CAUSES OF BOOK PIRACY IN PAKISTAN: A STUDY OF KHYBER PAKHTUNKHWA

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**Abstract:**
Copyright infringement is the violation of copyright laws. The most common infringement of copyright is piracy. Piracy is generally known as the deliberate infringement of copyright and an absolute disregard for ownership or authorship of literary works. The phenomenon of piracy stems from social, economic and legal backgrounds. The main objective of this study is to investigate the main causes of book piracy in Khyber Pakhtunkhwa and give possible measures and to improve the current situation. Based on qualitative approach an interview technique was designed to carry out this study. The population of this study were the registered publishers \((N=14)\) in Khyber Pakhtunkhwa. Out of 14 publishers 10 participated in the study whereas 4 declined to participate. On this proportionate the response rate was 71.4\%. The study found that lack of knowledge on the part of the publishers regarding copyright laws was the main factor of book piracy in the province. The study suggests that in order to curb book piracy there is great need of educating the publishers’ community and general masses about the demerits of piracy.

**Keywords:** Copyright, Copyright Law, Piracy, Book Piracy, Publishers, Khyber Pakhtunkhwa

**Introduction and Background**
Man is by nature a social animal\(^1\) and has needs and desires which are related to rights and liabilities. When the power or claim of an individual to do or have something is recognized and accepted by the people this constitutes the origin of right. Thus right is a justified, recognized and protected claim on or interest in, specific tangible or intangible property.

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The human brain contains cells that produce different ideas at different intervals. These ideas form the basis of creative work in every field. Such creative ideas combine to form different intellectual properties. Copyrights, Patents, trademarks, designs and other such intangible properties are the various kinds of intellectual property.

Today people have realized the importance of intellectual property and its augmentation in society. Every step of livelihood is taken by a man through the emanations of his intellect. In this world, human intellectual property has no boundaries and will always remain infinite by reason of the persistence of life. Copyright is related to creation of mind and intellect. With the realization that patents and designs too owe their origin to the same source i.e. intellectual activity, the term intellectual property came to be recognized and internationally accepted as including copyrights, designs, patents, trademarks confidential information and know how.

The intellectual property rights are the rights given to persons over the creations of their mind. They usually give the creator an exclusive right over the use of his or her creation for a certain time period. It includes literary and artistic works such as books, articles, paintings, musical compositions, sculptures, films and computer programs. The purpose of such protection is to encourage and reward creative work and is given for a minimum period of 50 years after the death of the author. Whereas, the owner may assign the use of such rights to other persons in return for agreed compensation.

The intellectual property rights are divided into two major categories
1: Copyright and related rights like literary and artistic works etc.
2: Rights in industrial properties like trade mark, patents, designs etc.
Copyright is a bundle of intangible rights granted by a statute to the author or originator of certain literary or artistic productions where by for a limited period the exclusive privilege is given to that person to make copies of the same for publication and sale. The protection available is for both published and unpublished work.

Modern copyright is influenced by moral, economic and property rights. It is important to note that no copyright vests in an idea rather it vests in the expression of the idea. The violation of copyright is called
infringement or in other words copyright infringement is the violation of copyright laws. The most common infringement of copyright is piracy. Piracy is deliberate infringement of copyright on intellectual property and an absolute disregard for ownership or authorship of literary works. The history of piracy is as old as the publishing industry itself and is rapidly increasing since the mid of previous century. Development in the higher education has resulted an unprecedented increase and growth in the higher education sector. West has developed a scientific culture. Therefore all materials related to the higher education specifically dealing with science are from west. These factors have contributed towards the piracy of books which are used for teaching and academic purposes.

The piracy phenomenon stems from social, economic and legal backgrounds. In the recent years the higher education in Pakistan is growing rapidly and so is the need of the books both at school and post school level. The textbook boards are trying to overcome the deficiency at school level but there is a serious deficiency of books on professional subjects such as engineering, medical, business etc. Thus there is an increase in demand for foreign books including text books and reference books. According to an analysis 90% of books are imported from abroad especially from U.K and U.S.A.

The academic reading material imported mostly from abroad is expensive and Pakistani buyers are not able to purchase such expensive imported books. An effort was made by the government of Pakistan in 1972 by establishing a National Book Foundation under a special act to facilitate the students, researchers and academicians in their study and research related endeavors. National Book Foundation was tasked to reproduce renowned national and international reading material in a limited range to cover the cost factor of foreign and local materials; however this objective was not achieved in its true letter and spirit because of high demand and low supply of reading material. This has been one among the major causes of piracy in Pakistan because on the other hand it encouraged the illegal reproduction of book and other reading materials locally in violation of copyright laws.

The gap created in the industry was filled by book pirates and they established a very strong industry. Piracy of published material is
rampant in Pakistan and its markets are considered worst markets for books. Large scale photocopy piracy and good quality print piracy have decimated the market for most legitimate publishers. There are many causes of increase in book piracy in Pakistan such as import restrictions leads to the increase of prices of the books and it becomes difficult for a common man to purchase them, secondly there are misconceptions about piracy as public often considers piracy as a means of having access to cheaper just as good version of books but they totally ignore the effects of piracy on creativity, thirdly there is a very low level of public awareness, people don’t realize that it is a criminal activity and how a common man is contributing to the spread of unlawful practices, fourthly access to legitimate work is difficult and fifthly pirates find it easy to make huge and easy profits through book piracy.

Pakistan, is a signatory to Berne Convention, 1886, Universal Copy Right Convention 1952 and TRIPS agreement6. There was a tremendous pressure from European Union and U.S.A upon Pakistan to look into the issue of piracy being a signatory to the conventions and to protect the interests of foreign authors. According to reports, book piracy in Pakistan has led US book industry to sustain a trade loss of 30 million USD in 1994 which increased to 52 million USD in 20047. This situation increased pressure on Pakistani government to take legislative measure to control this loss.

The law of land also protects the different types of intellectual property. The Constitution of Pakistan itself protects all the rights of a person related to any kind of property. From time to time different Ordinances and Acts have been passed to protect the intellectual property right. In Pakistan the first law on Copyright was the Copy Right Act of 1914. It was based on the U.K Copyright Act of 1911. However, The Copyright Ordinance 1962 is based on the Copyright Act of 1914. The Copyright Rules 1967 was framed for the proper working of the ordinance. Major changes were made in it through the Copyright (Amendment) Act 1992 and the Copyright (Amendment) Ordinance 2000, Pakistan intellectual property right organization 2005.

Different type of works are protected under the copyright ordinance 1992 (amended) 8
Salient features of the ordinance are
1: First owner of copyright in general is the author.
2: The author may assign rights to others.
3: The time frame is specified during which the literary work cannot be reproduced and that is the life time of the author and 50 years after his death.
4: Registration is not compulsory it is optional but it is suggested to get the work registered so that the certificate of registration can be used in a court to prove ownership if needed.
5: Certain acts are not to constitute infringement of copyright. These include reproducing to a certain specified limit for fair use for the purpose of research, reviews, teaching, judicial proceedings or reporting.
6: With the permission of the author three copies of the book can be made for library use if such book is not available in the market.
7: The meaning of literary work is given in the ordinance. Literary work includes work on religion, humanity, social and physical sciences, compilations and computer programs.

The enforcement mechanism is specified in the ordinance and three kinds of remedies are awarded. The remedies are civil, criminal and administrative in nature.

The amendments made in 2000 to the Copyright Ordinance provide a much more stronger platform and tools to control piracy i.e. the registrars authority was broadened, the amount of fine was raised to 1680$ although one amendment was criticized by the international publishing industry and that is the permission given by the government to any institution in Pakistan including National Book Foundation to reprint without permission of the author and without paying royalty.

Mahmood and Ilyas (2005) are of the opinion that despite that fact that Pakistan is member of different international conventions and have framed and enforced national copyright laws, however, book piracy has been a persistent phenomenon in Pakistan.

Habiba Younas (2011) reported in her study that the causes of book piracy in Pakistan is mainly because of our disregard for copyrights. However, she also admits that the high prices of foreign books is among the factors which has stimulated piracy in Pakistan. She explains that since pirated books are cheap and brings great temptation for book lovers, therefore an average reader is always inclined towards buying an affordable priced book, though, may even be a pirated copy.
(1993, 1996) exactly noted the same reason. He observed that low costs of books attract the readers and high cost of books help the pirates. This is why book piracy is gaining higher degree of respectability in Pakistan.  

Different experts have given various reasons of book piracy in Pakistan. Mahmood and Ilyas (2005) are of the opinion that lack of public awareness, vigilance and enforcement mechanism of copyright laws are the main factors contributing to book piracy in Pakistan. Mirza (1983) is of the view that the import policies of Pakistan are stringent which is why it create issues for importers. Mirza (1992) suggests that there is a grave need of a public awareness campaign about piracy and its effects and there is a need to give special training to the law enforcement agencies so that they can play a pivotal role in controlling book piracy. Haider (1993) discusses that the price of foreign books is helping the book pirates to fit in the gaps that are created and according to a survey most of the book importers are of the view that 80% of books sold in Pakistan are pirated. Sethi (1994) discusses that legislation in Pakistan related to intellectual property is very clear and strict but the enforcement mechanism is weak and legal redress is time consuming and expensive. He is also of the view that the cost factor of foreign books has encouraged piracy in Pakistan. Foreign books are expensive and not easily available and it’s out of reach of an average person so that’s why people prefer books available at moderate prices and which are easily available in the market too. The foreign publishers are not interested in spending money on litigation in Pakistan and chasing pirates. Haider (1996) stated that availability of pirated books is a convenience for the buyers and on the other hand is an easy way of money making.

The foreign publishers are incurring great financial loss due to piracy of books in Pakistan.

The International Intellectual Property Alliance represents as many as 1300 U. S companies producing and distributing materials protected by copyright laws throughout the world and in their annual review report it was concluded that due to book piracy in Pakistan in 1995 the loss suffered by U.S companies was 30bn$ which raised to 52bn$ in 2004. This mounted much pressure on Pakistan from international community
to establish a designated organization to protect the rights of the international authors and control book piracy so that there economic loss could be minimized. Looking to this situation Pakistan in 2005 established PIPRO (Pakistan Intellectual Property Right Organization) with an aim to safeguard the rights of the authors and other intellectual property related issues and control book piracy. PIPRO will be the sole body to deal with all the Intellectual property rights in Pakistan. It aims to consolidate issuance and enforcement of trademarks, patents, copyrights in one governmental body.

Controlling and preventing book piracy in Pakistan is a serious issue having economic and political impact. Implementing laws in Pakistan is very difficult and it is making it difficult to control piracy. This is the reason that Pakistan has been on the special 301 watch list since 1989. Keeping in view all the factors, this study has been undertaken to look into the real situation and find out the main causes of book piracy and propose guidelines to improve the current situation.

Aims and Objectives:
1: To find out the main causes of piracy in Pakistan with special reference to Khyber Pakhtunkhwa.
2: To suggest practicable guidelines for preventing the worst acts of piracy in Pakistan.

Justification:
The offer mentioned discussion concludes that laws related to copyright are clear and fair. However, due to multiple factors including socio-economic and legal issues, piracy of books erupts from time to time. This study would make an effort to probe the real causes of book piracy in Khyber Pakhtunkhwa and provide guidelines to the quarter concerned in the light of the contemporary developments and improve the situation. Most of the problems are due to long and costly redress of copyright laws which stems piracy. This study would therefore provide guidelines to the legal community and law enforcement bodies in the light of the socio-economic and socio-legal factors to encounter piracy in Pakistan and restore the distorted image of the country among the international community.
Methodology:
The nature of this study is Qualitative in nature and the scope of this study is only limited to the province of Khyber Pakhtunkhwa. To achieve the objectives of the study survey research method was used. The population of the study are the registered publishers in the province of Khyber Pakhtunkhwa. The survey followed a qualitative design based on an interview technique for data collection.

To develop an interview schedule, extensive literature review and consultation with the experts were conducted. Looking to the nature of the study interview technique was deemed appropriate to discover information regarding the main causes of book piracy in the province.

The list of registered publishers in the province was obtained from the office of the Director National Book Foundation (NBF), Phase 5, Hayatabad, Peshawar. According to the provided information by NBF, there 14 registered publishers in Khyber Pakhtunkhwa which are working under different names and logos. An effort was made to record and conduct interviews in the offices of the publishers. This technique was also considered important, because in this way respondents are open to talk about the real situation. All registered publishers of the province were requested to participate, however, out of 14 only 10 gave their consent to participate in the survey which constituted 10(71.4%) response rate. The rest of the publishers were contacted, however, on repeated requests they always declined to participate in the survey. In order to avoid any controversy and ensure anonymity the names of the publishers were kept concealed.

The summary of analysis was extracted from the interview transcripts. Themes from interview guides were used to organize the matter.

The Structure of Interviews Schedule
The interview schedule for the publishers comprised of different sections including, name of firm/publishing house, city, contact number and gender. Apart from this, specific questions related to the objectives of the study were also asked. These questions included publishers’ knowledge of copyright laws in Pakistan, international copyright conventions and treaties, and the effectiveness of existing copyright laws in Pakistan in curbing piracy. They were also asked questions regarding
honoring copyright laws in Pakistan and their satisfaction with the legal provisions in the copyright laws of Pakistan. All publishers were also asked to give their expert opinions regarding the main causes of book piracy in Khyber Pakhtunkhwa and remedial measures for it.

**Analysis and Interpretation of Data**

The analysis and interpretation of data in the order of questions asked from the respondents are as under:

**Knowledge about the copyright Laws of Pakistan**

This question was added with the purpose to measure respondents’ knowledge of copyright laws in Pakistan. It was noted that majority (6 out 10) were aware of local copyright laws. However, knowledge of all publishers regarding international copyright laws was very weak. All respondents showed their complete lack of knowledge about international copyright laws and treaties.

One specific question regarding honoring copyright laws in Pakistan was also put forward to the respondents. All of them unanimously expressed that copyright laws are not honored in Pakistan. Parallel to this issue they completely showed their dissatisfaction regarding the legal provisions, provided under the local copyright laws in Pakistan.

The findings of the study has a great resemblance with the study of Mahmood and Ilyas, which they conducted in 2005. This also show that the knowledge of copyright laws among the publisher community has not improved. This lack of knowledge about copyright laws can be considered a leading reason of book piracy in Pakistan. It was also noticed during the course of this research that most of the publishers were owning and running their businesses on hereditary basis. This could also be among the major reasons that instead of following publishing ethics by getting to know the legal protections available for the original authors, making money remains at the center of business. However, ignorance of law is no excuse. Every business has its ethics and everyone is bound to follow those ethics. In case of violation strict action should be taken against violators. Furthermore as suggested the Pakistan Publishers and Booksellers Association should play a key role in educating the publishers’ community about the national and
international copyright laws. This could be a positive step towards curtailing book piracy in Pakistan.

Table No. 1: Respondents’ Knowledge about the copyright Laws

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<th>S. No</th>
<th>Questions</th>
<th>Responses</th>
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<tr>
<td></td>
<td></td>
<td>Yes</td>
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<tr>
<td>1</td>
<td>Knowledge of local copyright laws in Pakistan</td>
<td>06</td>
</tr>
<tr>
<td>2</td>
<td>Knowledge of international copyright laws</td>
<td>0</td>
</tr>
<tr>
<td>3</td>
<td>Honor of copyright laws in Pakistan</td>
<td>0</td>
</tr>
<tr>
<td>4</td>
<td>Effectiveness of copyright laws in Pakistan</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>Satisfaction from the legal provisions of copyright laws in Pakistan</td>
<td>0</td>
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Main Causes of Book Piracy in Khyber Pakhtunkhwa

All publishers were asked to mention the main causes of book piracy in the province of Khyber Pakhtunkhwa. Looking to their busy schedule it was decided to assist them in their choices and provide them some hints in this regard. Based on the literature review a list containing different options was provided to them. The list included the following options:

a. Economic benefits and high profits
b. Weak copyright laws
c. High prices of books
d. High profit
e. Non availability of original editions of books
f. Inclusion of foreign books in our academics
g. Technological factors which case easily reproduce books in seconds
h. Legal actions is not taken in time
i. Legal procedures are complicated
j. Lack of awareness among the masses/general public
k. Lack of awareness among the legal community
l. Difficulties in importing foreign books
m. Any other __________________________

The answer to this question received different views of the publishers regarding the main causes of book piracy in the province of Khyber Pakhtunkhwa. A major finding in the study came to fore was that most
of the publishers were in favor of the piracy of imported books because in their opinion general public cannot afford the prices of imported books which are in dollars, euros and pound sterling and are beyond the purchasing power of an average man in Pakistan involved in research and academic activities. Apart from it, in their opinion piracy of imported books is beneficial and a lucrative business and can yield much benefit in the shape of money. However, they also confessed that there is lack of awareness among publishing community about the perception of book piracy in Pakistan. All (10) publishes also expressed that lack of enforcement mechanism paves ways for loop holes in enforcement mechanism for book piracy in Pakistan.

All publishers who favored the piracy of foreign book also proclaimed that they are mainly providing all necessary items which are the prerequisites for paper making; however, the same is sold back to us at a much higher price than their actual price. Therefore they must make the duplicate copies of a book which is required by general masses in Pakistan. However, all publishers were in favor of providing protection to local authors in respect of local publications. All of them expressed that most of the educated community in Pakistan are interested in low priced items. “Books of cheap material than standard”.

From this discussion multiple factors can be identified however there is a high lack of education and awareness about copyright laws and piracy in Pakistan among the publisher community.

In the light of these arguments there is still an apprehension that the rate of piracy might have gone up than controlling it through effective measures from the government despite the fact that PIPRO has been established since 2005 in Pakistan. However, their role in bringing awareness among the publisher community in specific and general public has been unsatisfactory with special reference to KPK.

All publishers very openly expressed that lack of awareness has been the main reason of piracy followed by outdated copyright laws, economic benefits, complication of legal procedure about registration of a work are the main factors stemming piracy in KPK.
Some of them (n=5) also mentioned that the education system of Pakistan is also based on either British or U.S. education systems due to which educational institutions recommend and approve foreign editions of books which are either limited or not available in local market. Therefore on the principle of “Beg, Borrow or Steal but you must have a book” arrangements are made.

The study suggests that government must make sure before registering a publishing firm that their human resources are well aware about copyright laws locally and internationally. Apart from it in agreement deeds the inclusion of one legal professional who is an expert in the field of intellectual property laws must be at their strength. PIPRO should be instructed to arrange seminars, conferences and refresher courses for wide spread public awareness.

Table No. 2: Main Causes of Piracy

<table>
<thead>
<tr>
<th>S.No</th>
<th>Main Causes</th>
<th>Response</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td>Economic benefits and high profits</td>
<td>10</td>
</tr>
<tr>
<td>2.</td>
<td>Weak copyright laws</td>
<td>10</td>
</tr>
<tr>
<td>3.</td>
<td>High prices of books</td>
<td>10</td>
</tr>
<tr>
<td>4.</td>
<td>High profit</td>
<td>10</td>
</tr>
<tr>
<td>5.</td>
<td>Non availability of original editions of books</td>
<td>10</td>
</tr>
<tr>
<td>6.</td>
<td>Inclusion of foreign books in our academics</td>
<td>10</td>
</tr>
<tr>
<td>7.</td>
<td>Technological factors which case easily reproduce books in seconds</td>
<td>10</td>
</tr>
<tr>
<td>8.</td>
<td>Legal actions is not taken in time</td>
<td>10</td>
</tr>
<tr>
<td>9.</td>
<td>Legal procedures are complicated</td>
<td>10</td>
</tr>
<tr>
<td>10.</td>
<td>Lack of awareness among the masses/general public</td>
<td>10</td>
</tr>
<tr>
<td>11.</td>
<td>Lack of awareness among the legal community</td>
<td>10</td>
</tr>
<tr>
<td>12.</td>
<td>Difficulties in importing foreign books</td>
<td>10</td>
</tr>
<tr>
<td>13.</td>
<td>Another</td>
<td>10</td>
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Conclusion and suggestions

Pakistan is a developing country and according to Hassan Sattar Sharif (2016) in his recent study every developing society is transitioning from knowledge deficient to knowledgeable society. He is of the view that during transitional stage things tend to deviate from their original course
and that brings difficulties for developing countries to keep track of the copyright violations. Since Pakistan have been in a transitional stage therefore this can be termed a reason of not tracking piracy properly.

The violation of copyright has an economic impact as well as a matter of reputation among the international community. Though Pakistan has strict copyright laws, but due to its lack of implementation mechanism it is harming its economy and loosing international reputation. In this whole situation the people of Pakistan are the main losers.

In order to curb book piracy there is great need of educating the publishers’ community and general masses. Pakistan Intellectual Property Organization should start awareness programs about the harms of book piracy, its impact on the intellectuals and economy of a country.

Notes and References

4. Ibid
8. The Copyright Ordinance of Pakistan, 1992 (amended)
9. Section 2(p) of the Copyright Ordinance of Pakistan, 1992 (amended)
10. Khalid Mahmood and Muhammad Ilyas, Op-cit, p.327
11. Ibid
23. Ibid