ACCESS TO LOCAL AND FOREIGN COPYRIGHT MATERIALS IN MALAYSIA

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ABSTRAK


INTRODUCTION

Access to local and foreign copyright materials is provided by a variety of information providers such as, publishers, authors, vendors, libraries etc. Amongst information providers, libraries have long been recognised as major gateways to knowledge and information. It is widely acknowledged too, that accessibility to knowledge and information resources is of fundamental importance to the educational, social, cultural and national development of a country. The scope of this paper is therefore limited to libraries as information providers, as the primary mission of all types of libraries is to provide access to information and knowledge (Malaysia, 1972) to everyone equitably, regardless of age, race, sex, religion, social status, language or nationality (Unesco, 1994).

COPYRIGHT MATERIALS VERSUS LIBRARY MATERIALS

According to the Malaysian Copyright Act, 1987, the following works constitute copyright materials:

- Literary works
  (i) novels, stories, books, pamphlets, manuscripts, poetical works and other writings
  (ii) treatises, biographies, essays and articles
  (iii) encyclopedias, dictionaries and other works of reference
  (iv) letters, reports and memorandum
  (v) lectures, addresses, sermons and other works

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of the same nature
(vi) tables or compilations
(vii) computer programs or compilations of computer programs

- **Musical works**
- **Artistic works**
  (i) paintings, drawings, etchings, lithographs, woodcut engravings, art prints and other 3-dimensional works
  (ii) maps, plans, charts, diagrams, illustrations, sketches and 3-dimensional works related to geography, topography, architecture or science
  (iii) works of sculpture
  (iv) photographs

According to the Deposit of Library Material Act, 1986 (Act 331) “library materials” is defined as ‘any form of printed, graphic, audio, electronic or other media, on or in which information is written, recorded, stored, displayed or produced and is categorised for purposes of this Act into:

(a) printed library material including books, serials, maps, charts and posters;
(b) non-printed library material including cinematograph films, microforms, phonorecords, video and audio recordings and other electronic media;

The above definitions indicate that in fact all library materials fall within the ambit of the Copyright Act, 1987.

**GETTING COPYRIGHT PROTECTION**

Unlike other countries, such as the United States (where the copyright Act requires the owner of the work, deposit two copies of the work at the copyright office of the Library of Congress) no formalities are required under the Malaysian Copyright Act. The mere act of publishing confers copyright protection.

Under the Malaysian law, deposit is required under a law that is unrelated to copyright law. The Deposit of Library Material Act, 1986 (Act 331) an Act which makes provision for the collection, conservation, bibliographical control and use of library materials published in Malaysia, requires the publisher of every work to deposit 5 copies of every printed library material and 2 copies of every non-printed library material. Failure to deposit can result upon conviction, to a fine of a maximum of three thousand ringgit.

In the past, the registration records of the deposit copies of the National Library have been used as evidence in copyright litigations.

**STATUS OF LIBRARY DEVELOPMENT**

There are about 10,000 libraries in Malaysia, with an estimated total collection of 20 million library materials. The status of the various categories of libraries are as follows:

- **Perpustakaan Negara Malaysia**
  (National Library of Malaysia)
Perpustakaan Negara Malaysia was established in 1966 with the following purposes:

(i) to make available for the use of present and future generations a national collection of library resources;

(ii) to facilitate nation-wide access to library resources available within the country and abroad; and

(iii) to provide leadership on matters pertaining to libraries.

Perpustakaan Negara Malaysia has a collection of 1,243,380 items consisting of the following:

- Monographs: 1,108,166 items
- Serials: 22,240 items
- Posters: 2,657 items
- Maps: 2,818 items
- Other printed matter: 2,148
- Non-print materials (microforms, cassettes, video tapes, slides, photographs etc): 61,796

- **Special Libraries**

There are currently 329 special libraries both in the public and private sector with a total estimated collection of one million library materials.

- **School Libraries**

There are 1,470 libraries/resource centres in secondary schools and 6,965 libraries/resource centres in primary schools.

The above-mentioned libraries provide access to their collections through loan and reproduction services. The loan statistics of all these libraries are well in excess of several million loans per year.

**INFORMATION ACCESS VIA LIBRARY SERVICES/ACTIVITIES**

Libraries in Malaysia provide access to copyright materials through a variety of services and activities enumerated below:

- **Publications Delivery System**
  (Sistem Pembekalan Penerbitan-SPP)

The purpose of this system is to improve the provision and supply of publications from national and international sources to intending users within the countries. The PDS/SPP is implemented for the purpose of dissemination of information for purposes of study, teaching and research. In order to implement this system the Memorandum of Understanding based on the principles of Universal Availability of Publications has been formulated. To date more than 250 institutional libraries have become signatories to this MOU. The National Library
of Malaysia serves as the PDS Coordinating Centre in Malaysia.

For the purposes of this system, the definition of ‘publications’ is thus that same as defined above in the National Library (Amendment) Act, 1987.

**Lending Services**

Most libraries employ lending services as a means of providing access to library materials. When libraries circulate copies of books they have purchased they do not violate copyright law because their activities did not interfere with the granted rights. Copyright is not extended to compensate publishers or authors for the value each reader derived from each book. It provided sufficient rights to motivate authors to write and make their works available to the public. It also facilitates the development of markets for copyrighted works (Haja, 1996).

**Reprographic Services**

Libraries allow the reproduction of works in the collection according to the principal of fair use. Though the exclusive right of reproduction is vested with the copyright owner, libraries enjoy reproduction rights in providing access to library materials, as long as it is in the interest of fair dealing i.e for purposes of non-profit research, private study, criticism, reporting etc. This is as provided for in Part III, section 13(2) of the Malaysian Copyright Act, 1987 (Act 332).

Under the Malaysian Copyright Act, 1987 Section 13(2f) special copyright privileges are accorded to the Government, the National Archives, the State Archives, the National Library and the State Libraries. These institutions may make use of any work, where such use is in the public interest, is compatible with fair practice, no profit is derived and no admission fee is charged.

In Malaysia apart from the above, the following institutions have been prescribed for copyright exemption for reproduction, performance, broadcasting, communication and distribution of copies (PU(A)379/1987):

- Alliance Francaise Library including the branches thereof,
- British Council Library including the branches thereof,
- Goethe Institute Library,
- Japan Information Service Library,
- Lincoln Resource Centre Library,
- New Zealand High Commission Library,
- Soviet Cultural Centre Library,
- Libyan Arab Cultural Centre Library
- India High Commission Library,
- Braille MAB Library,
- Malaysian Agricultural Research & Development Institute (MARDI) Library,
- Telecom Training Centre Library,
- National Productivity Centre Library,
- Muslim Pilgrim Saving and Management Authority Library,
- The South East Asia Central Banks (SEACEN) Library,
- Public Libraries administered by Local Authorities,
- University Malaya including University Hospital,
- Universiti Kebangsaan Malaysia,
- Universiti Sains Malaysia,
Universiti Teknologi Malaysia,
* Universiti Pertanian Malaysia,
* Universiti Utara Malaysia,
* Islamic International University of Malaysia,
* Mara Institute of Technology,
* Polytechnics, Vocational, Trade or Commercial Schools or Institutions established or funded either wholly or substantially by the Government or Statutory Bodies,
* Teachers Training Colleges or Institutions,
* Agriculture Colleges or Institutes established or funded either wholly or substantially by the Government or Statutory Bodies,
* Schools established or funded either wholly or substantially by the Government or Statutory Bodies,
* Private Schools, Colleges or Training Institutions which complies with the curriculum set out by the Ministry of Education,
* Standard and Industrial research Institute of Malaysia (SIRIM),
* Rubber Research Institute of Malaysia (RRI),
* Veterinary Research Institute,
* Malaysia Agricultural Research & Development Institute (MARDI),
* Forest Research Institute of Malaysia (FRIM)
* Palm Oil Research Institute of Malaysia (PORIM)
* Tin Research and Industrial Development Board.

National Development and Family Board,
* National Productivity Centre

Libraries generally protect themselves against infringement claims arising from making photocopying machines available to patrons by putting up notices and declarations of compliance with the Copyright Act.

**Electronic Databases (Online, CD-ROM, Internet) Services**

With the advent of information technology, library materials are increasingly produced in electronic formats. Digital copies of works can be made with no 'generation loss'. There is increasing fear that transmission of electronic library materials would kill the publishing industry as no revenue is generated in the 'second sale' and anyone could easily make copies and distribute them freely. Libraries have sought to address this problem on a cost recovery basis by charging users on the per-unit-of-time or per-byte of data or per printout page.

**Preservation Services**

According to the *Deposit of Library Material Act, 1986* (Act 331) the National Library of Malaysia has been entrusted with the task of conservation and use of library material published in Malaysia (Sect. 3(a)) Pursuant to this Act the National Library in cooperation with other academic libraries has been undertaking extensive microfilming of local newspapers for preservation purposes. With the advent of digital technology, libraries are now investigating other more versatile formats for the purposes of preservation and information access for future generations.

**Information Access For Special Groups**

People with disabilities such as the visually and hearing impaired often require the reproduction or works into a format that is suitable for access. For instance the visually impaired and blind patrons prefer talking books. In order to access published works independently they use a device which scans and digitises the text before having it read out to the patron. They 'borrow' the book or article by downloading on to a diskette.
Alternatively the digitised text can be printed out in Braille using a braille printer/embosser. The hearing impaired on the other hand, would require videotapes with captions. As these activities are carried out in the interest of private study it is not deemed to have contravened any copyright regulations.

**Back-up Services**

The major libraries of Malaysia are increasingly involved in the creation and use of audiovisual materials and electronic databases. In order to ensure their longevity and preservation for future generation back-up services are essential.

### Access to Restricted Materials

Access to restricted materials such as thesis/dissertations, confidential reports, banned books etc are only provided after clearance has been obtained from copyright owners and such other Government Department involved (such as the Ministry of Home Affairs).

### Access to Foreign Copyright Material

Access to foreign copyright material such as in musical works have greatly improved in recent years. This is due to the fact that the Malaysian Copyright Act confers copyright protection on foreign material if it is published in Malaysia within one month of its publication elsewhere.

### REFERENCES

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