moral rights subject to limitations and in a manner that takes into account evolving technologies, social norms, and cultural values (Macharia, 2015). Tang (2011) is of the view that at times, contending objectives to protect creative expressive works of publishers, authors, performers, and creators on the one hand and to ensure adequate public open access copyright licensing to works on the other have also been with copyright law from inception. Samuelson (2015) observes that copyright laws seek to mediate the contending interests through the mechanism of exceptions and limitations, which allow certain uses without requiring the consent of the copyright owner, based on public interests and social policy goals. Cronqvist (2010) adds that the provisions for use of open access copyright licensing, like creative commons or fair use, which were traditionally taken as a given for the user, have been transformed into an act of copying and performance.

Elkin-Koren and Netanel (2020) present a different but complementary point of view on the fair use privilege of United States copyright law. The copyright law provides for the realisation of a flexible open access ended copyright exception. The fair use doctrine as codified in Section 107 of the United States of America's Copyright Act of 1976, empowers courts to carve out an exception after weighing a set of factors on a case by case basis on such as criticism, comment, news reporting, teaching, scholarship, and research, as examples of activities that may qualify as fair use that complies with its international copyright regulation treaty obligations (Elkin-Koren & Netanel, 2020). Thus far, the fair use copyright licensing model has been adopted with some variation in countries such as Philippines and Liberia in 1997, Sri Lanka in 2003, Singapore as well as Canada in 2004, Israel joins Taiwan in 2007, follow by South Korea in 2011, Malaysia in 2012, Kenya in 2014, Ecuador in 2016 and South Africa in 2018 (Elkin-Koren & Netanel, 2020). In view of the preceding argument, Wang and He (2020) argue that China also appears

poised to adopt an open ended copyright exception in a proposed revision to its copyright law. Some Chinese courts have already asserted the authority to permit uses that do not appear in the closed list of exceptions currently enumerated in China's copyright statute. It is Elkin-Koren and Netanel (2020)'s observation that copyright revision commissions in Australia, the European Union, Hong Kong, Ireland, Japan, New Zealand, and the United Kingdom have considered or are considering adopting elements of fair use open access provision as well. Macharia (2015) concludes that the steps to strengthen copyright law in particular in the print media were primarily a reaction by legislation to cope with the vast changes in the cost structure caused by new copying technologies in the digital age.

## **2.8 Copyright adherence by newspapers across the Africa**

The literature review reveals that there is virtually little academic literature available on adhering to copyright regulations in Africa and Namibia in particular. This is because the subject has received relatively little attention among African or Namibian scholars. There is a host of works on the study of copyright in general. However, the evaluation of copyright in the digital age is a relatively new endeavour. The existing literature reveals the limits of regulations and laws in the protection of copyright in the present digital age. The existing literature does not provide a historical appraisal of how today's technology came to be and how copyright has adapted over the ages to technological innovation in journalism (Pistorius and Odirachukwu, 2019). Furthermore, Adegoke (2010) points out that there is a paucity of literature which examines the status of copyright intellectual property rights policy and law in Sub-Saharan Africa. Sharma (2011) observes that copyright arises as soon as a work is created or published, and it does not extend to any idea, procedure, process, method of operation, concept, principle, or discovery, unless fixed in a tangible form. As long as the work is created and fixed in permanent form, then such work deserves to be copyrighted (Sharma, 2011).

Longdin and Lim (2013) state that the balance nowadays is markedly tilted towards protecting the interests of copyright owners, but Balganash (2012) states that the current law focuses almost completely on the institution of copyright in its capacity as an affirmative grant of rights. It is noteworthy to note that literature in the area of understanding copyright and related rights acknowledges that the law or legislation of every country in the world determines the required conditions for a work to be considered a creative original work that is entitled to copyright protection, particularly in African countries (WIPO, 2016). According to the same organization, copyright protects two types of rights: economic rights that allow owners to profit financially from the use of their

expressive, original works by others (WIPO, 2016). Moral rights enable authors, publishers, or creators to take specific actions in order to preserve and protect their connection to their work. The economic author, publisher, or creator may transfer rights to one or more copyright owners. Many countries do not allow the transfer of moral rights (WIPO, 2016).

In other words, any unauthorised use could amount to copyright infringement (WIPO, 2016). Copyright infringement is a federal civil cause of action. It occurs when a copyrighted expressive original creative work is reproduced, distributed, performed, publicly displayed, or made into a derivative work without the permission of the copyright owner (WIPO, 2016). Infringement in this context includes piracy, plagiarism of text, pictures or images using photocopying machines to produce several copies of copyrighted material or duplication of web pages (Tella & Oyeyemi, 2019). The right of copyright owners to prevent others from making copies of their works without permission is the most basic right protected by copyright legislation (WIPO, 2016). The right to control the act of reproduction, be it the reproduction of books by a publisher or the manufacture by a record producer of compact discs containing recorded performances of musical works, is the legal basis for many forms of exploitation of protected expressive creative original works of publishers, authors, or others, such as newspaper institutions (WIPO, 2016). Ahmadi and Sonkar (2015) are of the view that open access copyright licensing is also known as a part of the defences available in the law of copyright in relation to an action brought against copyright infringement. The above statement reinforces Krishnaveni, Sritharan, and Manickam's (2013) argument that the copyright law, legislation, or regulation was established to protect the work of the authors, publishers, or creators and that public open access copyright licensing or fair use dealing exception is a defence to justify the usage of the author's work. However, copyright law violations and misunderstandings of open access copyright licensing or fair use exceptions could lead to copyright infringement (Krishnaveni, Sritharan & Manickam, 2013). In a different fashion, Pistorius and Odirachukwu (2019) maintain that copyright law has always evolved in response to technological change since the need for regulation or law arose with the invention of the printing press in the 15th century, while Technological Protection Measures (TPMs) are applied to copyright expressive creative works in digital form to curb infringement and ensure effective copyright regulation adherence by newspapers in Africa. This is the reason why several African countries have deposited their legal instruments of ratification or accession to the WIPO Copyright Treaty. These countries include Algeria, Botswana, Burkina Faso, Burundi, Ghana, Gabon, Guinea, Madagascar, Mali, Morocco, Nigeria, Senegal, and Togo (Pistorius & Odirachukwu, 2019).

Extending this discussion further, Pistorius and Odirachukwu (2019) are of the opinion that the South African Government's 2017 amendment bill to the Copyright Act 98 of 1978 recommended the adoption of open access copyright licensing like creative commons or fair use for educational activities in line with the WIPO Copyright Treaty. In fact, Limpitlaw (2013) observes that there is a provision in Section 12 of the Copyright Act of South Africa that provides that copyright law or regulation shall not be infringed by any open access copyright licensing like creative commons or fair use with a literary work for the purpose of reporting current events in a newspaper, magazine, or similar periodical. Limpitlaw (2013) maintains that Namibia's copyright law or regulation for newspaper adherence allows the press to reproduce for exclusively reserved public interest the same character article or news story on economic, education, political, or religious news published in print media with the author's name and the work's title cited, unless the author, publisher, or writer has prohibited such publication.

However, Zongwe and Dausab (2017) have advocated that in Namibia, copyright law or regulation protection arises automatically on a creative expressive work eligible for copyright at the time of creation provided the requirements of subsistence are met with registration official procedure at the office of the Business and Intellectual Property Authority (BIPA) that implements, enforces, and promotes compliance with copyright law or regulation. As such, the copyright law or regulation requirements are completed with successful application certification. Upon approval, the author or publisher is vested with the exclusive rights mentioned above (Zongwe & Dausab, 2017). It is important to point out that copyright law or regulation in the context of creative expressive work can only arise when an infringement thereof occurs. Against this background, it is thus important to point out that in Namibia, it is not an infringement if other people use copyrighted newspaper works for the purposes of research or private study; or personal or private use; criticism or review; or reporting on current events; or in a newspaper, magazine, or similar periodical; or broadcasting; or in a cinematographic film (see Zongwe & Dausab 2017). In practice, the inclusion of other exceptions such as the use of copyright work for educational purposes, parody, and user-generated content is encouraged and recommended not only for constitutional reasons but to keep up with the perpetual changes in digital technology (Zongwe & Dausab, 2017).

In summary, the copyright law protects the author or publisher during the life of the author or publisher and for a period of fifty years from the end of the year in which the author or publisher dies (see

Zongwe & Dausab, 2017). Furthermore, as part of their research, Rizk and Shaver (2010) observe that Article 172 (4) of the Egyptian Intellectual Property Rights Protection Act (EIPRPA) allows newspapers, periodicals, or broadcasting organizations without permission of the author or writer to publish excerpts of works such as articles or news stories already legally made available or excerpts of articles or newspapers on topical issues of concern to the public as long as the author's name and the work's title are cited, unless the author, publisher, or writer has prohibited such publication. In addition, Article 171(4) of the EIPRPA allows any newspaper institution or person to make use of any creative work such as articles, excerpts, or quotations in newspapers for the purpose of criticism, discussion, or information dissemination (Rizk & Shaver, 2010). One can summarily maintain, as suggested by Adams (2018), that in many instances, the copyright laws and offices established in Africa were a result of the need for better adherence to copyright regulations, especially in the newspaper institutions. In a similar fashion, Adeyemi (2020) points out that the Nigerian Copyright Commission was established to ensure the effective adherence, administration, and enforcement of copyright laws in response to the prevailing needs within the newspaper industry

## **2.9 Research Gap**

Limpitlaw (2013) observes that Namibia's copyright law allows the press to reproduce for exclusively reserved public interest the same original article or news story on economic, education, political, or religious news published in print media with the author's name and the work's title, unless the author, publisher, or writer has prohibited such publication. Copyright law is gaining prominence globally in recent times because of rapid developments in technology in the information space (Kretschmer, 2012). This has facilitated communication and also allowed for the cheap and rapid reproduction of copyrighted works, without regard for time, space, or national boundaries (Adams, 2018). In view of this, copyright owners lose control over their works and therefore call for an orderly and responsive international regime of copyright protection to address the situation (Leaffer, 1990). It is therefore prudent at this historical juncture to critically investigate how newspapers are adhering to and enforcing copyright regulations or laws in their day-to-day newsmaking practices. The literature review reveals that there are a few empirical studies focusing on copyright regulation adherence in Africa and Namibia in particular. While there is a global concern about copyright regulation and law to fight plagiarism or piracy by offering protection for copyrighted works, the scope of regulations or protection has globally remained a very controversial aspect of copyright law. However, empirical studies on copyright



regulation in the digital age are a relatively new area of research. Unfortunately, mainstream media organisations continue to suffer from content theft and plagiarism in the digital age.

### **2.10 Theoretical framework**

This research is influenced by the "justice as fairness" theory as conceptualised by John Rawls (2001). The theory was developed in 1971 in order to understand how society orders its affairs. The theory argues that a just society permits institutions (including newspapers) to protect the individual rights and liberties of all citizens (Rawls, 2001). For Rawls, the people who come together to do the negotiating are fully human, free, rational, and keen to further their own welfare. It implies that copyright regulations are based on the social responsibility thesis, whereby fairness, justice, minimizing harm and care are tolerated. Rawls (2021) calls this "justice as fairness." Ignorance of their place in society while the agreement on the system of justice is being made is the "veil of ignorance". This is an essential way of ensuring fairness. Rawls (2001) also emphasizes that all citizens in a well-ordered society must accept the principles of justice in order to know their fellow citizens' rights and recognize that the basic structure is just. Thus, citizens operate within the boundaries of fairness and justice because it is in the interest of the whole society. The principles of justice are known and acceptable to all reasonable citizens (including journalists, bloggers, social media influencers, and so forth).

Rawls (2001) argues that the principles of justice for the basic structure of society are the object of the original agreement toward the individual rights and liberties of all citizens. They are the principles that free and rational people concerned about furthering their own interests would accept in an initial position of equality as defining the fundamental terms of their association or institution. Thus, citizens, including journalists and editors, regulate their conduct within the journalistic field in order to promote and protect the individual rights and liberties of all citizens. Rawls' theory is an alternative to utilitarianism, which has been dominant among philosophers and political thinkers since the mid-18th century. The "justice as fairness" theory acknowledges that copyright regulations are put in place in order to safeguard intellectual property rights. In Rawls' (2001) treatise, justice is defined as that which seeks to provide the greatest good for the greatest number of people, individual or citizen's rights. Rawls criticized utilitarianism for promoting "injustice" as long as a small number of people gain from that society. Thus, creative commons, as a variant of copyright regulations, can be viewed as a way of restoring "justice" in an unjust social system that promotes the rights of a certain group of people or citizens at the expense of the whole society.

Based on a deontological approach to ethical frameworks, Rawls (2001) proposes that a person who is shrouded in a "veil of ignorance" must design a just society without foreknowledge of his or her own status in that society. He postulates that "justice as fairness" requires members of society to be engaged in social cooperation. He sees the social cooperation of society's members as intrinsic to the construction of a society ruled by fair justice. He defines two "moral powers" by which individuals can express this social cooperation. The form of such power is the *capacity for a sense of justice*. This refers to the capacity to understand, to apply, and to act upon and not merely in accordance with the principles of societal justice that specify the fair terms of social cooperation (Fanton, 2020). The second moral power is the *capacity for a conception of the good*. This denotes the capacity to have, to revise, and rationally pursue a conception of the good (Rawls, 2001). For Rawls, copyright regulations and laws are an expression of basic liberties and rights and as such cannot be limited in an unequal way and traded off against other social benefits.

In view of the foregoing discussion, Laukyte (2013) advocates that it is advisable for researchers to use Rawls's theory of "justice as fairness" in order to understand copyright regulation adherence. This is because the theory is concerned with protecting the basic liberties of authors, publishers, and content creators. Thus, copyright laws come into play in two respects in Rawls' deontological ethical framework. First, it acknowledges the existence of a body of rules and practices. It views copyright regulations as a social institution that governs the operations of content creators in both the offline and online worlds. Second, it views copyright regulations (such as intellectual property) as a resource that can conceivably be included in the range of items governed by distributive principles or other principles of justice (Laukyte, 2013). Thus, the theory conceives copyright regulation as a necessary incentive for authors and content creators to invest time, intellectual effort, and money into producing works of creative expression, including learning materials, for the benefit of the public at large (Macharia, 2015).

In light of the above, this study utilizes the "justice as fairness" theory because it proposes that it is important to promote a just distribution of income or wealth in line with the right to protect the creative and expressive work of authors and content creators in the newspaper industry (Hughes, 2017). In view of the preceding argument, Hughes (2017) argues that the "justice as fairness" theory allows for the recognition of compensation for creative works produced by content creators and individuals. Importantly, it should be stated that just the same way the theory attracted the admiration of some scholars, it has continuously attracted various criticisms. As part of the critique, McCarthy (2004) argues that the theory is profoundly defective because it cannot separate the social and political topics that

have an in-eliminable interpretive dimension since social matters cannot be settled from the standpoint of a neutral observer or person..

Mills (2013) claims that the theory cannot address issues of racial injustice because of its intrinsic "whiteness". In other words, Rawls's discourse is conceptually shaped and ethically oriented by the interests, perspectives, and priorities of the racially privileged, such as whites. In support of Rawls, Shelby (2004) contends that his "justice as fairness" theory eliminates racial injustice without the need to revise it. However, Shelby (2004) reminds us that the theory's argument is of minimal help in addressing issues of *compensatory justice*. Nevertheless, this aspect does not constitute an analytical weakness on the part of Rawls's theory because compensatory justice issues demand a comprehensive theory of justice (Shelby, 2004).

### **2.11 Conclusion**

This chapter has looked at scholarly works about the historical background of copyright as a form of intellectual property. It has discussed the relationship between copyright regulations and newspapers, as well as copyright law and newspapers during the analogue era. It retraced the evolution of copyright regulations and newspapers in the digital age. It has reviewed literature on copyright adherence by newspapers across the world. It has also looked at copyright adherence by newspapers across Africa. It has discussed the "justice as fairness" theory as conceptualised by John Rawls (2001) as the conceptual lens for this study. The next chapter outlines the methodological concerns of this research, beginning with the research design and proceeding to enunciate the methods used to gather and analyze data.

## CHAPTER 3

### Research Methodology

#### 3. Introduction

Previous chapters of this study have provided the contextual background, literature review, and theoretical influences, and the broader context of copyright regulations within the newspaper industry. As pointed out in chapter one, the methodological approach of this study is principally anchored within qualitative research methodology. The chapter starts with a brief discussion of the research paradigm, research design, the case study approach, research approach, sampling techniques, data collection instruments, data analysis, and ethical considerations. The chapter discusses the three case organizations, which are *The Namibian*, *New Era* and *Economist*. These case studies are important for gathering "thick descriptions" and an insider's perspective on the issue under investigation. The study relied on primary and secondary data. The primary data was sourced via in-depth interviews (with editors or journalists and other relevant officials from the Ministry of Justice and Business and Intellectual Property Authority (BIPA)). The secondary data was obtained from published documents such as copyright laws and regulations used by media organizations and other relevant legal statutes in Namibia. Thus, document analysis of the copyright act in Namibia was conducted.

#### 3.1. Research Paradigm

This research leans towards the interpretivism paradigm. This paradigm refers to the approaches that emphasize the meaningful nature of people's character and participation in both social and cultural life (Creswell, 2017). By adopting the interpretive approach in a qualitative research study, it reiterates the

fact that its main objective and essence are to explore the lived experiences of the research respondents and allow them to narrate the research findings through their lived experiences (Clarke, 2010). As such, this study discusses the historical background of phenomenology as both a qualitative research approach and an approach that has transitioned into an interpretative analytical practice. The interpretive approach to phenomenology recognizes that humans or people are sense-making organisms, and the researcher makes sense of what happened to people or research respondents (Muaz, 2015). Qualitative research based on an interpretive paradigm reveals the views that emerge from the research rather than giving a definite answer (Willis, 2018). Based on the above, the phenomenology idea underlies this research through interpretivism and phenomenological analysis. In this study, the approach was developed to guide the design of conducting qualitative research in the investigated area (Smith, 2015). Therefore, the research used the interpretative method to collect data from the qualitative content analysis, semi-structured interview guide, and individual in-depth interviews and provide more understanding of the experiences of the respondents (Cohen, Manion, & Morrison, 2017).

In light of the above, interpretivism aims to include richness in the many insights or data gathered, which is different from positivism, which interprets the value of the social sciences against the background of the bio-medical analogy and the success story of the natural sciences. The phenomenological paradigm is based on a predominantly mental metaphor, such as the centrality of human consciousness (Smith, 2019). However, there is a relationship or connection between the interpretative research paradigm and qualitative methodology (Bernard, 2017). Alase (2017) concurs that qualitative methodology is usually supported by an interpretative paradigm, and an interpretive research paradigm portrays a world in which reality is socially constructed as researchers interact with participants by seeking their perception or experience of a particular problem. In this sense, the researcher's role is to expose the opinions of participants and collect qualitative data (Bernard, 2017).

### **3.2 Research Design**

The research design and procedure is the general plan of how to answer the research questions for this study. This study draws on the case study approach.

#### **3.2.1 The Case Study Approach**

A case study research approach investigates a real-life phenomenon in-depth and within its environmental context. Such a case can be an institution, an individual, a group, an organization, an event, a problem, or an anomaly (Yin, 2017). The flexibility of this approach enables the researcher to explore beyond objective data and gain insight into participants' perceptions and experiences (Gillham, 2019). In the same line of thought, Yin (2014) defines a case study as an in-depth study within one unit of analysis, whereas multiple cases include more than one unit of study, allowing for research and comparison across multiple cases. Yin (ibid) maintains that case studies are often used where time and resources have to be taken into consideration, such as when a researcher is undertaking a study independently. It is important, however, to underline the fact that case studies can be appreciated and valued for their uniqueness and rich contribution to knowledge (Lincoln and Guba, 2016). It is perhaps important to highlight that case study research is an increasingly popular approach among qualitative researchers (Alase, 2017). Furthermore, Yin (2017) asserts that the prominence of case study as a qualitative method is in its ability to examine, in-depth, a "case" within its "real life" context (Yin, 2017). Moreover, Yin (2017) further identifies case studies as intrinsic research that can be undertaken in order to learn about a unique phenomenon, through which the study focuses on a wider issue and provides insight to research. An intrinsic case study is defined as when there may not be a specific question but an intrinsic interest in a particular case (Swanborn, 2015). It is important, however, to underline the fact that the three newspaper institutions selected for the study here represent similar cases, which can provide knowledge or insight into how the Namibian newspapers are adhering to copyright laws and regulations, especially in the era of convergence. It is important at this formative stage to highlight that, regarding intrinsic interest, the case study samples or units of the print media chosen in Namibia are allowed to respond to questions and points of interest concerning this research about copyright regulations or laws for newspapers.

The strength of the case study approach is the ability to deal with "an empirical inquiry that investigates a contemporary phenomenon within its real life context" and "rely on multiple sources of evidence" (Yin, 2017). It helps in the gathering of descriptive and explanatory data as it allows for a number of research techniques, such as questionnaires, surveys, or focus groups, to be used in the same study. It also permits the ability to deal with a wide spectrum of evidence such as documents and interviews (Harrison, Birks, Franklin & Mills, 2017). Case studies are distinguished by their emphasis on a rich and vivid description of events relevant to the case. It provides a chronological narrative of events relevant to the case and blends the description of events with analysis. It also focuses on an individual or a group of

respondents and seeks to understand their perception of events and highlights specific events that are relevant to the case.

In the same line of thought, Harrison, Birks, Franklin & Mills (2017) have argued that one significant feature of case studies is that they provide a clear methodology for investigating an issue and prioritising examination until a depth of understanding is achieved by research. Woodside (2017) summarises that, in the end, the usefulness of case study research lies in the fact that it encourages research methods that help measure thinking over an ongoing period, for example, through multiple interviews with an individual or a group of respondents. However, the disadvantage of case studies, which the literature review reveals, is that the findings or evidence from case studies cannot be generalised (Ridder 2016). It is believed that case studies take a long time to be completed because of the large number of documents, data, or information that need to be analyzed for key findings or evidence that come out of research. Within the case study, analysis typically involves immersing the researcher in the data, detailing each case, and becoming intimately familiar with each case, incident, and observation for data collection from the respondents (Cronin, 2015).

### **3.3 Research Approach**

#### **Qualitative Research: Philosophical Underpinnings**

The researcher opted to use this research methodology considering the objective of obtaining first-hand data from the respondents. The methodological approach for this study is mainly qualitative. Qualitative research aims to study a specific issue or phenomenon in relation to a certain population, location, or context (Aspers & Corte, 2019). It is therefore considered that the generalisability of qualitative research is not possible (Lawrence, 2015). To say one is doing qualitative research seeks to answer questions of how, where, when, who, and why to build a theory by collecting non-numerical information and human subjectivity about a phenomenon that are essential to the research process (Lawrence, 2015). In explaining this above view, Berg and Howard (2016) define qualitative research as meanings, concepts, definitions, metaphors, symbols, and studies of specific issues, phenomena, or things. This definition clearly shows that qualitative research contains all the necessary instruments that can evoke recall, which aids problem-solving. In addition, qualitative research data instruments such as case studies, observation, open-ended questions, in-depth interviews such as audio or video, and field notes are used to collect data from respondents in their natural setting. The methods employed in data collection give a full description of the research with respect to the respondents involved. Hence, the qualitative research

approach provides abundant data about real-life people and situations (Leedy & Ormrod, 2016). Moreover, qualitative research lies in the interpretive or phenomenological approach (Creswell, 2017). This research preferred qualitative research methodology because the data that would be collected is rich in descriptions of how the Namibian newspapers are adhering to copyright regulations, especially in the era of convergence, which cannot be easily handled by statistical data and procedure. In fact, the aims and goals of the study are what eventually determine the research methods and design elements that are deployed for the research.

### **3.4 Sampling Techniques**

Sampling techniques are defined as a means of identifying and choosing the main, unit or sample respondents, stakeholders, groups or participants who are involved in a subject of study, with the intention of collecting data or information to gain a deeper knowledge of a key phenomenon (Glen, 2015). There are two main types of sampling techniques that a research or study can use for data collection (Glen, 2015). Probability sampling is the random choosing of individuals by a researcher to make statistical inferences or data analysis of the data or information collected from the respondents in a unit or group (Creswell, 2017). Non-probability sampling is non-random selection based on convenience or other criteria such as saving time and resources for the researcher to easily collect data or information from the respondents or participants of a unit or group (Creswell, 2017). It is important at this formative stage to highlight that a research or study must make a choice between the two techniques or methods because each of the samples has divergent meaning and purpose suitable to different research or study objectives (Bernard, 2017). This particular study adopts the non-probability sampling technique.

Purposive and convenience sampling is a non-probability method employed in the selection of the respondents for this study. Creswell (2017) explains that a purposive sampling method serves as a useful approach in evaluative research that involves identifying and choosing the main unit or sample respondents, stakeholders, groups, or participants who are involved in a subject of study, with the intention of gaining a deeper knowledge of a key phenomenon. Moreover, purposive sampling allows the researcher to engage individuals that have the necessary skillset and experience to provide information that is directly related to the research topic (Creswell & Plano Clark, 2017). As such, this sampling method is also referred to as the non-probability process, because the researcher, based on knowledge about the population or institution, chooses unit or sample respondents that represent the target people or institute that are interested in the study (Glen, 2015).



Meanwhile, convenience sampling allows for the selection of research respondents or participants based on easy accessibility and availability (Quinlan, 2015). The researcher deemed this sampling technique as appropriate, efficient, and less costly to employ for the research (Quinlan, 2015). This simply involves identifying and selecting individuals that are experienced, knowledgeable, and have the ability to communicate their viewpoints or experiences in an articulate form with regards to the phenomenon of interest, as well as being available and willing to participate in the research (Creswell & Plano, 2017; Bernard, 2017). In light of the above, the study interviewed editors, journalists, and key informants in order to gather relevant data. Three newspapers, namely: *The Namibian*, *New Era*, and *Economist* in Windhoek, were purposefully chosen. These newspapers were purposefully selected because, as Kasote (2014) observes, digital media has brought about a wave of changes for *The Namibian*, *New Era*, and *The Economist*. The report of the Media Sustainability Index (2012) states that the New Era Newspaper is a daily national newspaper owned by the government of Namibia that publishes in five indigenous languages, which are Otjiherero, Oshiwambo, Damara>Nama, Solozi, and Khwedam. The report reveals that the Minister of Information and Communication Technology (MICT) has the ability to appoint and discharge members of the board of directors of the newspaper that was created in 2004 by the *New Era Publications Corporation Act of 1992*. The report points out that the newspaper has a usual circulation of 9,000 on Monday to Thursday but goes up to 11,000 on Fridays (Media Sustainability Index Report, 2012). Nunuhe (2014) writes that the *New Era* newspaper took an initiative in 2014 and launched its E-newspaper, which grants subscribers access to the digital archive dating back to the first copy of the *New Era* newspaper more than 20 years ago (Nunuhe, 2014). Meanwhile, *The Namibian* is a predominantly commercial newspaper owned by the Namibia Media Trust. The newspaper is widely distributed, distributing approximately 35 000 newspapers from Mondays to Thursdays and almost 54 000 publications on Fridays throughout the country (Rothe, 2010). The *New Era* and the Namibian newspapers are creatively appropriating new media technologies to enhance their news production and distribution practices (Remmert, 2019).

In the same vein, *The Economist* is an online newspaper covering mainly economic topics. It is published exclusively in English. Daniel Steinmann is the owner and editor of the newspaper. It was first published in 1996 as a printed weekly newspaper every Friday with a print run of 7000 copies. However, the paper edition was discontinued, which allowed the editorial team to turn all their attention to digital publishing in December 2016 (*The Economist website*, 2020). The researcher also interviewed four key informants from the copyright office at the Business and Intellectual Property Authority (BIPA), the Ministry of Justice, and the Attorney General's Office.

### **3.5 Data Collection Techniques**

The research employed a two-stage data collection process, which allowed inferences from one data collection tool to be supplemented by another tool. The section that follows discusses two stages of the data collection process in the following order:

i). *Document analysis*: copyright laws and regulations governing the operations of newspapers in Namibia was collected and analysed.

iii). *Individual in-depth interviews*: this involved editors, journalists, reporters or writers purposively identified and interviewed.

#### **3.5.1 Document Analysis**

In this study, the secondary data was obtained from the copyright regulation Act and the code of ethics for online, print, and broadcast journalists in Namibia. As such, document analysis is about locating, collecting, interpreting, analysing, and drawing conclusions about the documented evidence present that is essential for the study or analysis for findings or verification that are related to the research (Duffy, 2016; Fitzgerald, 2015). Moreover, the document analysis provides an important source of information for the research and serves as a supplementary source for the exploration of written documents, materials, or other artefacts such as films, videos, and photographs (McMillan & Schumacher, 2018). In this study, document analysis was thus used in order to analyse the various copyright laws and regulations governing the operations of newspapers in post-independence Namibia.

The researcher also analysed the Code of Ethics and Conduct for Namibian Print, Broadcast, and Online Media. A code of ethics is a constitution, written by employers or journalists, to set norms regarding their freedom with responsibilities, and it represents an act of self-reflection about the profession and its basic activities. As a constitution, it codifies the values that shape the newsroom conduct of newspaper institutions and also provides a framework within which those decisions can be implemented and evaluated (Remmert, 2019). Given the above, the codes of ethics of the three newspapers were also analysed in terms of the preferred ethical practices they propose for adhering to copyright laws and regulations. As such, the document analysis was carried out to identify and compare salient policy features governing the operations of newspapers in post-independence Namibia. The document analysis provides an important source of information for the researcher and serves as a supplementary source

(McMillan & Schumacher, 2018). Documentary analysis is often chosen as a second or supplementary means of collecting data in order to add rigour to a study through a multi-method form of triangulation. Thus, it is common to find that studies employing qualitative methods such as interviews or participant observation within an interpretive epistemology will also use documentary evidence as an additional source of data when this is both relevant and feasible (Bryman, 2015).

It is important, however, to note, as highlighted by Bryman (2015), that the advantage of the document analysis method for this study is that it is a straightforward, efficient, and cost-effective way of gathering data since documents are manageable and practical resources. Its major advantage is the availability of documents, usually at little or no cost to the researcher (Bryman, 2015). Another disadvantage of document analysis is that written materials such as codes of ethics or editorial policies for editors, journalists, reporters, or writers may not have been written for the same purposes as the research, and therefore, conclusions will not usually be possible from document analysis alone. The other problem with document analysis is that it only focuses on an examination of recorded communication, and other aspects might be missed (Maxwell, 2016). Hence, document analysis in this study was triangulated with other data collection techniques such as individual in-depth interviews in order to build up a clear picture of how the Namibian newspapers are adhering to copyright laws and regulations, especially in the era of convergence. Again, the researcher also did document/textual analysis of the selected news articles published between February and March 2021. The purpose of this exercise was to assess whether journalists and editors were following (or not following) copyright regulations in their day-to-day journalistic activities. The document/textual analysis was done in order to supplement self-reported responses from journalists and editors of the three selected print media companies.

### **3.5.2 Individual in-depth interviews**

Interview is a qualitative research instrument for collecting data and useful information from selected respondents on a particular issue or research subject by asking questions (Lukman, 2015; Adebakin & Raimi, 2020). Interviews could take the form of unstructured, structured or semi-structured formats, as said by Lukman, 2015; Saunders, Lewis & Thornhill, 2019). Interviews are a popular method of data collection within qualitative research, and this is attributed to their ability to facilitate detailed explorations (Abdulrahman, 2019). In response to why interview data is preferred, Abdulrahman (2019) notes that in-depth interviews represent one of the best possible ways in which to access experiences, thoughts, and opinions. This research therefore chose interviews instead of other qualitative methods,

such as focus groups or participant observation, as it was felt to be the most efficient way of mining the richness and depth needed for the study.

This research adopts semi-structured interviews as its method of data collection and prefers them over structured or unstructured interviews due to: a) the level of flexibility it offers during the interview process; b) its ability to allow the emergence of contextual issues devoid of the bias of researchers or preconceived ideas; and c) its realization that respondents may perceive realities differently and its provision for them to justify why they think the way they do (Abdulrahman, 2019).

Individual in-depth interviews are essentially a hybrid of the one-on-one interview approach and the commonsensical justification for their wide usage in media studies being that the best way to find out what people think about something is to ask them (Bryman, 2015). Adebakin and Raimi (2020) remind us that the interview is a qualitative research instrument for collecting data and useful information from a selected audience or respondents on a particular issue or research subject by asking questions. This research technique was used to fill up gaps identified while using document analysis and a semi-structured questionnaire in order to sufficiently capture how editors, journalists, reporters, writers, or publishers in their day-to-day news processing practices are adhering to copyright laws and regulations, especially in the era of convergence. As a result, editors and journalists from *The Namibian*, *the New Era*, and *The Economist* were interviewed. A total of three editors and nine journalists were interviewed. The researcher also interviewed four key informants from the copyright office at the Business and Intellectual Property Authority (BIPA), the Ministry of Justice and the Attorney General's Office.

The researcher conducted interviews via face-to-face, telephone, and e-mail. The telephonic and email interviews enabled the researcher to complement the information obtained from the semi-structured guide with experiences of journalists, editors, or information officers, as well as give attention to helpful perceptions arising from putting the study's ethical guidelines into practice during the interview with the respondents. In order to observe COVID-19 protocols and guidelines, telephonic and email interviews were used. These allowed me to observe social distancing regulations. These interviews were wide-ranging but motivated by a desire to probe copyright laws and regulations' adherence by newspapers in Namibia. Moreover, the participants during the interview were encouraged to express their active views at length. The participants were provided the opportunity to discuss how they adhered to copyright laws and regulations in their day-to-day news processing practices in the era of convergence (Brace, 2018). There was discussion about the current copyright laws used in Namibia with the provisions for use of open access copyright licensing or fair use dealing exceptions like creative commons for editors,

journalists, and others that develop or produce articles and news stories for newspapers. The participants also commented on the exclusive right to control the reproduction of copyrighted works in the digital era, as well as being asked to comment on real experience rather than giving generalizations about the research (Beskow, Check & Ammarell, 2015). There are also a number of steps that were taken into consideration by the researcher before embarking on the interview approach. Some of these steps include developing an interview guide based on the research questions. The researcher avoided multiple questions, then selected the possible interview subjects or themes, identifying the possible respondents from a given population that the researcher actually took note of before interviews with the participants (Blackstone, 2019).

### **3.5.3 Key informant interviews**

The researcher interviewed for this study four key informants from the copyright office at the Business and Intellectual Property Authority (BIPA), the Ministry of Justice's Minister and Attorney General Office. The key informants interviewed as part of this study on the provision for open access copyright licensing or fair use dealing exceptions like creative commons, especially in the era of media convergence, In another interview session with the key informants, they revealed how copyright regulation serves as the empowering shield or protection law to attain exclusive rights for the copyrighted works of the journalists, reporters, editors, or sub-editors that develop, produce, or print articles, pictures, adverts, and news stories for newspapers, with the exclusivity right to control the reproduction of copyrighted works in the digital era. As a statutory, the Ministry of Justice's Minister and Attorney General Office, as well as BIPA, are responsible for the implementation, enforcement, and promotion of compliance with the copyright legislation in Namibia. In light of the above, the interviews with key informants were wide-ranging but motivated by probing copyright laws and regulations and their adherence by newspapers in the digital era.

### **3.6 Data Analysis**

This research adopted inductive thematic analysis for this study. Inductive thematic analysis refers to an approach that involves searching, identifying, analysing, and reporting themes that are significant to the phenomenon being studied (Clarke, 2010). Inductive thematic analysis is one of the most popular and widely used methods in qualitative research (Smith, 2015). In this light, Braun and Clarke (2013) state

that inductive thematic analysis should be considered as the primary approach for qualitative analysis because it provides data analysis core skills for diverse approaches to a qualitative study. Gray (2014) agrees that the flexibility of inductive thematic analysis means it can be used with a wide range of different research designs and data collection methods because there is no ideal data type in inductive thematic analysis. Individual in-depth interviews are one of the most common methods of data collection in qualitative research and are excellent for gathering in-depth accounts of personal experience from respondents. Gray, 2014). Furthermore, Braun and Clarke (2013) point out that a theme refers to a specific pattern found that captures some crucial information about the data in relation to the research questions and features patterned meanings across the data set. The theme pertains to a shared topic with regard to an area of focus rather than summaries of data domains (Braun & Clarke, 2013). Meanwhile, Guest, MacQueen, and Namey (2012) explain that thematic analysis is the most useful method to pick out the intricate meanings embedded in text data. The advantage of inductive thematic analysis cannot be over emphasised: it is very flexible, can summarise the key features of a large body of data, and may also generate unanticipated insight into the subject matter (Braun & Clarke, 2013). Braun and Clarke (2013) listed the phases of inductive thematic analysis as: familiarisation with the data gathered, generation of initial codes, search and review of themes, definition and naming of themes, and finally production of the report. Smith (2015) reminds us that inductive thematic analysis solely focuses on the identification of patterns and relationships evident within a story or data collection from respondents. Smith (2015) notes that the study or investigation undertaken in the inductive thematic analysis process needs to be thematic, descriptive, but also focused on the data collection narrative that discusses or presents the findings of the study. Meanwhile, the disadvantage of inductive thematic analysis when compared to other methods is that it does not allow researchers to make claims about language use or the representational function of words that serve to make a statement (Braun & Clarke, 2013). In answering the research questions, the themes emerged in the data analysis narrative after the researcher conducted thematic analysis and transcription of the data. The main aim of the study is to find out how Namibian newspaper institutions in post-independence are adhering to copyright regulations in the era of convergence. As such, the transcripts were read through and re-arranged under the research questions. After the arrangement of the transcripts, relevant themes were identified. Then, similar themes were brought together to reflect the research questions. For instance, the researcher presents and discusses in chapter 4 themes such as copyright regulations governing operations of the print media in Namibia, an assessment of copyright regulation provisions for open access copyright licensing like creative commons or fair use, and how

copyright regulations are (dis)empowering editors or journalists, especially in the era of media convergence. The researcher presents and discusses the themes for this study to ensure that they accurately reflect the meanings in the data and address the overall research questions.

### **3.7 Ethical Considerations**

The researcher complied with the code of ethics of the Namibia University of Science and Technology (NUST) and obtained an ethical clearance certificate from the NUST's research ethics committee before beginning fieldwork. The researcher assures all participants and newspaper institutions in writing that their privacy and data are guaranteed. There was an informed consent form, which specifies in language that respondents understand the nature, purpose, and procedures of the research (Denscombe, 2017). The principle of confidentiality, which entails that data or information generated from respondents will not be available to others, will not be violated. They were assured that the data collected would be used exclusively for the purpose of the study. The fact that participation is voluntary, which stipulates that there should be no force to take part in research, and assurance that the responses are to be treated in a confidential manner (Bryman, 2015). The researcher assured confidentiality and anonymity to participants in the belief that this would allow them to respond more freely as the researcher took notes and audio-recorded the discussion for truthfulness, accountability, and to measure the frequencies of the words used during the interviews (Nordstrom, 2015). The identity of respondents remains constant and anonymous for the study through the use of appropriate coded or disguised names of participants, respondents, or institutions.

In accordance with rules of NUST, anonymity or confidentiality for the respondents is protected in the subsequent dissemination of research findings in the form of the finished thesis, oral presentations or publication. The fact that participants were free to withdraw from the research at any time without any negative or undesirable consequences for themselves also ensured free participation without undue influence. The nature and limits of any benefits participants may receive as a result of their participation in the research and a copy of the informed consent form attached were made available through the study. The researcher obtained permission for the study from the appropriate authorities and gatekeepers. (Muaz, 2015). The respondents were debriefed beforehand about the objectives and purpose of the research. The researcher assured response confidentiality and anonymity to participants in the belief that this would allow them to respond more freely, as the researcher took notes and audio-recorded the discussion for truthfulness, accountability, and to measure the frequencies of the words

used during the interviews (Nordstrom, 2015: 389). However, recordings of interviews have the advantage of capturing data more faithfully than hurriedly written notes might and can make it easier for the researcher to focus on the interview (Nordstrom, 2015). On the other hand, interviews were audio-recorded after the researcher had explained in more detail the research agenda and had asked permission to record the interview process. In addition, the note-taking proved helpful in terms of remembering the particular accurate details of the interview interaction (Nordstrom, 2015: 389).

### **3.8 Conclusion**

This chapter has presented the research methodology chosen for the study. Particular attention was also given to the qualitative research paradigm, which constitutes the mainstay of this study. It also established the reason for using the qualitative method in the study and went on to explain why it used document analysis as a procedure for data collection. The chapter also highlighted the use of individual in-depth interviews in finding out the perceptions of how Namibian newspaper companies in the post-independence era are adhering to copyright laws and regulations in the era of convergence. The chapter has also discussed the sampling procedures, the use of data analysis of the primary and secondary sources, as well as the case study design approach to be employed in the study. The next chapter presents and analyses the findings of this study.



## **CHAPTER 4**

### **Data Presentation and Analysis**

#### **4. Introduction**

In this chapter, the researcher presents and discusses the key findings of the study. The data presentation and analysis are informed by the objectives of the study and corroborated by the theoretical considerations and literature review as articulated in Chapters 1 and 2. The chapter combines findings from the qualitative content analysis with individual in-depth interviews. The findings are discussed under the following sub-headings: copyright regulations governing operations of the print media in Namibia; an assessment of copyright regulation provisions for open access copyright licensing like creative commons or fair use; and how copyright regulations are (dis)empowering editors or journalists, especially in the era of media convergence. This chapter will also offer a conclusion.

#### **4.1 Copyright regulations governing operations of the print media in Namibia**

This section presents data from the qualitative content analysis of Namibia's Copyright and Neighbouring Rights Protection Act 6 of 1994. This section captures the most salient features inscribed in the Copyright and Neighbouring Rights Protection Act as far as it addresses the issue of newspapers.

The Act provides authors, publishers, or owners of expressive creative works (such as cartoonists, editors, and reporters) with exclusive rights as required by the Berne Convention's agreement for the protection of literary and artistic works of 1886, the World Trade Organisation (WTO)'s Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994, the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT) of 1996. The Berne Convention for the Protection of Literary and Artistic Works was the first international copyright agreement in Switzerland in 1886. The core objective of the Convention is to protect the rights of newspaper institutions, print media, authors, or publishers over their literary and artistic original works in the analogue and digital eras. As such, the Convention incorporated into international copyright law for the first time the principles of national treatment and minimum rights. The term of newspaper protection for creative copyrighted works is for the life time and fifty years after the death of the author or publisher of expressive creative original news, articles, or photographs developed, produced, or printed. The World Intellectual Property Organisation (WIPO)'s Copyright Treaty (WCT) is a special agreement enacted by a consensus of over 100 member states of the European Union (EU). It was adopted in Geneva, Switzerland on December 20, 1996. This treaty supplements the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) and the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations (Rome Convention). The treaty deals with protection for print media, publishers, or authors of literary and artistic works, such as writings and computer programs; original databases; musical works; audiovisual works; works of fine art and photographs. The World Intellectual Property Organisation (WIPO)'s Performances and Phonograms Treaty (WPPT) protects certain rights related to copyright for the performers and producers of phonograms. However, the WPPT are known as the Internet Treaties, which aim to set international standards for preventing unauthorised access, use, reuse, sharing, reproduction, or distribution of original creative works by newspaper institutions, publishers, authors, or artists on the internet or other digital networks. The World Trade Organisation (WTO)'s Trade-Related Aspects of Intellectual Property Rights (TRIPS) treaty is the most inclusive multilateral international agreement that came into effect on January 1, 1995, to deal with the specific aspects of intellectual property laws or regulations. Furthermore, the agreement covers more areas of copyright and related rights through the protection and enforcement of intellectual property rights that contribute to the promotion of technological innovation, transfer and dissemination of technology to the mutual advantage of print media, authors, publishers, writers, or producers, and users of technological knowledge in a manner conducive to social and economic welfare, as well as to a balance of rights and obligations in the digital age.

#### **4.1.2 Copyright and Neighbouring Rights Protection Act 6 of 1994**

All copyright-related issues are protected by the Copyright and Neighbouring Rights Protection Act 6 of 1994 in Namibia. Interestingly, this law was passed in 1994, when the internet and social media were still a pipedream in the African context. This means some of its provisions are no longer fit for purpose, especially in a context characterised by media convergence. On January 16, 2017, the Business and Intellectual Property Authority (BIPA) was officially established to implement, enforce and promote compliance with this Act. Before the creation of BIPA, the law was administered by the Ministry of Information and Communication Technology (MICT). The Act governs the literary, artistic, and musical works embodied in media such as films, sound recordings, broadcasts, and published editions. It empowers authors (including editors, journalists, and cartoonists), publishers or owners of expressive creative works (photographers and videographers) with exclusive rights as stipulated in the Berne Convention of 1886, the World Trade Organisation (WTO)'s Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994, the WIPO Copyright Treaty (WCT), and the WIPO Performances and Phonograms Treaty (WPPT) of 1996. Furthermore, the Copyright and Neighbouring Rights Protection Act 6 of 1994 allows newspaper organisations the exclusive rights to regulate the original article or news story on economic, education, political or religious news published in print media with the author's name and the work's title. The only exception is when the author, publisher, or writer has prohibited the publication of such creative works. In fact, the Act makes provisions for the news, articles, photographs, or adverts developed, produced, or printed by print media organisations, such as literary or artistic original copyrighted works for the regulation, protection, or transfer in Namibia. For instance, Article 15 in Section 3 of the Act stipulates that:

“The copyright in a literary work which is lawfully available to the public shall not be infringed by a quotation therefrom, including a quotation from an article in a newspaper, magazine, or similar periodical that is in the form of a summary of that work, provided the quotation is compatible with fair practice; the extent of the quotation does not exceed that justified by the purpose; the source and the name of the author, if that name appears on the work, are mentioned.”

Chapter 1 to 6 of the Act provides and protects the copyright eligibility for original creative literary, musical or artistic works, cinematograph films, sound recordings, broadcasts, programme-carrying signals, published editions and computer programs. This captured as follows in article 1 in section a (iv):

“Literary works includes a version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book or in a newspaper, magazine or similar periodical.”

The exclusive rights of a copyright owner are set out in Chapters 7 to 14 of the Act, which lists the rights accorded to each copyright creativity and possession of original, recognized physical literary, artistic, or musical works. However, the exclusive rights allow or empower a copyright owner, such as authors, writers, or publishers, to authorize the reproduction of their work in any manner or form, publish the work, if unpublished, perform the work in public, broadcast the work, cause the work to be included in a diffusion service, make an adaptation of the work, and include the work in a cinematographic film or television work. For example, Article 15 in Section 7 of the Act outlines:

“The copyright in an article published in a newspaper, magazine or similar periodical on a current economic, political or religious topic or in any work on such a topic communicated in a broadcast shall not be infringed by its reproduction in the press or its communication in a broadcast, unless such reproduction or communication was expressly reserved when such article was first published or such work was broadcast, provided the source is clearly mentioned in such reproduction or communication.”

Chapters 15 to 24 contain detailed provisions of the exceptions regarding each of the literary, artistic, or musical original works as stipulated in the Act. It is important to state that in Namibia, the Act states that protection of copyright arises automatically on eligible creative expressive works at the time of creation, provided the requirements of subsistence are complied with as outlined by BIPA. As such, the Act clearly calls upon print media companies to apply and comply with the provisions. Upon approval, the author or publisher (print media organisations) is vested with the above-mentioned exclusive rights. It is vital to point out that the Act in view of creative or expressive works can only arise when infringement as outlined in the legal framework occurs. Against this background, it is thus important to

highlight that in Namibia, it is not infringement if other persons use copyright newspaper works for the purposes of research or private study; or personal or private use; criticism or review; or reporting on current events; or in a newspaper, magazine or similar periodical; or broadcasting or in a cinematograph film. In practice, the inclusion of other exceptions such as use of copyright work for educational purposes, parody, and user-generated content is encouraged and recommended not only for constitutional reasons but to keep up with the perpetual changes in digital media technologies. This is captured explicitly as follows in the Act:

“Copyright shall not be infringed by a fair dealing in the use of a literary or musical work for the purpose of research or private study by, or the personal or private use of, the person using the work.”

In summary, the Act’s protection subsists during the life of the author or publisher and for a period of fifty years from the end of the year in which the author or publisher dies. It is clear from the Act that it does not explicitly address the issue of newspaper copyright adherence regulations such as infringement, registration, open access licensing like creative commons or fair use in the digital age. The reason why the Act is silent on these important issues is that it was passed in 1994, when the internet and social media platforms were still a distant dream in most African countries.

The Act also falls short in dealing with the general fair use provisions. Okoye and Ejikeme (2011) define open access copyright licensing as free information or document availability on the Internet, permitting users to read, download, copy, distribute, print, search, or link to the full text of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose, without financial benefits, legal, or technical barriers other than those inseparable from gaining access to the Internet itself. The fair use exception is only with respect to literary and musical broadcasts, and works and published editions of newspapers or books. As a result, it can also be argued that the Act did not state or deal with the newspapers’ adherence to copyright regulations in the digital age.

#### **4.1.3 The Business and Intellectual Property Act of 2016**

Another piece of legislation that deals specifically with copyright-related issues in Namibia is the Business and Intellectual Property Act of 2016. This law gave birth to the Business and Intellectual Property Authority (BIPA). As a statutory body, BIPA is responsible for the implementation, enforcement, and promotion of compliance with the copyright legislation in Namibia. Section 1 of the

Act discusses the definitions of key terms such as BIPA, intellectual property (IP), and copyright. It also outlines the mandate of BIPA's Board of Directors and the objectives of the Act. It goes a step further in Section 2 to explain the establishment of BIPA, the composition of the board of directors, and the registration office with its functions and powers. It highlights that the Minister responsible for trade must in at least two newspapers widely circulated in Namibia invite applications or nominations for the BIPA's Board of directors to be submitted to the Minister in writing within the period specified in the invitation. Subject to this section 2, the Minister may appoint a suitable person(s) as member(s) of the BIPA's Board of Directors if no nomination is received within the time frame specified in the invitation. The other matters stated in section 2 include the policy directives by the Minister responsible for trade for the purposes of promoting the objects of this Act. It is essential to state that in Namibia, the copyright Act states that protection or empowerment of copyright arises automatically on eligible literary or artistic originals or creative expressive works at the time of creation, provided the requirements of subsistence are complied with registration procedure at the BIPA's office that implements, enforces, and promotes compliance with the copyright Act or regulations. As such, the copyright act or regulation requirements is a completed application at the BIPA's office. Thereafter, the print media, author or publisher are lawfully vested with the above-mentioned exclusive rights by the BIPA's office that facilitate, streamline, simplify or harmonise the business and industrial property procedures, registrations, official certificate license recognition or filings of creative copyrighted works in Namibia. However, the Act is silent on the provisions or controls for the compliance, protection, transfer, infringement, and remedies for infringement of copyrights. It is clear from the foregoing that the Act falls short in providing specifics on how newspapers, editors, and journalists should adhere to copyright regulations in the digital age. Be that as it may, the Act attempts to enhance the efficient protection of business and intellectual property as well as to facilitate and promote the efficient and effective registration of business and industrial property. The Act focuses on the promotion of the conduct and use of business and intellectual property and aims to facilitate, streamline, simplify or harmonise the business and industrial property procedures, registrations or filings in Namibia.

#### **4.2 The extent to which journalists and editors in Namibia follow (or not follow) copyright regulations in their day-to-day journalistic activities**

The study also found that journalists and editors at the three newspapers have put in place mechanisms in order to foster religious adherence to copyright regulations in their day-to-day journalistic activities. It emerged from a systematic document/textual analysis of purposively sampled newspapers published

between February and March 2021 that journalists and editors ensure that news articles, images and links sourced from the online or print media companies. As discussed in Chapter 3, the purpose of this exercise was to supplement data captured from in-depth interviews with editors and journalists from *The Namibian*, *New Era* and *Economist*. It was meant to cross-check whether the self-reported responses from journalists and editors were matched by what is published in the newspapers. Furthermore, the systematic document/textual analysis was conducted with the realization that although both the Copyright and Neighbouring Rights Protection Act 6 of 1994 and the self-regulatory Code of Ethics and Conduct for Namibian Print, Broadcast and Online Media have ethical principles and guidelines on acceptable ways of newsgathering and distribution. Based on the document/textual analysis of selected news articles, it was found that the three newspapers deploy what Tuchman (1972) calls "strategic rituals" in order to safeguard copyright provisions as spelt out in the Act and code of ethics and conduct. This means that editors and journalists in Namibia have mastered the art of formal "attribution" as a strategic ritual to protect them from the risks of their trade in the digital age.

The study established that the newspaper companies in Namibia follow copyright regulations with regards to formal accreditation, acknowledgment, attribution, and referencing materials sourced from online and archival sources. The attribution is done by crediting the copyright holder within the body of the news article, at the end of the news article, and as a byline in some cases. These strategies are often used when handling news content, images, videos, and advertisements. It can be posited that all three newspapers had a clear understanding of copyright regulations in place. They also made use of copyright regulations to guide them in content production and distribution. Below, this study presents a sample of newspaper articles that show how newspapers are religiously following copyright regulations with formal accreditation:

"Are You What You Wear? A question of self-expression. Afterbreak magazine." (*The Namibian*, 15 March 2021).

"City, Real cruise into quarter-finals. Adapted from BBC." (*The Namibian*, 18 March 2021).

"New moves against pro-Kabila camp in DRC. Nampa/AFP." (*New Era*, 4 February 2021).

"The catalyst behind Namibian women football. Thrupass.com.na." (*New Era*, 4 February 2021).

“AFCFTA: Free Trade Bloc can be a game changer for African people and business. News Service.” (*Economist*, 30 March 2021).

“This is a watershed moment for gender equality: If companies act now. News Service.” (*Economist*, 30 March 2021).

Based on the above newspaper headlines, it is clear that newspapers cite the sources of the content they carry in their newspapers. They also mentioned names of news wires and websites where the content was sourced. In the stories above, it can be observed that *The Namibian*, for instance, credited *Afterbreak Magazine* and the British Broadcasting Corporation (BBC). In the case of *New Era*, the newspaper attributed the content sourced from the Namibia Press Agency (Nampa) and Agency France Press (AFP). The *Economist* credited *News Service* for some of the stories published on their website. In a nutshell, these are some of the strategies used by three Namibian newspapers to follow copyright regulations in a changing media ecosystem characterized by media convergence and platformisation. Moreover, it can be observed again in the stories below that *The Namibian*, for example, credited Former MTN chief gets N\$68m package and Business Insider South Africa. In the case of *New Era*, the newspaper attributed Osaka, Djokovic, Nadal keen to be at Olympics but virus a big concern with SuperSport.com. Then again, The *Economist* credited the Weather Overview And Short-Term Outlook To Wednesday 10 March 2021 and International Research Institute for Climate in New York on their website. In light of the above, this study once more present below the headlines that show how newspapers are consistently following copyright regulations with formal accreditation:

“Former MTN chief gets N\$68m package. Business Insider South Africa.” (*The Namibian*, 11 March 2021).

“Osaka, Djokovic, Nadal keen to be at Olympics but virus a big concern. SuperSport.com.” (*New Era*, 4 February 2021).

“Weather Overview And Short-Term Outlook To Wednesday 10 March 2021. International Research Institute for Climate and Society in New York.” (*Economist*, 5 March 2021).

#### **4.3 An Assessment of copyright regulation provisions for the creative commons**



In line with the second objective of this study, this section, drawing empirical data from journalists and editors from *The Namibian*, *the New Era*, and *The Economist*, assesses the extent to which current copyright laws in operation in Namibia make provisions for use of open copyright licensing like Creative Commons. The respondents for the semi-structured interviews were conveniently sampled from a mix of senior or junior journalists and editors drawn from the three print media organisations: *The Namibian*, *New Era*, and *The Economist*. A total of nine journalists, three editors, and two information officers were interviewed for this study in Windhoek, Namibia. In addition, two legal officers from the Minister and Attorney General's office at the Ministry of Justice and two information officers from the copyright office at the Business and Intellectual Property Authority (BIPA) were interviewed on whether the current copyright laws in operation in Namibia make provision for the use of open access copyright licensing or fair use dealing exceptions like creative commons for editors or journalists. These creatives who develop or produce articles and news stories for newspapers in most jurisdictions have the exclusive right to control the reproduction of their copyrighted works in the digital era.

Editors and journalists from *The Namibian*, *New Era*, and *Economist* newspapers, as well as an information officer from the Ministry of Justice and BIPA, were interviewed based on an availability sampling technique. All the semi-structured interview responses were transcribed into English with an attempt made to maintain the sense of meaning that emerged in conversations face-to-face, by telephone, and by a combination of electronic mail with the respondents for this study.

#### **4.3.1 Interviews with editors**

Although it is difficult to generalise from the interviews conducted, a crucial point that emerged from the study is that the current copyright laws used in Namibia make provisions for the use of open access copyright licensing or fair use dealing exceptions like creative commons. The editors indicated that because of the creative commons license, print media organisations had exclusive rights to control the reproduction of copyrighted works (including newspapers, supplements, advertisements, and so forth) in the digital era. The respondents also mentioned that creative commons or fair use enabled them to enjoy open access, use, reuse, share or reproduce, and distribute newspaper publications such as articles, stories, news, photographs or adverts that are free of copyright and licensing restrictions. The editors said the public or individuals have to use or reuse copyrighted works with the newspaper or author's name and the work's title cited, except in the print media, author, publisher, or writer has prohibited such publication. The interviews with the three editors highlighted that the use of open access copyright licensing or fair use dealing exceptions like creative commons assists them in removing

the confusion and limitations of the copyright regulations. The fact that all the interviewees identified creative commons suggests that there is enough understanding or awareness regarding the options or opportunities in gaining permission to use open access copyright licensing or fair use dealing exceptions like creative commons. For instance, two of the interviewees had this to say about creative commons:

It is generally against the law to use someone's copyrighted work without first obtaining consent. A creative commons licence is the legal consent from a newspaper institution, publisher, journalist, or author for the general public to access, reproduce, expand, distribute, use, share, or reuse copyrighted creative works such as news, articles, pictures, or advertisements. The printed work available for use or reuse is accompanied by formal accreditation of the original publisher or author's name, with details of where the person found the information (Interviewer 1)

Creative commons or fair use means that news, articles, images, or photos, publications, information, or documents developed or printed by newspapers can be freely accessed or used by anyone in the world and are free of most copyright and licensing restrictions for the purpose of news reporting, public interest, study, or research (Interviewer 2)

The respondents further concurred that it is not an infringement if other people use copyrighted newspaper works for the purposes of research or private study; or personal or private use; criticism or review; or reporting on current events; or in a newspaper, magazine, or similar periodical; or broadcasting; or in a cinematographic film. In fact, the respondents pointed out that Namibia's copyright regulations for newspapers allow the public, organisations, or researchers to reproduce copyrighted content for exclusively reserved private or public interest. This could include the same character in an article or news story on economic, education, political, or religious news published in print media with the author's name and the work's title cited except the author, publisher, or writer has prohibited such publication. The editors acknowledged that the newspapers in Namibia have exclusive copyright rights that represent their private interest to control or regulate how people, governments, or organisations have the right to use or access their developed or produced news, stories, or information through open access copyright licensing or fair use dealing exceptions like creative commons. This was captured as follows by one of the interviewers:

Newspaper institutions in Namibia have exclusive copyright rights that represent private interests and control or regulate how the public has the right to use or access printed or online news, stories, or information through creative commons. Exclusive copyright rights prevent private ownership or exploitation of creative works in the public domain. It is to gain a copyright waiver for wider distribution of creative work developed or produced by print media (Interviewer 2).

The interviewers also observed that the public interest allows free and unrestricted access or use of creative works by newspaper institutions in Namibia. It is also possible that the public interest could involve payment or fee that may be more reasonable than the fair market value. For this reason, the respondents noted that charging a serviceable payment as a condition for gaining access to or using the news, stories, or information developed or produced by editors or journalists for media organizations is a possible compromise to boost the public interest at all levels. It was again revealed that it is vital that the works of newspaper companies used by anyone be accompanied by attribution, accreditation, or acknowledgment under open access copyright licensing or fair use dealing exceptions like creative commons to avoid copyright infringement. The respondents acknowledged that almost everyone in the digital age is allowed to access, use, expand, distribute, revise, review, translate, or transform expressive creative works with exclusive copyright rights, even for public, private, or commercial purposes, as long as the work is credited as the original creation of the newspaper institution. One of the interviewers summed it up as follows:

The attribution is about crediting a copyright holder within the body or at the end of news, articles, images or advertisement reproduce, share use, reuse or even building or writing upon a publisher or author's creative work. The public do not have to worry about copyright infringement when adhere to the specified conditions of properly citing the copyrighted work (Interviewer 1).

#### **4.3.2 Interviews with journalists**

Semi-structured interviews with journalists from *The Namibian*, *New Era*, and *Economist* revealed that open access copyright licensing or fair use, such as creative commons, provides the public, government, organization, or press with access to or use of written news, articles, or information content developed or produced by editors or journalists for newspaper institutions in the digital age without the need to

give or make payment. The journalists observed that it is free use of information, news, or articles for the purpose of education, public interest, research, review, or news writing, as well as illustration for instructions, as long as the work used is with attribution, accreditation, or acknowledgment of the newspaper organization that developed or produced the content. Some of the journalists pointed out the following interesting observations:

Creative Commons open licensing gives people access to the content without necessarily having to give anything or payment because it is a free use. But with the Namibian newspaper, it cannot necessarily be called an open licence because every piece of news, articles, or photos produced or printed by *the Namibian* newspaper used by anybody requires giving credit to the newspaper because there is no need to pay for using the content. But it must be mentioned that it is a product or content of the Namibian newspaper. Open licensing use is also where one can take or use news, articles, or information by giving credit to the author, writer, or producer, such as the photographer of a picture in the case of using the works for educational purposes (Journalist).

Creative Commons is one of several public copyright licenses that enable the free distribution of copyrighted original creative works. The license is used when a publisher or author wants to give other people the right to share, use, and build upon a work they have created. The Creative Commons licenses give everyone, from creators, companies, and institutions, a simple and standardised way to grant copyright permissions to their creative work, whereby a pool of content can be copied, distributed, edited, remixed, and built upon, all within the boundaries of creative commons copyright law (Journalist).

This license permits the public or users to read, download, copy, distribute, print, search, or link to the full free printed or online availability of newspaper publications such as articles, news, advertisements, public notices, pictures, stories, cartoons, editorials, developed or produced without the restrictions posed by publishers, authors, or creators for the lawful purpose of public interest or wider distribution of reporting without financial benefits (Journalist).

Journalists believe that news, articles, or information developed, produced, and published by newspaper organizations such as *The Namibian*, *New Era*, and *Economist* can be used by anyone for knowledge, study, education, or research purposes, but that such creative works require attribution

when used without payment or fee in the digital era. It was informed that open access copyright licensing or fair use like creative commons is also to use, expand, distribute, revise, review, or transform the expressive creative work with exclusive copyright rights of photographs taken by journalists for public, private, or commercial purposes, which needs sanction and attribution of the original creation by the newspaper organisation. The journalists from *The Namibian*, *New Era*, and *Economist* newspapers mentioned that the Namibian Copyright and Neighbouring Rights Protection Act 6 of 1994 gives the kind of freedom that is in line with open copyright licensing like creative commons for journalists, editors, or newspaper organisations without circumventing the laws because they are the ones saying all they want in reciprocation for their creative works or content is the free usage which is within the confines of the law to inform or educate the public for educational or informative purposes. One of them captured it as follows:

Any news or articles utilised for educational or informative purposes, such as criticism, comment, news reporting, teaching, scholarship, and research, is allowed under the copyright Act. In creative commons licence copyright, any person, be it journalists, editors, or print media organizations, must always have to accredit the source of information at all levels of usage with the name of the original owner, creator, or newspaper institution with information source details at the end of the copyrighted creative work use or reuse to avoid infringement (Journalist).

In a similar fashion, the journalists maintained that open copyright licensing is when journalists and newspaper institutions are willing to publish news, articles, or information with no monetary payment but just to credit their work or content when used for public interest or educational purposes. All the journalists said that the newspaper company is the owner of the copyright license due to a written employment agreement signed by the employees. Here is what some of them said:

The newspaper institutions are the owners and possessors of copyright licenses in the same way one owns a purchased car. Copyright is a property right that belongs exclusively to print media companies. Additionally, just as no one but the automobile company owner can legally sell, give away, or change the appearance of a car, no one but the copyright owner, with a few exceptions, may legally transfer or alter a copyrighted work. This simply means that, since

journalists and editors are employed by print media organizations, their work during their duration at such workplaces legally belongs to the newspaper companies (Journalist).

It is a standard that journalists or editors get paid for their work or content while the Namibian newspaper is the owner of copyright on all news, articles, or other pieces of information produced or written. So, of course, it is in the best interest of the Namibian newspaper that someone will not take their content produced or product and essentially uses it for commercial purposes without the benefit of the newspaper's work (Journalist).

For example, the pictures taken by John Liebenberg in 1989 or 1990 belong to the Namibian newspaper, and any person who wants to use or reused them will have to credit or pay the newspaper(Journalist)

The copyright duration is for a lifetime and fifty years after death, for example, for the work or content such as news, pictures or articles of freelance journalists or editors developed or produced for the newspaper institution until the duration expires for anyone to use or reused, reproduced or published (Journalist).

In light of the above extract, the copyright license is generally owned by the people who create the original works, with important exceptions in print media companies. When work is created by an employee, such as a journalist or editor, employed by print media organisations, their work during employment duration at such workplaces legally belongs to the newspaper companies. This simply means that the employer owns the copyright license on all the creative works developed, produced, or printed on paper or digital content by authors or publishers.

#### **4.3.3 Interviews with key informants**

The key informants interviewed as part of this study on the provision for open access copyright licensing or fair use dealing exceptions like creative commons acknowledged that in the Namibian context, the licenses are provided under which the author or publisher of creative work, such as a newspaper organization, would permit or grant the public authorization for use, reproduction, or distribution of

published news, articles, or information. However, the key informants indicated that adding or requesting monetary value and the country's benefits with creative commons permission for use of creative works by the public depends entirely on the author, journalist, editor, or publisher. They also stated that the goal of a fair use or creative commons license is to ensure a fair balance between users and rights holders when it comes to the use of copyrighted works. This is what one of the key informants said:

Creative commons licensing grants licensors, such as individual creators or newspaper institutions, the permission to use or reuse creative work under copyright law provided the conditions of the licence are followed. Every creative commons license also ensures licensors get credit for work developed or published. The licence works around the world and lasts as long as the applicable copyright is for life time and fifty years after the death of owners such as print media companies, publishers, or authors. This license permits others to use, distribute, remix, adapt, and build upon your work, even commercially, as long as they credit you for the original creation (Key informant).

It was also revealed that creative commons provisions are one important element in a broader copyright regulation or law that exists so as to promote or support news dissemination or gathering, as well as learning purposes, creative effort, or technological innovation in the digital age. Most of the key informants said that creative commons or fair use copyright regulation open access license have been designed to facilitate the sharing, use, reuse, or access of creative works by granting permission in advance or accompanied by attribution, accreditation, or acknowledgment of the owner, author, or publisher of the creative works or contents so as to uphold and fulfill the guarantee for access to promote or spread the progress of knowledge, invention, or information creation, gathering, or dissemination. The key informants further said the creative commons or fair use license is the best-known authorization that protects the general public when printing, quoting, copying, reviewing, or reusing existing newsprint or informational materials published by a journalist, editor, or newspaper institution to control public access or reuse in line with the copyright regulations for creative works dissemination in the new media digital era. They also said the following instructive comments:

The Creative Commons deals with the use or reuse of original copyrighted creative works under certain conditions without payment or exploiting the print media companies, publishers, or authors, and hence prohibits commercial use (Key informant).

Creative commons is a method of freely utilizing rights reserved for works protected by copyright. If one rephrases this within the Namibian context, it is the licenses provided for under which the publisher or author would permit the public or grant authorization for printing, quoting, copying, sharing, reviewing, or reusing developed or produced works by individuals or newspaper companies. Whether monetary value is added depends entirely on the publisher or author and the benefit the works have for the country (Key informant).

The ability of creative commons to influence information access and sharing across multiple mediums is astounding. On the one hand, it is an incentive for creative minds to continue their work, ensuring that they can, in turn, generate new works in the digital era based on the information that their novelty has brought. This is an issue of crucial public interest (key informant).

Further discussion centered on how the creative commons expands copyright management options for journalists, editors, newspaper companies, authors, and publishers by allowing some rights reserved licensing. In explaining this view, the key informants affirmed that the creative commons provides security for journalists, editors, or newspaper institutions when making their news, articles, photographs, or other content available in the digital environment without limiting their capacity to utilize the promotional and distributive potential of the online media or internet. As such, it is the opinion of the key informants that the creative commons or fair use license is well-known in Namibia but also well-established globally, giving a higher chance of a newspaper institution's creative work recognition or accreditation. The key informants explained that because the creative commons license is specifically included in the digital age, it is capable of keeping abreast of the rapid copyright regulation infringements happening in the digital media ecology, where most newspapers and journalists are generally vulnerable to content vultures. This is what one of the key informants had to say about how the creative commons license is aligned with digital:



To avoid infringements, open copyright licensing such as creative commons or fair use law should be followed. Plagiarism and sharing content without permission are both illegal. It is not acceptable for journalists, editors, or newspaper companies to present, develop, produce, or print the original creative works of others as their own (Key informant).

In light of the above extract, the creative commons or fair use open access license allows newspaper companies, journalists, editors, or the public to legally use, reuse, share, reproduce, or distribute copyrighted original creative works such as news, articles, or pictures produced, developed, or printed on paper or digital content. Newspaper companies, journalists, editors, or the public, with the permission of copyright owners through creative commons consent, may permit the use, copy, or change of copyrighted works by publishers or authors. This copyright exclusive right permission is called a "creative commons" or "fair use" open access license to avoid infringements, plagiarism, or sharing content without authorisation. The copyright owner is typically the original work's creator, publisher, author, or institution that invokes legal and technological measures to prevent and file a lawsuit for infringement, stealing, or plagiarism of work produced, developed, or printed on paper or digital content.

#### **4.4 How are copyright regulations (dis)empowering editors and journalists in the Namibian print media landscape?**

In order to answer the third objective of this study, this section presents data on how copyright regulations give writers, publishers, journalists, reporters, editors or sub-editors that gather, compile, produce, or print articles and news stories for newspapers the exclusive right to control the reproduction of copyrighted works in the digital era. It focuses on teasing out the findings from the analysis of the semi-structured interview dataset. The research question was interested in understanding how the copyright regulations are (dis)empowering editors and journalists in the Namibian print media landscape.

##### **4.4.1 Responses from editors**

The findings on how copyright regulations in Namibia are (dis)empowering editors and journalists revealed that they rely on the Copyright and Neighbouring Rights Protection Act 6 of 1994 (I discussed this law in section 4.1.2 earlier). It emerged that the Business and Intellectual Property Authority (BIPA) was officially established to implement, enforce, and promote compliance with the copyright act, law, or

regulation on January 16, 2017. The findings highlighted that the Act governs or protects the literary or artistic works embodied in published materials, newspapers, and any other related print publications. The Act provides newspaper organisations, authors (editors, journalists, cartoonists and sub-editors), publishers and any other owners of expressive creative works with exclusive rights as required by the agreement of the Berne Convention for the Protection of Literary and Artistic Works of 1886, the World Trade Organisation (WTO)'s Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) of 1996. The editors mentioned that the Act provides, protects or empowers the eligibility to use or reuse original literary published editions of newspapers or print media institutions, as well as news, articles, or pictures for the purpose of criticism, review, or reporting. One of the editors summarized the issue in the following words:

The empowerment behind copyright is that the publishers, authors, or creators of literary and artistic works have the sole right of ownership of creative works developed, produced, or printed by newspaper companies. The copyright licence empowers newspaper companies with legal protection control of works developed or printed in order to prevent unauthorized stealing, appropriation, adoption, or misuse of original creative news, articles, or pictures produced by the editors or journalists that are employed by the newspaper institutions (Interviewer 3).

The editors pointed out that the exclusive rights of the copyright owner are set out in the Act. For instance, the Act outlines the rights granted to each creativity and possession of original, recognized physical literary or artistic works with the exclusive rights that allow or empower a copyright owner, such as authors, writers, or publishers, to authorise the reproduction, sharing, use, reuse, or access of their work in any manner or form, publish the work, if unpublished, and perform the work in public. The editors further highlighted that authors, writers, or publishers are empowered through detailed provisions of exclusive rights for the news, articles, adverts, or photographs developed or produced as literary or artistic original works that are recognized by the Act. The majority of the editors noted that it is essential to state that in Namibia, the Act states that protection of copyright arises automatically on eligible literary or artistic originals or creative expressive works at the time of creation. However, this is dependent on whether the requirements of subsistence are complied with the official registration procedures at the BIPA. This is partly because, as discussed earlier, BIPA is responsible for implementing,

enforcing, and promoting compliance with the Act. As such, the editors said the requirements of the Act must be adhered to in order to be granted approval by the regulatory authorities. Once approval has been granted, the author or publisher is vested with the copyright licence exclusive rights under the Act. Below are some of the comments from the interviewers:

Under this dispensation, the permission of newspaper companies originating the creative work is required to enable other institutions or the public to publish, adjust, translate, rewrite, or reproduce for the public the works embodied in published editions, newspapers, or print media. In other words, the copyright license owner allows or assigns with permission to people or institutions the rights the publisher or author possesses in the original creative work produced or printed out on paper or digitally for the public (interviewer 1).

The copyright licence holder has an exclusive right to grant consent to the public for use or reuse of their creative work in any manner or form, publish the work, if unpublished, or perform the work in public with the accreditation of the publisher or author that developed or produced the original content (Interviewer 2).

It is the right to accredit, authorship, work integrity, production, publishing, and dissemination of creative works. The copyright licence privileges can be retained when the right has been assigned to the public or institutions through the accreditation of the publisher or author that developed or printed the original creative work (Interviewer 2).

The copyright registration purpose is to place on record a certifiable arrangement of the date, owner, and content of the original creative work produced or printed on paper or online, so that in the event of a legal claim, infringement, or plagiarism case, the copyright owner can produce a copy of the work from an official government source. In this context, copyright registration could be viewed as one of the potential solutions to the problem of rapid copyright infringements in digital media (Interviewer 3).

The interviews with the editors highlighted that copyright regulation empowered the editors, journalists, or newspaper institutions to trace, prevent duplication or unauthorised copying, access, reproduction, sharing, use, or reuse of news, articles, adverts, or pictures developed or produced as

literary or artistic original works. It also emerged that the current copyright legislation ensures that editors, journalists, and newspaper companies are protected during the life of the author or publisher and for a period of fifty years from the end of the year in which the author or publisher dies. This is captured in Article 6 of the Act, which reads:

“The duration of copyright protection in the case of a literary or musical work or an artistic work, other than a photograph, during the life of the author and for a period of 50 years from the end of the year in which the author dies. But if such work or an adaptation thereof has not been made available to the public during the lifetime of the author through the publication thereof; the performance thereof in public; the offer for sale to the public of records thereof; or the broadcasting thereof, the duration will be for a period of 50 years from the end of the year in which the work is so first made available to the public after the author’s death”

As such, the editors also confirmed that the copyright regulations give power to the journalists, editors, or sub-editors to control the use or reuse of copyrighted works as long as they are done with proper attribution, accreditation, or acknowledgment during their life and for a period of fifty years from the end of the year in which the original author or publisher dies in the digital era. Most of the editors said that the copyright regulations have the ability to provide a practical approach by which authors or publishers protect or control literary or original intellectual creations while at the same time imposing an obligation on the general public to use, develop, produce, print or digital content of information, articles, and news stories of the newspaper institutions. This is what one of them said:

The duration of copyright begins when the tangible work is created and officially licensed. Once the copyright licence has expired, anyone or the general public can reuse, use, rewrite, or reproduce the copyrighted works written in published editions or print media. The duration considerations include the kind of original creative work produced or printed, evidence that it is published or unpublished news, an article or picture of acknowledged or anonymous creators. The general rule is that duration is granted until the end of fifty years after the death of the publisher or author (Interviewer 3).

It is clear, based upon the above extract, that a copyright license lasts for seventy years to legally protect only expressive original works and not the ideas of the journalists, editors, or sub-editors that produced

or developed news, articles, or pictures for newspaper companies. Again, copyright does not protect concepts, systems, or methods of producing or developing news, articles, or pictures. In fact, copyright protects original works of authorship that are fixed in a tangible medium of expression.

#### **4.4.2 Responses from journalists**

From the interviews conducted with the journalists, it was clear that chapters 15 to 24 of the Copyright and Neighbouring Rights Protection Act 6 of 1994 confer the power on editors, journalists, and newspaper companies based on their information intellectual creations approved by BIPA to control or decide how to share, use, reuse, access, or reproduce for exclusively reserved public interest the same character article or news story on economic, education, political, or religious news published in print media with the author's name and the work's title are cited, except the author, publisher, or writer has prohibited such publication. The respondents further indicated that the copyright law empowers journalists and newspaper companies to affirm the provision for open access copyright licensing or fair use dealing exceptions like creative commons for the public to use or reuse the copyrighted articles, adverts, or pictures developed, produced, or printed by journalists or print media that include exclusive rights for the authors or publishers. One of the journalists observed that:

So you have to live with attribution, accreditation, or acknowledgment of the author's name with the work's title and only make sure that you are quoted as the source of your original creative work when using copyrighted articles, adverts, or pictures produced, published, or printed by any other publisher, author, or print media company (Interviewer 2).

Furthermore, the journalist observed that in practice, the inclusion of other exceptions such as use of copyright work for educational purposes, parody, and user-generated content is encouraged and recommended not only for constitutional reasons but to keep up with the perpetual changes in the digital media ecosystem. The journalists also said that copyright regulation gives the power to continue to promote the creation and dissemination of digital content for the purposes of research, innovation, education, private study, criticism, review, reporting on events, personal or private use of information, as well as the reuse in a newspaper, magazine, periodical, broadcasting, or cinematographic film or video production. In this light, the journalists confirmed that the copyright licensee owner, which is the newspaper institution, has an exclusive right to allow public translation, distribution, reproduction, sharing, broadcast, use, reuse, or access to the developed, produced, or printed copyrighted works.

Following the new digital revolution era, respondents admitted that copyright regulations empowered journalists or print media for fast digitalization dissemination, distribution, transfer, cheap storage, and reaching larger readers or clients for advertisements, news, articles, or pictures online website content. It has emerged that digital content is done with relatively little cost and effort and offers the same quality as the original work. It was also revealed that the copyright regulations allow journalists to develop information on digital online website content with the provision for open access copyright licensing or fair use or reuse of the copyrighted works produced or presented with exclusive rights by newspaper institutions. Some of the responses from journalists can be summarized as follows:

The copyright regulations guide and ensure that creative work is not reproduced without permission, but the current laws have loopholes and appear toothless for implementation. Copyright protection is automatic under international law, but in the event that the work of editors and journalists is infringed, evidence may be required to support the claim. As such, the regulations also help to deter infringement or misuse, particularly by the general public or institutions that do not understand copyright. It is good that newspaper institutions make it clear on any platform that news or articles published are protected under copyright law (Journalist).

Journalism thrives on exclusivity. Lack of copyright regulations promotes plagiarism and a lack of appreciation for other people's work. One can file an infringement complaint by taking it up with our regulatory authorities to say that this work of the journalist has been taken, reproduced, and reused without any form of consent or recognition (Journalist).

It was observed that copyright regulations were important for ring-fencing editors, journalists, and newspaper companies from arbitrary breaches of copyrights such as plagiarism, stealing, or unauthorised use or reuse of published works in different forms without attribution or accreditation. It was next shared that copyright regulations allow access to the copyrighted works for the reasons of public interest, dissemination, selling, transfer, rental, or lending with the proper publisher or author's name and work title cited, except the acknowledgment is prohibited for the publication. It was pointed out that copyright regulations empowered journalists, editors and newspaper companies to take legal action against infringing persons, organisations or government and to claim compensation for potential losses in case of unauthorized use, infringement or plagiarism for copying, publishing, transmitting,

exhibiting, distributing, modifying, displaying or using for profit without permission the creative works of news, articles, adverts or pictures produced by print media institutions. It was the opinion of the respondents that copyright law provided legal safeguards for journalists and editors thereby preventing violations of the exclusive right of newspaper companies to control the use, reuse, access or reproduction of copyrighted works in the digital era. It is vital to point out that one of the respondents said that the copyright regulations empowered them to file a lawsuit in case copyrighted work is used or reused on the online website, by magazine or a print media with permission from the owner of work.

One of the journalists said the writer, author, or publisher of a publication can also contact BIPA, as the regulatory authority, to complain about how the news, articles, or pictures have been taken, reproduced, or reused without any form of consent. It was mentioned that in the case of unauthorised use, infringement, or plagiarism, the two parties or newspaper companies usually come to an agreement for payment or removal of copyrighted works with an apology. It also emerged from the interviews that the remedies for copyright infringement are sometimes done by the editor with the lawyers of the newspaper institution in the absence of regulatory authority or court solution between the person, institution, or government that committed the copyright infringement. It was explained that the process of remedy can be difficult for journalists because the newspaper company is the owner of the copyright license due to a written employment agreement signed by the employee. Some of the responses from journalists can be summed up as follows:

The copyright regulation serves as an empowerment to shield the work of journalists or newspaper organizations so that no one will steal or use their works for any kind of benefit, such as finance, reputation, glory, praise, recognition, or award (Journalist).

It is a right that enables us to protect the value of original intellectual works developed or printed by newspaper institutions. But when copyright is infringed, the affected party has recourse to a court of law to demand compensation (Journalist).

Based upon the above quotes, it is clear that copyright regulations serve as the empowering shield or safety law for print media companies to attain exclusive rights in protecting the value of original intellectual works developed or printed by newspaper institutions in the digital era.

#### **4.4.3 Responses from key informants**

In another interview session with the Ministry of Justice and BIPA's key informants, it was revealed that copyright regulation serves as the empowering shield or protection law to attain exclusive rights for the copyrighted works of the writers, publishers, journalists, reporters, editors, or sub-editors that develop, produce, or print articles, pictures, adverts, and news stories to control the reproduction of copyrighted works in the digital era. The majority of respondents shared this view point that copyright regulation prevents anyone, including journalists and editors, from stealing or using copyrighted works such as news, articles, or pictures for benefit of any kind, such as financial incentive, reputation, glory, praise, recognition, or award. The key informants observed that the journalists, editors, and newspaper companies through the copyright regulations have the exclusive right to determine or finalize a remuneration agreement for the granting of privileges for copying, publishing, transmitting, exhibiting, distributing, modifying, displaying, or using for profit without permission the creative works of news, articles, adverts, or pictures produced by print media institutions. Here is what the key informants said:

There is an exception to copyright regulations for news, articles, or pictures that enables journalists, writers, reporters, editors, or newspaper organizations to make use of the creative work of others under certain circumstances, such as public interest or fair use. This exception aims at empowering or protecting the role of the print media in informing the public about news, events, or publications of concern in the digital era (Key informant).

It emerged from the above extract that in the event the remuneration agreement is not equitable, the journalists, editors, and newspaper companies may require the other party to consent to a modification of equitable remuneration that is appropriate for the use or reuse of copyrighted works. The key informants explained that the remuneration agreement should be in line with the labour laws or Act but that the journalists, editors, or newspaper institutions may, however, grant free of charge non-exclusive rights for public interest reasons, dissemination, selling, transfer, rental, or lending with the proper publisher or author's name and work title cited, except that the acknowledgment is prohibited for the publications produced in the new digital era. The key informants indicated that the copyright regulations promote and protect the freedom of independence of the print media in order to foster high professional standards among journalists, editors, and newspaper institutions. They also said that the copyright regulations enhance professional and ethical standards of collaboration among print media in



allowing public translation, distribution, reproduction, sharing, broadcast, use, reuse, or access to the copyrighted works of newspaper institutions. They also highlighted the following instructive comments:

When the creative work of a publisher, author, or any person is uncommon or unusual and is a solution to a problem, such a creation outcome can lead to monetary benefit. It creates an incentive for more publishers or authors in a developing country, resulting in increased creativity, higher income levels, lower crime rates, and increased employment opportunities and job creation. Copyright regulations can grow the economy in the digital era (Key informant).

Copyright infringement is considered a crime when the violation is deliberate and involves monetary profit. The copyright regulations give power to lawful professional and ethical standards collaboration to avoid accidentally stepping on the rights of an institution or another's creative work. Copyright empowers or encourages creativity in the sense that creative works are legally secure against exploitation, use, or reuse for financial gain (Key informant).

The key informants also pointed out that the copyright regulations empowered journalists, editors, and newspaper companies like *The Namibia*, *New Era Publications*, and *The Economist* by enabling them to control, prevent, or avoid any manipulation, stealing, unauthorised use, infringement, or plagiarism of the original creative copyrighted works of news, articles, adverts, or pictures produced by print media institutions. Similarly, key informants emphasized that the copyright regulations empower to secure accessible exclusive rights that provide a sense of identity, dignity, and ownership for newspaper institutions, journalists, or editors that ensure the provision for open access copyright licensing or fair use dealing for the public to use or reuse the developed or produced copyrighted articles, advertisements, or pictures of print media with attribution, accreditation, or acknowledgment. This is what one of the key informants had to say:

An infringement could arise when the user of copyrighted creative work is not permitted by the publisher, author, or institution that developed, produced, or printed the information. The copyrighted work could be used freely, but only with the consent and acknowledgement of the original creator (Key informant).

It emerges from the above quote that copyright infringement is using or reusing creative works when the journalists, editors, newspaper institutions, publishers, or authors that developed, produced, or printed the works may, however, not grant free of charge non-exclusive rights for public interest reasons such as dissemination, selling, transfer, rental, or lending without the proper publisher or author's name and work title cited, except the acknowledgment is prohibited for the publications produced in the new digital revolution era.

#### **4.4 Discussion and Analysis of Findings**

The findings of this study demonstrate how editors, journalists, and newspaper companies in Namibia are adhering to copyright regulations, especially in the era of media convergence. The study has shown that the outdated copyright Act of 1994 is still governing the operations of newspapers in Namibia. Moreover, the copyright Act is under review or amendments to ensure that print media companies, journalists, and editors move with the times while at the same time maintaining the core values of newspaper institutions while adhering to copyright regulations in the media digital era. Meanwhile, it is clear that most of the respondents showed a lack of familiarity with the copyright act and other international treaties relevant to their profession. Again, the findings have highlighted the compulsory, including attribution or accreditation when journalists and editors use or reuse copyrighted works with the provision of creative commons or fair use dealing exceptions. Based on the views of respondents, it is prudent for newspaper companies to devise copyright regulations to counter content theft and plagiarism in the digital space.

Evidently, the study has established that the self-regulatory Code of Ethics and Conduct for Namibian Print, Broadcast, and Online Media, as well as the editorial policies of specific newspaper companies, have provisions for copyright protection and promotion. The code of ethics and conduct has ethical principles or guidelines on acceptable ways of gathering and disseminating information. It also promotes truth-telling, protection of personal information, objectivity, accuracy, fairness, accountability, and balance in the journalistic profession. As such, the code of ethics and conduct sets out guidelines aimed at prescribing certain types of conduct deemed unethical and identifying other types of conduct as ethical for editors, journalists, or newspaper institutions. All published or unpublished editions used in a report from sources other than the journalist's should be indicated in the news, article or story developed, produced, or printed on paper or digital content.

Importantly, the study has shown that newspaper institutions as units of ethical agency do not operate in a political vacuum. The Copyright and Neighbouring Rights Protection Act 6 of 1994 provides guidelines and safeguards for the protection of the media's creative works. Although there is a copyright law in Namibia and other supporting international treaties, newspaper companies are still prone to content theft and plagiarism in the digital age. The current law outlines the rights accorded to each copyright owner in terms of creativity and possession of original, recognized physical literary, artistic, or musical works. However, the exclusive rights allow or empower a copyright owner to authorise the reproduction of their work in any manner or form, publish the work, if unpublished, or perform the work in public. This study has found that there are two options for newspaper companies to seek recourse in the event of copyright infringement: First, a newspaper company or journalist can approach the office of the Media Ombudsman for mediation and arbitration. Second, the complainant can approach the courts for justice. Because of the structural weaknesses of the current copyright regulations and the self-regulatory mechanism, the courts in Namibia often deal with copyright-related offenses.

The study has established that the duration of a newspaper's copyright protection in the case of a literary or artistic work, other than a photograph, during the life of the author (content creator), extends to a period of 50 years from the end of the year in which the author dies. But if such original creative work or an adaptation thereof has not been made available to the public during the lifetime of the author (journalist) through the publication thereof, the performance thereof in public, the offer for sale to the public of records thereof, or the broadcasting thereof, the duration will be for a period of 50 years from the end of the year in which the work is first made available to the public after the author's death. It is important, however, to note, as highlighted by respondents in this study, that copyright law in Namibia gives the power to continue to promote the creation and wider dissemination of digital adverts, news, articles, or picture content for the purposes of research, innovation, education, private study, criticism, review, reporting on events, and personal or private use of information. What also emerged from the findings is the fact that copyright infringements arise when the user of copyrighted creative work has no legal permission from the publisher or content creator. The copyrighted work could be used freely, but with no exception to the consent and acknowledgement of the right owner of the original creation. Copyright infringement is considered a crime when the violation is deliberate and involves monetary profit. The copyright regulations give power to lawful professionals to avoid accidentally stepping on the rights of an institution or another's creative work. As such, the copyright law empowers

creativity in the sense that creative works are legally secure against exploitation, use, or reuse for financial gains. This relates mostly to content produced in the analogue era. The current law fails to acknowledge the shifts associated with media convergence.

As articulated in Chapter 2, this study is guided by the "justice as fairness" theory as propounded by John Rawls (2001). The theory argues that a just society is one that has institutions that protect the individual rights and liberties of all citizens and has a pattern of resource distribution (Rawls, 2001). Based on a deontological approach to ethical frameworks, Rawls (2001) proposes that a person who is shrouded in a "veil of ignorance" must design a just society without foreknowledge of his or her own status in that society. He postulates that "justice as fairness" requires members of society to be engaged in social cooperation. He sees the social cooperation of society's members as intrinsic to the construction of a society ruled by fair justice. He defines two "moral powers" by which individuals can express this social cooperation. The form of such power is the *capacity for a sense of justice*. This refers to the capacity to understand, to apply, and to act upon and not merely in accordance with the principles of societal justice that specify the fair terms of social cooperation (Fanton, 2020). The second moral power is the capacity for a *conception of the good*. This denotes the capacity to have, to revise, and rationally pursue a conception of the good (Rawls, 2001). For Rawls, copyright regulations and laws are an expression of basic liberties and rights and as such cannot be limited in an unequal way and traded off against other social benefits.

Thus, copyright laws come into play in two respects in Rawls' deontological ethical framework. First, it acknowledges the existence of a body of rules and practices. It views copyright regulations as a social institution that governs the operations of content creators in both the offline and online worlds. Second, it views copyright regulations (such as intellectual property) as a resource that can conceivably be included in the range of items governed by distributive principles or other principles of justice (Laukyte, 2013). Thus, the theory conceives copyright regulation as a necessary incentive for authors and content creators to invest time, intellectual effort, and money into producing works of creative expression, including learning materials, for the benefit of the public at large (Macharia, 2015).

In light of the above, this study utilizes the "justice as fairness" theory because it proposes that it is important to promote a just distribution of income or wealth in line with the right to protect the creative and expressive work of authors and content creators in the newspaper industry (Hughes, 2017). In view of the preceding argument, Hughes (2017) argues that the "justice as fairness" theory allows for

the recognition of compensation for creative works produced by content creators and individuals. Importantly, it should be stated that the same way the theory attracted the admiration of some scholars, it has continuously attracted various criticisms. As part of the critique, McCarthy (2004) argues that the theory is profoundly defective because it cannot separate the social and political topics that have an in-eliminable interpretive dimension since social matters cannot be settled from the standpoint of a neutral observer or person.

Clearly, the study has confirmed that copyright regulations and media technologies have a long history dating back to the Gutenberg press in the 15th century, which is more than 200 years before the legislation of the matriarch of copyright statutes, Britain's Statute of Anne (Thuronyi, 2017). Again, it is clear from this study that newspaper companies in the new digital era that develop, produce, or publish news, articles, pictures, or advertisements, are driven by new online multi-platforms that disrupt existing copyright regulations or regimes (Thuronyi, 2017). Moreover, the new digital media or technologies continue to raise novel questions about the newspaper copyright regulations' adherence to prevent increased cases of ethical and legal violations related to copyright infringements, plagiarism, theft, and reuse of published material online or offline (Thuronyi, 2017). Against this backdrop, it is hoped that this study will contribute to scholarly debates on the newspaper's adherence to copyright regulations to stop the loss of economic value of copyrighted works from theft, infringement, and piracy (Adhikari & Amarpuri, 2017).

#### **4.5 Conclusion**

This section has presented the main findings of the research, gaining insight broadly to examine how *The Namibian*, *New Era*, and *The Economist* in Namibia are adhering to the copyright regulations as enshrined in the Copyright and Neighbouring Rights Protection Act 6 of 1994. Despite the religious adherence to the provisions, it was found that the Act is now outdated to apply in the digital age, where content creation, distribution, and consumption are driven by many platforms. Based on the findings in this chapter, it can be posited that the majority of newspaper institutions, editors, and journalists are aware of copyright regulations and their importance in publishing or unpublishing editions of news, articles, or information dissemination. The findings also revealed that all three newspapers had clear confidence in copyright regulations in place, and editors and journalists recognised the importance of copyright regulations governing the operations of the new media. It is also clear that newspaper institutions, editors, and journalists are making efforts toward copyright regulations' provisions for open

access copyright licensing or fair use dealing exceptions like creative commons. Furthermore, the findings emphasize the need for attribution or accreditation when journalists, editors, or newspaper institutions use or reuse copyrighted works under the creative commons or fair use dealing exception.

## **CHAPTER 5**

### **Summary and Conclusions**

#### **5. Introduction**

This chapter sums up the key issues that arose out of the study. The study focused on gaining insight broadly into how Namibian newspapers are adhering to copyright laws and regulations, especially in the era of media convergence. It sought to investigate how newspaper institutions, editors, and journalists in Namibia were adhering to copyright regulations. It also sought to analyse the various copyright laws and regulations governing the operations of newspapers in post-independence Namibia. The study also critically assessed whether the current copyright laws used in Namibia made provisions for the use of open copyright licensing like Creative Commons.

#### **5.1 An analysis of copyright laws and regulations governing the operations of newspapers in post independence Namibia**

The first objective was aimed at analysing the various copyright laws and regulations governing the operations of newspapers in post-independence Namibia. It analyzed the Copyright and Neighbouring Rights Protection Act 6 of 1994 and the Business and Intellectual Property Act of 2016. It discussed some of the most salient features inscribed in the Copyright Act of Namibia so far as it addresses the issue of newspapers and the publishing industry. It found that some of the current pieces of legislation in Namibia are aligned with the Berne Convention for the Protection of Literary and Artistic Works of 1886, the World Trade Organisation (WTO)'s Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) of 1996. However, it also revealed that the Copyright and Neighbouring Rights Protection Act 6 of 1994 was outdated in so far as it failed to address the following issues: the including of attribution or accreditation when journalists, editors, or newspaper institutions use or reuse copyrighted works when the provision of creative commons or fair use dealing exception is authorised for the purposes of research, innovation, education, private study, criticism, review, reporting on events, personal or private use of information, as well as the wider reuse in a newspaper, magazine, periodical, broadcasting, or

video production of published editions or digital content by print media. Other issues to consider include effective copyright infringement dispute resolution, regulations or enforcement institutions for newspaper companies, and the official public notice required to own a copyright. The most important provision of the WIPO copyright treaty confirms that the right of reproduction applies in the digital environment by providing that the storage of a work in a digital or electronic medium is a reproduction. The next issue is the protection of creative works of joint authorship or undisclosed information. In this light, the Act is outdated in the digital era so far as it failed to address the above-stated issues as required by the agreement of the Berne Convention for the protection of literary and artistic works of 1886, the World Trade Organisation (WTO)'s Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1994, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) of 1996. However, it is important to highlight that the outdated Act is currently under review or amendments to cater to some relevant provisions of the above stated agreements or treaties to ensure that print media companies, journalists, and editors move with the times while at the same time maintaining the core values of newspaper institutions while adhering to copyright regulations in the media digital era.

## **5.2 To assess whether the current copyright laws used in Namibia makes provisions for use of open copyright licensing like creative commons.**

In line with the second objective of this study, this section, drawing empirical data from journalists and editors from *The Namibian*, *New Era*, and *Economist*, assessed the extent to which current copyright laws in operation in Namibia make provisions for use of open copyright licensing like Creative Commons. The findings from the study highlight the importance of including attribution or accreditation when journalists, editors, or newspaper institutions use or reuse copyrighted works with the provision of a creative commons or fair use dealing exception. In line with the shared views of respondents, there is a need for newspaper institutions to devise strategies to counter copyrighted works' accreditation when the creative commons or fair use dealing exception allows use or reuse for the purpose of public interest, research, education, news, articles, or picture dissemination.

## **5.3 How copyright regulations are (dis)empowering editors and journalists to control the reproduction of copyrighted works in the digital era.**

In order to answer the third objective of this study, this research presented findings on how copyright regulations empower or disempower journalists and editors. The study found that the copyright

regulations empowered editors and journalists to secure accessible exclusive rights that provide a sense of identity, dignity, and ownership for newspaper institutions, journalists, or editors that ensure the provision for open access copyright licensing or fair use dealing for the public to use or reuse the developed or produced copyrighted articles, adverts, or pictures of print media with attribution, accreditation, or acknowledgment in the digital era. The findings from this study revealed that all three newspapers lacked confidence in the existing copyright regulations. Copyright regulations were recognized as important by editors and journalists, particularly in the age of media convergence. It is also clear that editors and journalists are making efforts towards copyright regulations' provisions for open access copyright licensing or fair use dealing exceptions like creative commons. Moreover, the findings highlight the importance of attribution when journalists and editors use or reuse copyrighted works with the provision of creative commons or fair use dealing exceptions..

#### **5.4 Recommendations**

From this study, it is clear that during the interviews and data collection stages, coordination of copyright regulations for newspapers, creative intellectual works, and open copyright licensing like creative commons or fair use needs to be done through a created and developed office or unit of BIPA or the police force that is currently the principal regulation or law enforcement agency.

- As a result, the BIPA and Namibia Police Force should be tasked with the responsibilities of working together with the print media companies and the public in investigating and prosecuting various copyright infringements. The office or unit with enough resources, personnel, training, and proper authority will also coordinate the enforcement of newspaper copyright regulations with the newspaper industry. This is because this kind of regulation approach or coordination will safeguard the interests of newspaper institutions, editors, journalists, reporters, writers, and the public in the protection of original creative works and print media companies.
- All copyright regulations for newspaper companies must be supported by a strong judicial system that deals with both civil and criminal offenses and is staffed by an adequate number of police officers with appropriate backgrounds and experience to ensure that original creative work developed, produced, or printed is not misappropriated or used, shared, reproduced, or distributed by the public or any institutions.



- It is recommended that print media's copyright regulations or infringement disputes should be matters to be decided under civil law that the BIPA and Namibia Police (NAMPOL) should make every effort to handle fairly but also expeditiously. This is because, without a proper regulatory system for both enforcing exclusive rights and protecting print media companies' creative works, the newspaper's copyright regulations will have no value.
- Copyright regulations, public awareness, and information sharing are critical in print media companies or the general public, as well as in situations where institutions, editors, or journalists reuse or rewrite other copyrighted works for news or information dissemination or reporting.
- Based on the findings of this study, it is necessary that there should be policy development for copyright regulations, adherence, enforcement, or infringement for newspaper institutions, editors, or journalists.
- Workshops, information sharing sessions and seminars should be organised by the Ministry of Justice (MoJ), the Ministry of Information and Communication Technology (MICT), the Editors' Forum of Namibia (EFN) and the Office of the Media Ombudsman to promote and protect copyright infringements in the digital age.
- The Editors' Forum of Namibia (EFN) and the Office of the Media Ombudsman should explore the possibility of providing or creating English and local language radio or television programs on the copyright regulations to enlighten print media companies, especially newspaper institutions, journalists, and editors. In fact, print media companies should report, insert, or outline guidelines in the copyright regulations of newspapers or digital content for journalists, editors, and the general public to avoid legal challenges or unauthorised use or reuse of copyrighted creative works in the public domain.
- Media companies must insert toll-free numbers and other reporting mechanisms so that the public can assist them in reporting copyright offenders.
- The government of Namibia should implement a national policy that requires newspaper companies, editors, and journalists to register all creative works developed, produced, or

printed on paper or digital content at BIPA in order to know their "real owners." This might lead to a reduction of copyright infringement for unregistered works.

- Copyright registration must be implemented in Namibia so that it helps to locate the copyrighted work's respective owner and conditions under which a copyright license is available to the public or institutions. Moreover, it is clear from the findings of the study that copyright registration is important to file a lawsuit or dispute settlement for infringements or unauthorised use, reuse, sharing, distribution, or reproduction of published editions of newspaper companies.
- The government of Namibia should urgently reform or amend the outdated Copyright and Neighbouring Rights Protection Act 6 of 1994 to ensure that print media companies, journalists, and editors move with the times while at the same time maintaining the core values of newspaper institutions while adhering to copyright regulations in the media digital era.

### **5.5 Areas for further research**

Although this study was largely exploratory in its approach, it opens an array of possible areas for further investigation into how Namibian newspapers are adhering to copyright laws and regulations, especially in the era of convergence. It is important to investigate the codes of ethics and regulations governing the infringement of copyrighted printed works or digital content created by newspaper companies. Central to such context-specific research are ethnographic studies around the understanding of open access copyright licensing deals with exceptions like creative commons or fair use. Such a study needs to observe copyright regulations' enforcement, creative work copyright registration, and the implications of original creative works' widest distribution and public reach or engagement achieved through copyright regulations. Furthermore, research can still explore ways of gaining insight broadly into how Namibian newspapers are adhering to open access copyright licensing like creative commons or fair use, especially in the era of convergence. This is important given the fact that there is a need for newspaper institutions to devise regulation strategies to counter copyrighted works' accreditation when the creative commons or fair use dealing exception allows use or reuse for the purpose of public interest, research, education, news, articles, or picture dissemination.

### **5.6 Conclusion**

This chapter has discussed the summary of the findings, the recommendations, and the areas for future research. It has been highlighted that Namibia's Copyright and Neighbouring Rights Protection Act 6 of 1994 was outdated in so far it failed to address the following issues: the including of attribution or accreditation when journalists, editors, or newspaper institutions use or reuse copyrighted works when the provision of creative commons or fair use dealing exception is lawful authorisation for the purposes of research, innovation, education, private study, criticism, review, reporting on events, or personal or private use of information. The study also found that the current Act does not address the effective copyright infringement dispute settlement, regulations, or enforcement institution for newspaper companies, which requires an official public notice in order to own a copyright. It has been demonstrated that the current legal framework does not protect journalists and editors in the era of media convergence from content vultures and the reproduction of creative works by fake news sites across the globe. It is clear from this study that newspaper companies, journalists, and editors are now susceptible to duplicity and identity theft in the digital era.

With regards to the recommendations, it has suggested the following: The government needs to reform or amend the outdated Copyright and Neighbouring Rights Protection Act 6 of 1994 or policies. The government should implement a national policy that requires newspaper companies, editors, and journalists to register all creative works developed, produced, or printed on paper or digital content at BIPA. All copyright regulations for newspaper companies need to be underpinned by a strong judicial system dealing with both civil and criminal offenses. Workshops, information sharing sessions, and seminars should be organized in English and local languages for newspaper institutions, editors, journalists, publishers, authors, writers, and the general public for education on copyright regulations in order to reduce copyright infringement.

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## **Appendix 1: Interview guide for Editors**

Dear Respondent

Thank you for voluntarily to participate and help me in this research on investigation into Newspapers' adherence to copyright regulations in Namibia.

### **Right to participate**

Your participation in this study is entirely voluntary and no payments attached before or upon completion. However, you are encouraged to participate. You may find the interview discussion interesting and thought provoking but if in anyway turn out to be uncomfortable, you are allowed to decline to answer and discontinue the interview at any time. This study has been approved by the Research Ethics Committee at The Namibia University of Science and Technology (NUST).

**Researcher:** David Adetona

**Contact Number:** +264812610846

1. What does copyright laws and regulations do for journalists, editors and newspaper organization?
2. What are the copyright laws and regulations outlined for newspapers, editors or journalists in Namibia?
3. How do copyright laws and regulations protect rights of editors or journalists and their creative or intellectual works?
4. How are newspapers, journalist or editors in Namibia adhering to copyright regulations?
5. What are being done to enforce the copyright laws and regulations by journalists and editors?
6. What are the direct and indirect benefits of copyright laws and its protection and enforcement?
7. How are copyright laws and regulations developed for journalists, editors or newspaper organizations?
8. Explain what is open copyright licensing and creative common?
9. Does the current copyright law include the usage of open copyright licensing like creative commons in Namibia?

10. Who is copyright right owner in newspaper organizations?
11. What is and not protected by copyright laws in newspaper organizations?
12. Explain what is the duration of copyright rights for journalist, editor or newspaper organization?
13. Explain the system for registration of copyright for journalist, editor and newspaper organization?
14. How does copyright work and why is it important for the newspaper organization?
15. How does copyright regulate journalists, editors and newspaper organizations?
16. What are the requirements for copyright right for journalists, editors and newspaper organizations?
17. What are the consequences or penalties for copyright laws and regulations infringement?
18. Many thanks for your time and God Bless.

## **Appendix 2: Interview guide for Journalists**

Dear Respondent

Thank you for voluntarily to participate and help me in this research on investigation into Newspapers' adherence to copyright regulations in Namibia.

### **Right to participate**

Your participation in this study is entirely voluntary and no payments attached before or upon completion. However, you are encouraged to participate. You may find the interview discussion interesting and thought provoking but if in anyway turn out to be uncomfortable, you are allowed to decline to answer and discontinue the interview at any time. This study has been approved by the Research Ethics Committee at The Namibia University of Science and Technology (NUST).

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2. What are the copyright laws and regulations outlined for newspapers, editors or journalists in Namibia?
3. How do copyright laws and regulations protect rights of editors or journalists and their creative or intellectual works?

4. How are newspapers, journalist or editors in Namibia adhering to copyright regulations?
  5. What are being done to enforce the copyright laws and regulations by journalists and editors?
  6. What are the direct and indirect benefits of copyright laws and its protection and enforcement?
  7. How are copyright laws and regulations developed for journalists, editors or newspaper organizations?
  8. Explain what is open copyright licensing and creative common?
  9. Does the current copyright law include the usage of open copyright licensing like creative commons in Namibia?
  10. Who is copyright right owner in newspaper organizations?
  11. What is and not protected by copyright laws in newspaper organizations?
  12. Explain what is the duration of copyright rights for journalist, editor or newspaper organization?
  13. Explain the system for registration of copyright for journalist, editor and newspaper organization?
  14. How does copyright work and why is it important for the newspaper organization?
  15. How does copyright regulate journalists, editors and newspaper organizations?
  16. What are the requirement for copyright right for journalists, editors and newspaper organizations?
  17. What are the consequences or penalties for copyright laws and regulations infringement?
- Many thanks for your time and God Bless.

### **Appendix 3: Interview guide for Ministry of Justice and BIPA's Key Informants**

Dear Respondent

Thank you for voluntarily to participate and help me in this research on investigation into Newspapers' adherence to copyright regulations in Namibia.

#### **Right to participate**

Your participation in this study is entirely voluntary and no payments attached before or upon completion. However, you are encouraged to participate. You may find the interview discussion interesting and thought provoking but if in anyway turn out to be uncomfortable, you are allowed to decline to answer and discontinue the interview at any time. This study has been approved by the Research Ethics Committee at The Namibia University of Science and Technology (NUST).

**Researcher:** David Adetona

**Contact Number:** +264812610846

1. What does copyright laws and regulations do for journalists, editors and newspaper organization?
2. What are the copyright laws and regulations outlined for newspapers, editors or journalists in Namibia?
3. How do copyright laws and regulations protect rights of editors or journalists and their creative or intellectual works?
4. How are newspapers, journalist or editors in Namibia adhering to copyright regulations?
5. What are being done to enforce the copyright laws and regulations by journalists and editors?
6. What are the direct and indirect benefits of copyright laws and its protection and enforcement?
7. How are copyright laws and regulations developed for journalists, editors or newspaper organizations?
8. Explain what is open copyright licensing and creative common?
9. Does the current copyright law include the usage of open copyright licensing like creative commons in Namibia?
10. Who is copyright right owner in newspaper organizations?
11. What is and not protected by copyright laws in newspaper organizations?
12. Explain what is the duration of copyright rights for journalist, editor or newspaper organization?
13. Explain the system for registration of copyright for journalist, editor and newspaper organization?
14. How does copyright work and why is it important for the newspaper organization?
15. How does copyright regulate journalists, editors and newspaper organizations?
16. What are the requirement for copyright right for journalists, editors and newspaper organizations?
17. What are the consequences or penalties for copyright laws and regulations infringement?

Many thanks for your time and God Bless.

#### Appendix 4: Ethical Approval



NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY

### FACULTY RESEARCH ETHICS COMMITTEE (F-REC)

#### DECISION: ETHICS APPROVAL

Ref: S013/2020

Student no.: 200332546

Issue Date: 15 June 2020

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#### RESEARCH TOPIC

**Title:** Title: An investigation into newspapers' adherence to copyright regulations in Namibia

**Researcher:** David Adefore Adetona  
**Tel:** +264 81 156 3625 / +264 81 261 0846  
**E-mail:** [davidadet968@gmail.com](mailto:davidadet968@gmail.com) / [dayink2000@yahoo.co.uk](mailto:dayink2000@yahoo.co.uk)

**Supervisor:** Dr Admire Mare  
**E-mail:** [amare@nust.na](mailto:amare@nust.na)

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**Dear Mr Adetona,**

The Faculty of Human Sciences Research Ethics Committee (F-REC) of the Namibia University of Science and Technology reviewed your application for the above-mentioned research. The research as set out in the application has been approved.

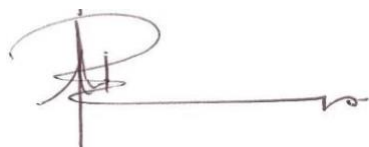
We would like to point out that you, as principal investigator, are obliged to:

- maintain the ethical integrity of your research,
- adhere to the Research policy and ethical guidelines of NUST, and
- remain within the scope of your research proposal and supporting evidence as submitted to the F-REC.

Should any aspect of your research change from the information as presented to the F-REC, which could have an effect on the possibility of harm to any research subject, you are under the obligation to report it immediately to your supervisor or F-REC as applicable in writing. Should there be any uncertainty in this regard, you have to consult with the F-REC.

We wish you success with your research, and trust that it will make a positive contribution to the quest for knowledge at NUST.

Sincerely,



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**Dr Hennie J Bruyns**  
Tel: +264 61 207-2988 / 7

E-mail: [hjbruyns@nust.na](mailto:hjbruyns@nust.na)

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**Prof Alinah K Segobye Chairperson: FREC**      **Dean: FoHS**  
Tel: +264 61 207-2418

E-mail: [asegobye@nust.na](mailto:asegobye@nust.na)



## Appendix 5: Informed Consent Form



**Title: An investigation into Newspapers' adherence to copyright regulations in Namibia**

**Informed Consent Form for Economist, Namibian and New Era's staff members**

*This informed consent form is for journalists at The Namibia and New Era.*

**Researcher:** David Adetona

Masters of Journalism and Media Technology

Namibia University of Science and Technology

**This Informed Consent Form has two parts:**

- **Information Sheet** (to share information about the study with you)
- **Certificate of Consent** (for signatures if you choose to participate)

You will be given a copy of the full Informed Consent Form

## **Part I: Information Sheet**

### **Introduction**

My name is David Adetona, and I am a Masters student in the Journalism and Media Technology programme, at Namibia University and Technology. I am currently working on a thesis with the aforesaid title. The aim of this research is to examine how *The New Era, Namibian and Economist newspapers* in Namibia are adhering and enforcing copyright regulations or laws in the digital age. Therefore, I am calling for your participation in this study. This consent form may contain words that you do not understand. Please ask me to stop as we go through the information and I will take time to explain. If you have questions later, you can ask me.

### **Purpose of the research**

Copyright law is gaining prominence globally in recent times because of rapid developments in technology in the information space. This has made communications easier and also permits copying of copyrighted works cheaply and disseminated quickly, unimpeded by time, space, or national boundary. In view of this, copyright owners lose control over their works. The situation therefore called for an orderly and responsive international regime of copyright protection to address the situation (Leaffer, 1990). In looking at the proliferation of news, stories or information in the newspapers in Namibia due the new digital media age revolution. It is therefore prudent in no other time than now to investigate how newspapers are adhering and enforcing copyright regulations or laws and ascertain the level of impact on creators.

### **Type of Research Intervention**

This research requires your participation in face-to-face interview which takes approximately 10 to 15 minutes. Notes will be taken during the interview and an audio will be recorded and you will be notified when the recording starts.

### **Participant Selection**

You have been chosen to participate in this research because you are the head or director of the library department that oversees, approves and understand better the library operations. You can be the staff

member that deals with public relations related issues of your library and you will be in better position to provide the information the research is looking for.

### **Voluntary Participation**

Your participation in this study is entirely voluntary and no payments attached before or upon completion. However, you are encouraged to participate. You may find the interview discussion interesting and thought provoking but if in anyway turn out to be uncomfortable, you are allowed to decline to answer and discontinue the interview at any time.

### **Procedures**

We are asking you to help us to explore the role of public relations in university libraries such as UNAM, NUST and IUM. We are inviting you to take part in this research project. If you accept, the researcher will introduce herself and you will be asked to participate in the interview voluntary. The interview will take place at the participant's place of choice

If you do not wish to answer any of the questions during the interview, you may say so and the interviewer will move on to the next question. No one else but the interviewer will be present unless you would like someone else to be there. The information recorded is confidential, and no one else except [the Department of Communication] will have access to the results documented in a form of a research paper upon completion for the Master programme. The entire interview will be recorded, but no-one will be identified by name on the recordings. The recordings will be kept in the researcher's personal computer with a password where only the researcher has access to and it will be destroyed after a year once the study is done.

### **Duration**

The research takes place for about a week, during that time the researcher will visit your library once a day starting from 14:00 starting with librarians dealing with PR related work to the director. Mostly three people each day for the whole week.

**Risks**

There is a risk that you may share some personal or confidential information by chance, or that you may feel uncomfortable revealing some information. The researcher appologises as she do not wish for this to happen. You do not have to answer any question or take part in the interview if you feel that disclosing too much information might lead you in trouble or makes you uncomfortable.

**Benefits**

There will be no direct benefit to you as a participant but your participation may help academic libraries in improving their services delivery and reach out to more users than before if the role of public relations in academic libraries is improve, maximized and recognized. In the same vein this study may recognize the value and needs of public relations to be incorporated in academic libraries as other careers more than it was before when its roles are clearly defined via this research.

**Reimbursements**

There will be no incentives upon completion of the interviews, I will however make time to come at your office or institution.

**Confidentiality**

All response will be treated with confidentiality and privacy, no name will be revealed or identified in the report. Subsequently the recorded information will be stored on the researcher's personal computer secured with a password only known to the researcher.

**Sharing the Results**

The research will be available to the communications department and only them to make it available upon request or where needs be. Your library will be allowed to request for a copy after 6 months after the research has been submitted to the department since this study is for academic purposes but can also be used in policy implementations. The research will also be uploaded to the repositories in order to be used by other scholars as part of literature.

### **Right to Refuse or Withdraw**

You do not have to take part in this research if you do not wish to do so, and choosing to participate will not affect your job or job-related evaluations in any way. You may stop participating in the interview at any time that you wish without your job being affected. I will give you an opportunity at the end of the interview to ask questions and modify add or withdraw what you feel like shouldn't be said in the interview.

### **Who to Contact**

If you have any question related to the study please do not hesitate to contact me(David Adetona) at +264 812610846) or davidadet968@gmail.com or you may also contact my supervisor Dr. Admire Mare at the Department of Communications, Namibia University of Science and Technology at [amare@nust.na](mailto:amare@nust.na) or +264 612079111. This proposal has been reviewed by NUST the Research and Ethic Committee which is supporting the study and make sure that research participants are protected from harm. For any research problems or questions regarding the subject; they can be contacted through the Department of Communications at 061 207 9111.

### **Part II: Certificate of Consent**

I have been invited to participate in the research about **an investigation into Newspapers' adherence to copyright regulations in Namibia**: a Case study of the Namibian and the New Era Newspapers.

#### **(This section is mandatory)**

I have read the foregoing information, or it has been read to me. I have had the opportunity to ask questions about it and any questions I have been asked have been answered to my satisfaction. I consent voluntarily to be a participant in this study

Print Name of Participant \_\_\_\_\_

Signature of Participant \_\_\_\_\_

Date \_\_\_\_\_


Day/month/year

***If illiterate*<sup>1</sup>**

I have witnessed the accurate reading of the consent form to the potential participant, and the individual has had the opportunity to ask questions. I confirm that the individual has given consent freely.

Print name of witness \_\_\_\_\_

Thumb print of participant



Signature of witness \_\_\_\_\_

Date \_\_\_\_\_

Day/month/year

Statement by the researcher/person taking consent

I have accurately read out the information sheet to the potential participant, and to the best of my ability made sure that the participant understands that the following will be done:

1. Questions will be asked
2. Follow up questions
3. Request to explain where needed

I confirm that the participant was given an opportunity to ask questions about the study, and all the questions asked by the participant have been answered correctly and to the best of my ability. I confirm that the individual has not been coerced into giving consent, and the consent has been given freely and voluntarily.

\_\_\_\_\_

A copy of this ICF has been provided to the participant.

Print Name of Researcher/person taking the consent

David Adetona

Signature of Researcher /person taking the consent

*Davidadetona*

Date 03/06/2020 (Day/month/year)