

Enforcing legal deposit in the digital era: a case of Zimbabwe

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Abstract:

The pervasive nature of dynamic modern technologies makes it imperative to explore the challenges of enforcing legal deposit in the context of the Internet. This paper seeks to describe the functions of current local legislation in ensuring compliance to legal deposit laws of Zimbabwe. It also seeks to highlight the challenges that the current legal deposit laws face in the context of the open access regime. It will analyse the current legislation for bibliographic compilation in the context of the shifts in the global knowledge landscape. The article explains the weaknesses of the current law with reference to current trends in the legal deposit of multimedia formats. The article also examines how bibliographic control can underpin national development goals with regards to teaching, learning and research. The authors explain how the absence of a print and online version of a national bibliography impact on collection development and scholarly research and explore the challenges of harmonizing print and electronic records in the context of digital divide. Possible ways to utilise modern technologies to capture, process and preserve the records as national heritage in Zimbabwe are suggested.

Keywords: Legal deposit, Bibliographic control, Open Access, Digital divide; Information

INTRODUCTION

Generally, universal bibliographic control (UBC) as a global system for the control and exchange of bibliographic information acknowledges the resource discovery metadata requirements of modern, global-scale users of information (Dunsire; Hillmann, and Phipps, 2012:164-176). Bibliographic control is a theme of ostentatious sheer size because it encompasses the creation and maintenance of a complete record of the sum total of human knowledge. A national bibliography is defined as the accumulation of the authoritative and comprehensive records of the national imprints of a country published regularly and with the least possible delay (Zumer, 1987).

Thapa (2009:57) views bibliographic control as the activities involved in the process of creating, organising, managing and maintaining the files of bibliographic records, for example, the library or archival materials or sources listed in an index or database or virtual repository. The locatability, discoverability, accessibility, retrievability and shareability of scientific scholarly content is possible through effective bibliographic control because of scientific description and subject access through uniform catalogue codes, classification scheme and name authorities to enhance precision. Bibliographic tools are published in line with International Federation of Library Associations and Institutions' (IFLA's) International Standards Bibliographic Descriptors (ISBD). Current developments in digital content, have precipitated the development of The Resource Description and Access open standard (RDA) catering for Functional Requirements for Bibliographic Records and the Functional Requirements for Authority Data. Danskin (2013, pp.147-158) view RDA and Linked data concepts, as key standards providing possibilities to make library metadata open and actionable, discoverable and shareable.

RESEARCH QUESTIONS

The study sought answers to the following research questions:

1. What are the functions of current local legislation in ensuring compliance to legal deposit laws of Zimbabwe?
2. What are the challenges that the current legal deposit laws face in the context of the open access regime and current trends in the legal deposit of multimedia formats? and
3. How can bibliographic control underpin national development goals with regards to teaching, learning and research?

HISTORICAL DEVELOPMENT OF LEGAL DEPOSIT

Cadavid (2017:389) states that legal deposit emerged as a cultural measure meant to collect and preserve the print publication. The author further states that its dispersal took place in line with the developments from print to electronic publishing. The dawn of the digital revolution marks a turning point for legal deposit theory and practice. Legal deposit reflects the proximal linkage between cultural heritage law and national identity (Cadavid 2017: 389)

Historically, legal deposit has been used as an effective mechanism of collecting and preserving a country's published heritage for over four hundred years. The decree of King François I known as Montpellier Ordinance of 28 December 1537 was the first text imposing a legal obligation on printers and booksellers to deposit a copy of each of their publications at the King's library and this enabled the aristocracy to monitor the content of published and widely distributed works (Cadavid 2017:380). The King was an advocate of learning and the arts and this was reflected by aristocratic library that he personally owned. Fournier (1993:4) notes that the main idea behind this piece of legislation was to collect and gather current and future publications of editions of books in order to ensure that it would be possible to refer to the original work and not the modified. Cadavid (2017:380) states that in England, the concept of legal deposit was strengthened through a memorandum of understanding between publishers and the Bodleian Library. This development was inspired by the French legal deposit system and eventually it spread to the rest of the British empire through the promulgation of the Copyright Act in 1842 (Cadavid 2017:380)

The rationale for legal deposit is that it facilitates access to published materials and it also provides authors protection for intellectual property rights through copyright but on another note legal deposit has been associated with censorship because lawmakers have used it as a tool to detect and curb blasphemous and seditious materials. This has been one reason why some publishers avoid depositing their materials with designated institutions because they fear censorship.

Musiker (2005) notes that in Africa, South Africa was the first country to have a National Bibliography, followed by Sierra Leone in 1925 and Ghana in 1932. Many African countries have published retrospective bibliographies in an attempt to capture all publications. When the first International Conference on African Bibliography was held in

Kenya in the 1967 only a few African countries had national bibliographies but currently almost all have such retrieval tools.

Kumar (1996) observes that this new development in France was triggered by the Guttenberg galaxy in the fifteenth century which ushered in a new era of published materials which threatened the status quo and many European countries were forced to introduce similar procedures based on the French model. The Library and Archives of Canada note that initially legal deposit applied to books but in the second half of the nineteenth century it was extended to include serial publications, sound recordings, multimedia kits and in the twentieth century it embraced microforms, video recordings and currently online publications. Canada revised its Library and Archives Act (2004) and Legal Deposit of Publications regulations (2007) to incorporate electronic resources. Bell (1997) notes that over the years in its initial development, legal deposit was used as a tool for surveillance and censorship as well as copyright. Larievère (2003) notes that through time legal deposit evolved from the original aims of the sixteenth century which were mainly to preserve books for future generations to the constitution of a national bibliography reflecting the intellectual output of a country.

Modern Information landscape and Bibliographic control

Manser and Jarjis (2008) state that the Library of Congress Working Group on the Future of Bibliographic (2008) redefined bibliographic control on the basis of a long term vision of collaboration, decentralisation, internationalism and Web Based activities. There are a number of factors that are impacting on bibliographic control, for example, the convergence of ICT's, development of virtual resources and virtual libraries and virtual learning spaces and the proliferation of Information in multimedia formats. In a networked and globalised world of information, the form of national bibliography is undergoing change but the primary function remains unchanged, for example, informing about a country's publication landscape and its cultural and intellectual heritage. Manser and Jarjis (2008) state that bibliographic control is no longer a preserve of exclusive group of cataloguers alone because ICT's has made possible collaboration between libraries and non-library entities.

Seys (2004) highlights the value of examining content management to in order to understand the impact of online publishing on bibliographic control and access to the various forms of text available online. Content Management refers to the process of developing,

maintaining, and organising and deploying web based content in order to efficiently support the collaborative efforts of content creators, site administrators and users.

Bibliographic control is no longer limited to libraries but extends to the broader horizon of information including World Wide Web (WWW). Larivière (2000) states that UNESCO pushed for the amendment of legal deposit laws to suit the digital trajectory in the twenty –first century. In 2003 UNESCO published a Charter on the Preservation of Digital Heritage Article 1 -8 which called member states to adopt legal deposit for digital content (Cadavid 2017:384). In the ICTs landscape, bibliography encompasses a colossal assortment of materials, for example, published materials, materials that libraries license for user access, digital artefacts on public networks; and materials that are unique to an individual library. Users would be better served if access to these materials were provided in the context of a unified philosophy of bibliographic control. Basuki-Sulistyo (2009) states that electronic documents kept on government websites as well as those produced and stored at private sites should be of concern to bibliographic control.

The ICT revolution has ushered in Virtual International Authority File (VIAF) which reflects how UBC for bibliographic authority data can be achieved from the bottom up, from local to global, through linking identifiers for local data to an aggregator identifier without transforming or discarding the local data. The future for UBC is anchored on the ability of institutions to utilise distributed architecture and “reasoning” capabilities of the Semantic Web to link up data (Dunsire, Hillmann, and Phipps, 2012:164-176).

Dunsire, Hillmann, and Phipps, (2012:164-176) posit that the lessons of the past and the opportunities facing the modern world combine to suggest strongly that continuing to interpret bibliographic control as a static, top-down effort designed to achieve universality—as the library world has traditionally done will not spur professionals to take advantage of new ubiquitous technologies or new paradigms about and building metadata. The authors recommend progressive and innovative paradigms to deal with bibliographic control in the digital world , for example, semantic mappings—making the essential shift from controlling the data to controlling the semantics that will allow us to move forward, taking our legacy data with us.

LEGAL DEPOSIT

Legal Deposit laws are critical tools for the preservation of national life and heritage and a manifestation of human value and human identity and they encapsulate the collective artistic, social, economic and intellectual memory of a nation according to Gilchrist (2005) Jules Larivie're (2000:8) describes legal deposit as a statutory requirement that any organisation, commercial or public and any other individual producing any type of documentation in multiple copies is obligated to comply with by depositing one or more copies with a recognized national institution. It helps to secure the preservation and transmission of a national cultural heritage for posterity for the benefit of future generations. The author further states that concept of legal deposit covers all types of published materials namely those published in multiple copies and offered to the public regardless of the means of transmission and those unique or archival materials of enduring value. This requirement was initially limited to print resources but with the emergence of ICT's amendments were made to new trends of information representation.

The use of modern technology to facilitate access to information has become the norm resource endowed environments of the modern day world. Electronic publications are formatted and produced in an electronic environment, for example, electronic equivalents of print publications, interactive databases, bulletin boards, discussion lists among others. These resources save time and space and are relatively easier to maintain. Smith (1999) observed failure to weigh the positive and negative aspects of digital resources and how this impacts heavily and negatively on collection development. The author further noted how electronic resources raise expectations of benefits, costs reductions and efficiencies that are illusory and that if this was not taken into account electronic resources can put at risk the collections and services libraries have provided for decades.

The current technological developments in Information Management have resulted in serious challenges and opportunities for the future production of national bibliographies. Lertshela and Lor (2002) note how the internet and the growth of electronic publishing created a serious challenge for National Libraries as far as their mandate as the National Depositories of all published materials. The two authors also noted that before the advent of the Internet it was easier to follow up on printed publications but now The ICT revolution with subsequent search engines, web crawlers, collaborative tools, electronic indexing, federated searches and other information retrieval tools provides an opportunity for bibliographic control. The internet provides writers with opportunities to publish in virtual environments with virtual publishers. Oltmans (2003) notes that the internet's web based

resources require the process of web-harvesting which will ensure automatic delivery of qualitative bibliographic descriptions. Elliot (2011:4) views web-harvesting as a development marking a paradigm shift from an obligation to deposit to one of copying. Cadavid (2017:384) states that the obligation to deposit reflects a passive role of the library while contemporary web-harvesting allows the national library to play an active role through harvesting content from the internet. However, in order for libraries to be involved in web harvesting there is need to enact the appropriate heritage and copyright laws which then provides for the legal right to copy. Developed countries have embraced the concept of electronic bibliographies while developing countries are still grappling with putting together an up to date hard copy bibliography.

Cadavid (2007:386) states that the other strategy recommended for building digital collections is through domain harvesting which involves the collection of websites published within specific internet domains, for example *zw* for Zimbabwe. The other technique is selective harvesting, whereby thematic collections are manually or automatically developed (Chebbi 2008). Such collections have to do with a particular motif, for example, sports, politics, elections, violence, crime or development issues.

Jules Larivie're (2000) notes that in some countries like France, Greece, Zimbabwe and Indonesia the measure requiring legal deposit appears in a legal deposit Act, while in other countries like Australia and United States it is part of another act like the copyright act, National Library Act , as is the case in Canada, Japan and Nigeria. The author further notes that in those countries with a legal deposit system, published materials make up the basis of the national deposit collection while in other countries like Zimbabwe audio- visual materials are also subjected to legal deposit requirements.

Davidson (1988) observe that legal deposit facilitate bibliographic control which basically refers to the system of adequate recording of all forms of material published or unpublished printed or audio-visual or otherwise which add up to the sum total of human knowledge and experience. Currently many countries have modified their legislation to encompass electronic publications as subject to legal deposit while some have excluded online electronic publications because of the technical problems relating to acquisition and preservation of such materials.

INTERNATIONAL CONFERENCES ON LEGAL DEPOSIT AND BIBLIOGRAPHIC CONTROL

Wise (1987:304) states that there have been a number of conferences organized to promote bibliographic control, firstly, in 1967 the International Conference on African Bibliography was held in Nairobi and secondly and the SCOLMA (Standing Conference in Library Materials in Africa) held at the Commonwealth Institute in London in 1977 and in 2001, the Bicentennial Conference on Bibliographic Control for the New Millennium— subtitled “Confronting the Challenges of Networked Resources and the Web” was held. These conferences emphasized the importance of bibliographic control and the need to ensure the enactment of effective legal deposit laws. Ng’ang’a notes that the concept of legal Deposit was further popularised through the 1977 Paris International Congress on National Bibliography (ICBN) which came up with recommendations aimed at ensuring that member states had formulated, legislated and implemented legal deposit. These international conventions helped to provide the basis for the establishment of local and international institutions responsible for bibliographic control.

UNESCO is on the forefront in promoting bibliographic control and the universal availability of the world’s literary heritage. The International Federation of Library Associations IFLA has also put the concept of bibliographic control on its agenda as it has a section/division (VI) that specifically deals with bibliographic issues. It has also been observed that other countries have also set up Bibliographic Societies like the Royal Bibliographic Society of the United Kingdom. Fussler and Kocher (1977:237) noted that there was need for institutions involved in bibliographic control to keep abreast of current trends because some of the concepts of handling bibliographic data are undergoing change as format of library resources also undergo change from print to electronic.

LEGAL DEPOSIT: COMPLIANCE OR NON-COMPLIANCE?

Berger and Luckman (1966) noted that according to the social rule theory most human activity was organized and regulated by socially produced and reproduced systems of rules which are manifested in the form of codes of conduct, norms and laws like the Printed Publications Act of Zimbabwe and Broadcasting Act. Laws, norms and codes of conduct are means or mechanisms for social control. Kyobe (2009) notes that compliance is a state in which someone or something is in accordance with established guidelines, specifications or

legislation, for example, the need to ensure compliance with the laws of Zimbabwe. Grossman and Zaelke (2005) discusses various models or theories that explain compliance namely the rationalist and normative models. The former model focuses on deterrence and enforcement as a means to prevent and punish non-compliance, while the latter encourages cooperation and compliance assistance.

Burns and Flam (1987) note that compliance with or refusals to comply with particular rules are intricate and normative processes. The reasons for compliance are that the issue of benefits versus losses identity and status, authoritative or sacrality, negative or positive sanctions and inherent sanctions among other factors. Kyobe (2009) states that with the normative model compliance is on behavioural motivation and premised on the logic of consequence and logic of appropriateness. In the logic of consequences actors are perceived to choose rationally among alternatives based on their calculations of expected consequences, while with the logic of appropriateness human action is based on identities, obligations and conceptions of appropriateness of action.

Coleman (et.al) (1993) notes that the rationalist model of domestic compliance follows the logic of consequences and emphasizes that regulated individuals act rationally to maximize their economic self interest. The model is anchored on enforcement and deterrence as measures to transform individuals' economic perceptions but however the model fails to consider social action based on values beliefs and emotions. Coleman, et.al (1993) further note that the model also fails to consider the aspect of conflict that arises as a result of lack of reciprocity as only one part gains at the expense of the other. The model does not also consider the problems and costs of deterrence.

Grossman, et al (2005) note that the normative theory of compliance is premised on the notion that people obey the law because it is in their best interest but however fails to give explanations for the impact of social factors like culture and perceived legitimacy. It is assumed that laws that are developed with wider consultation and implanted fairly will be complied with if people believe that they are legitimate and fairly applied. Kohlberg (1984) noted that compliance will depend on a number of factors, for example, the capacity of the regulated entity with regards to knowledge and financial and technological abilities and commitment. The models has its shortfalls in that actors need to be conversant with standards and have authority to initiate actions and also in a dynamic environment where change is rapid and complex actors might be overwhelmed and fail to understand their obligations and to comply.

Westra (1997:121) notes that in South Africa the only case to be documented in South Africa's legal history was the case between the South African Library and Pippa Skotness from 1993 to 1997. This case is viewed as the only legendary case that South Africa has had to grapple with in the history of South African library services. In this case Skotness refused to comply by arguing that her copies of her expensive book as a work of art rather than a book and the Supreme Court ruled in favour of the South African Library. In Zimbabwe there are no documented cases of cases whereby legal deposit has been flouted despite the lackadaisical approach in enforcement.

FACTORS ARE AFFECTING COMPLIANCE WITH LEGISLATION

Kyobe (2009) notes that there are a number of factors that affect compliance for example, economic factors are manifested in the economic meltdown that characterized Zimbabwe's economy in 2008 with an inflationary percentage of over two million. The other factors are technological, sociological and psychological, for example, some publishers take advantage of the laxity of institutions responsible for enforcing the legal deposit and they fail to comply. Kyobe (2009) notes that were actors are psychologically unaware of the legislation there will be non-compliance.

Kigongo-Bukenya (2000) advocates for the merger of legal deposit and copyright offices so that publishers secure relative protection of their works from unscrupulous people from breach of copyright and also benefit from marketing promotions through enlistment in national bibliographies. The author further cites the Australian example whereby the legal deposit Act is section 201 of the Copyright Act (1968-1973) and argues that such laws will encourage publishers to deposit their works in order to get security from government, for example, the National library collects nearly 12, 0000 books per year through such legal deposit.

There are various reasons why people comply or fail to comply with a specific piece of legislation, for example people will comply because the law is legitimate and fair and that there are economic benefits to be derived. On the other hand failure to comply might result from the fact that it is not deterrent enough, lack of legitimacy or maybe those bound by the act might not see any benefits arising from compliance. Lariviere (2000) states that for a law to be effective it needs to be enforceable and that this can be achieved through pressurizing the publisher to comply by means of a penalty structure or clause for contravening the law or

some other measure that can deter non-compliance. Lariviere (2000) observe that legislation does not guarantee compliance because there are problems that are associated with enforcement. Lor (2006) note that there is need to consider a number of factors when dealing with enforcement of legal deposit , for example , legal and administrative costs because it is expensive to follow up a case right up to its conclusion.

Research methodology

This paper is based on an analysis of literature on the subject matter and participant observation. Ahmed (2010) describes documentary as the analysis of documents that contain information about the phenomenon studied by investigating and categorising physical sources, most commonly written documents. Mogalakwe (2006) defines documentary methods as the analysis of documents that contain information about the phenomenon one wishes to study. Ahmed (2010) and Mogalakwe (2006) favour the use of this research method because of its cost effectiveness when compared to social surveys, in-depth interviews and participant observations. The authors note that documentary research is one of the major types of social research that have been most widely used by sociologists. Acts of parliament, books and research articles were reviewed for purposes of gathering data for the study. In participant observation, the researcher “participates in the ongoing activities and records observations” (Psc.dss.ucdavis.edu, n.d). Participant observation was employed in this study because it facilitated the researchers to get inside viewpoints and the collection of rich data that could not be easily gather through other data collection methods.

LEGAL DEPOSIT IN ZIMBABWEAN CONTEXT

Made (2009) highlights the legal mandate of the National Archives of Zimbabwe with regards to its role as a legal deposit centre for the country’s intellectual and artistic heritage in accordance with the provisions of the Printed Publications Act *12/1975;37/1977;22/2001*. Under this Act its mandatory for publishers under to deliver books published in Zimbabwe to the Directors of the National Archives and National Library and Documentation Services (NLDS):

(1) Subject to this section, the publisher of each book published in Zimbabwe shall, within a period of thirty days from the date of publication of such book, donate and deliver free of charge a copy of such book to—

- (a) the Director of National Archives appointed in terms of section 3 of the National Archives of Zimbabwe Act [*Chapter 25:06*]; and
- (b) the Director of the National Library and Documentation Service referred to in section 6 of the National Library and Documentation Service Act [*Chapter 25:10*]; and (c) the authority having control of the Public Library, Bulawayo.

Printed Publications Act 12/1975; 37/1977; 22/2001 defines a book as “.... every part or division of a book, pamphlet, and sheet of printing, map, plan, chart, or table separately published...” The Broadcasting Act (2001) Section 41(b) which states that “...provide a copy of each of its programmes free of charge to the National Archives of referred to in section 3 of the National Archives of Zimbabwe Act...” National Archives Act of Zimbabwe 22/2001 Section 3 specifies that “The National Archives established in terms of the repealed Act shall, subject to this Act, continue in existence for the storage and preservation of public archives and public records and shall be known as the National Archives of Zimbabwe.”

The NAZ library is a legal depository of all printed material as well as non-print sound and audio visual material produced in Zimbabwe. It falls under the Ministry of Home Affairs. It also acquires copies of all works published outside the country about Zimbabwe or by Zimbabweans. The National Archives of Zimbabwe also keeps any material on the Southern African and sub Saharan region that explain or depict the history of, development and any other aspect of the country. Most of these resources need to be digitized so that can be preserved forever and be made readily accessible through interlending and document supply networks. In practice, the National Archives of Zimbabwe serves as the national bibliographic centre of Zimbabwe, responsible for the publication of the Zimbabwe National Bibliography (ZNB) and the administration of the International Standard Book Number Scheme (ISBN).

The failure by the National Archives to publish a National Bibliography and failure to revise and update the penalties for lack of compliance instilled a sense of irresponsibility on part of the actors. In line with the new technological trends and borrowing leaf from other regional libraries, the National Archives of Zimbabwe library has adopted the use of ICTs, for instance Koha, for managing its collection. This has then ‘forced’ the library to move from physically publishing the ZNB. Rather, for one to have access to our bibliography for a particular year, they just have to search it on the library’s online public access catalogue (OPAC).

National Archives also serves as the National Repository for UNESCO publications with reference to monographs and serial publications. Genge (2008:3) notes that the Bulawayo Public Library also serves a legal Deposit of printed materials considering that it is the oldest which has helped to sustain the national memory through its historic reference collection dating back as far as the beginning of the twentieth century. Haymes and Rushby (2009) note that Anglophone countries do not provide the necessary infrastructure to maintain depository libraries and also the fact that the libraries exercised poor bibliographic controls. The two authors also further noted that legal deposit laws were unsatisfactory and difficult to enforce.

The National Archives of Zimbabwe once made efforts to review the Printed Publications Act so as to accommodate changes that are in line with the current trends but those efforts were thwarted by the fact that the Act in itself is administered by different institutions falling under different ministries. The legal department within the parent ministry was unwilling to take up the issue citing priority being given to aligning acts to constitution rather than amendments.

CHALLENGES OF ENFORCING LEGAL DEPOSIT

Marova and Musoke (2012) note that the challenges facing African countries with regards to Bibliographic control relates to difficulties in defining scope of legal deposit material, in-house publishing, limited cooperation from publishers. Originally legal deposit was limited to formal literature, for example, books, pamphlets and serial publications but now many countries have embraced grey literature, for example, conference papers, thesis and dissertations. Many in-house publishers who use ICT's for publishing are not concerned with legal deposit because they are not registered publishers. Mamdani (2007) notes that the brain drain has resulted in mass emigration by Africans to the developed countries where some end publishing with international publishers thus making it an overwhelming assignment for local legal deposit system to track such publications. The author further notes where such immigrants acquire citizenship will result in their literary output assuming their new national identity at the detriment of their mother countries.

The main challenge NAZ noticed with regards to enforcing PPA was mainly the emergence of self-publishers. It used to be easier way back when all prospective authors had to go through recognised and well established publishing houses. However, currently, a

majority of books being published in Zimbabwe are by individual publishers of no fixed abode. Efforts to track them are usually futile. Some books are even finding their way on to the market without ISBNs thereby making it impossible for NAZ to know of their existence.

Most books of a political nature are now being published outside the country mainly as a result of costs associated with publishing here in Zimbabwe as well as the fear of persecution for publishing anti-government materials. This is then posing a challenge for National Archives of Zimbabwe to acquire these books. Such publishers and authors are unwilling to deposit since they just assume the book will be kept under lock the moment they reach National Archives of Zimbabwe.

Currently many countries have been forced to re-examine their legal deposit acts as a way of dealing with the challenges of digital world. Lariviere (2003) notes that the digital world presents a serious challenge to developing countries because of the complexity of addressing legal, ethical, organizational, technical and operational aspects related to the implementation of a legal deposit scheme. Lariviere (2003) observed that Namibia in 1996 and South Africa in 1997 did incorporate electronic publications within their legal deposit legislation even though the legislation deals with offline material. Generally South Africa has had a legal deposit legislation since 1842 and in 1997 and this was revised to extend the legal deposit to audiovisual broadcast electronic media and this was achieved through avoiding definition and enumeration of various media through the use of generic terms like document and media. Lor and Letshela (2006) note that Namibia had the opportunity after independence to enact a modern legal deposit act which covers all existing and to be created media as recommended by UNESCO and this is what is lacking in the current Zimbabwean legislation.

Cadavid, (2007 p.385) noted that in 2003 New Zealand's National Library Act of 2003 encompassed the obligation to deposit e-content.

It has been observed that legal deposit of online resources present serious challenges with reference to copyright, authentication, preservation, legal and technical expertise needed to ensure ultimate success of project. Oltmans (2003) notes that handling and maintaining electronic resources requires new knowledge, skills and different infrastructure than that of printed publications and currently there are no best practices pertaining to legal deposit of electronic resources. Tenopir (2003) observed that electronic resources also require the prerequisite hardware for reading, for example, e-book readers. They also require a level of literacy to manipulate the hardware and software. In the case of Zimbabwe, the National Archives of Zimbabwe has still to adopt a fully fledged electronic information management

system. Publishing houses like Weaver Press have many books they are releasing as e-books. A few that were deposited are just stored on laptops without any software to use in accessing them online.

With reference to the South African and Namibian experiences Lor and Letshela (2010) observed that the promulgation of act does not entail partial or complete implementation of a legal deposit law because responsible institutions will be overwhelmed to fulfil all the stipulations at one go unless they opt for a gradual approach. This phased approach involved separation of print materials, audio –visual and non-static resources from the dynamic electronic or online resources.

Oltmans (2003) notes that the results of scientific research are currently being published electronically because many publishers feel that they now need to license rather than sell their publications. It is interesting to know that other countries within the Southern African Development Community have already taken the initiative by harmonising the legal deposit laws with ICT legislation, for example, Namibia and South Africa.

FINES AS A DETERRENT MEASURE

Jules (2003) notes that it is quite a challenge to rely on goodwill to ensure the comprehensiveness of deposit collections and this calls adequate mechanism to facilitate enforcement, for example, the use of deterrent fines to deter non-compliance would help to improve the situation. The Printed Publications Act of Zimbabwe states that a publisher who fails to comply with the stipulations of Section(5) will be deemed guilty of an offence and liable to a fine in line with Section 5(4) of Printed Publications Act 22/2001 “ *A publisher who fails to comply with this section shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment*” In South Africa the maximum penalty stands at R2500, while in the USA It goes as far as US\$2, 500.Crews (1988:566) notes that if penalties are too low, they may not be significant enough to compel publishers to comply.

However the use of fines should be viewed as a last resort because there is need to encourage mutually beneficial close cooperation between national institutions responsible for legal deposit, publishers, authors and other stakeholders. Lariviere (2003) further states that

there is need to educate stakeholders on how the legal deposit act operates and benefits that accrue from compliance, for example, increased visibility, wider publicity of publications, effective bibliographic control and long term guarantee of availability of original copies in the event that disaster strikes.

CONCLUSIONS AND RECOMMENDATIONS

It has been observed that the legal deposit laws of Zimbabwe needs to be updated in order to address contemporary issues in Information generation, processing, storage and retrieval. Institutions mandated to facilitate legal deposit are should take advantage of the proliferation of digital technologies in order to leverage the information science profession and fulfil constitutional rights with regards to access to information. Even though previously, National Archives of Zimbabwe entered into partnerships with educational institutions to help clear the backlog in bibliographic compilation in 2011, the project hit a snag as a result of financial constraints the institution.

The ability to invest in modern technology for effective bibliographic control will also assist in inter-lending and document supply projects. The advancements in technology have helped libraries and library users to easily identify, locate, discover and access resources from all over the globe. Bell (2003) hints on “memory losses” in national bibliographies of third world countries and calls for effective strategies to help improve the situation through world-wide cooperation with other institutions like UNESCO, the Africa Union, Association of Southern African Indexers and Bibliographers and IFLA section on bibliographic control and other key stakeholders. The researchers make the following recommendations;

1. There is also need to ensure continuous support and conscientisation of key stakeholders including publishers, libraries, writers , book sellers , print and electronic media, internet services providers, national research and education networks, government in order to raise awareness of the value of national bibliographic control;
2. The key stake-holders in bibliographic control and legal deposit should invest in continuous professional development and workplace learning (CPDWL) in order to strengthen skills in critical areas, for example, indexing and bibliographic compilations, metadata standards; forensic bibliographic reconstruction among other areas;

3. Investment in ICT should be prioritised since Zimbabwe is now in the digital era and access to scientific publications is now technological driven and a standard for quality information services;
4. The National Archives should engage in inter-institutional collaboration with Colleges and Universities and other institutions involved in similar work;
5. The National Archives of Zimbabwe should broaden the scope of legal deposit to incorporate digital. This can be achieved by viewing legal deposit as a cultural heritage law and also ensuring amendments to extent legal deposit into the digital realms through digital harvesting and web harvesting ;
6. The high volumes of content produced in the modern technology era will also require policies on appraisal to incorporate national interests and interests of diverse groups in society;
7. The right of a National library to harvest electronic content should be combined with the legal obligation for publishers and other content producers to deposit content according to an agreed upon appraisal criterion;
8. Key stakeholders involved in bibliographic control, for example, publishers, e-content providers, publishers, authors, producers, librarians, scholars and researchers should work together to ensure successful bibliographic control in line with the transition towards RDA;
9. Internet Service Providers(ISPs) and National Research and Education Networks (NRENS) should assist in developing bibliographic control and legal deposit as key component of national research infrastructure; and
10. Pre-digital content legal deposit content should be digitised to widen access to Zimbabwe's national heritage.

An effective legal deposit system will help Zimbabwe contribute to the national development Universal Bibliographic Control and facilitate the availability and access to published material in multimedia formats with regards to learning, teaching and research. Penzhorn (et.al) (2008:113) is of the view that the implementation and management of legal deposit in African countries is dependent upon the positive and full commitment of key stakeholders including, publishers, legal deposit institutions, authors, internet service providers and other stakeholders. Even though the above mentioned studies were mainly focused on South Africa the findings can be generalized to the rest of the African continent. Zimbabwe stands to gain greatly by revisiting the legal deposit law so that revisions can be

made and new laws that will take into cognisance electronic and other nonprint resources should be put in place. A draft amended Printed Publications Act that encompasses all the new developments is already there and was once forwarded to Parliament in 1998 but has still to be considered.

The country cannot afford memory loss by ignoring the need of bibliographic control since the knowledge dispensation is driven by access to all forms of knowledge and having a regularly and timeously updated physical and digital record will move the country in a progressive and digitally compliant path .Such a record will also help to inform research priorities as well as support learning and research .

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