

**A PROPOSED MODEL OF CODE OF ETHICS FOR KENYAN
LIBRARIANS**

By

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INTRODUCTION

The information landscape in Kenya has witnessed significant changes over the past years. In its vision, the government hopes to transform the country into a prosperous globally competitive middle income county by the year 2030 and information and communication technology (ICT) has been envisioned as one of its key driver in the economic pillar of country's vision 2030 which targets to attain a 10% GDP Growth rate by 2012 (Ministry of information and communications strategic plan 2008-2012). The privatization of the telecommunication sector, improved ICT infrastructure, enactment of ICT policy amongst other factors has seen a growing increase in information products, services, players and consumers. There is no escaping the fact that technology has been the greatest driver for change across the information world as a whole and as Hans Jonas observes in his work *The Imperative of Responsibility*, this "modern technology has introduced actions of such novel scale, objects, and consequences, that the framework of former ethics can no longer contain them" (Jonas, 1984, p.34). **This paper examines some of the ethical issues facing libraries and recommends libraries response within the boundaries of the legal framework Kenya.** Asserting the need for a professional code of ethics as a reference guide for librarians when confronted with these multiple ethical dilemmas, the paper begins by examining the rationale for professional ethics. The paper makes reference to number of Legal provisions and guidelines that directly or indirectly influence Kenyan librarians' decisions when confronted with some of these ethical issues. Proposed response to be taken is provided at end of each analysis. Given the complexity of the ethical concerns, this paper does not claim to be totally exhaustive of the subject matter.

THE NEED FOR CODE OF ETHICS FOR LIBRARIANS

“If you do not know where you are going, then all roads lead to it”

[Popular saying]

It has been argued that professions need codes of ethics to thrive. They determine the limits of acceptable conduct and point out actions regarded as right and wrong in the occupation. According to Finks, L. W. (1991) such a code provide its members with not only a sense of identity but also with a basis for consistent ethical behavior, thus serving as a frame of reference for decision making which is impersonal and objective. Whatever its contents, it should ultimately be drafted with the objective of enhancing service to the end clients.

Matters related to ethical issues have long been a concern for librarians (Vaagan, 2002). Its relevance is gaining more significance. The information industry presently is confronted with issues of copyright, privacy, freedom of expression, equal rights, digital divide and a host of other ethical concerns characteristic of a digital information environment (Koehler and Pamberton, 1999). Assuming the assertion that librarians' core function is optimizing the value of recorded information for humankind, how should libraries address the numerous compromising situations they recurring find themselves in?

In my opinion, the answer largely lies in a code of professional ethics. As early as the 70s' Johan Bekker argued that librarians would only act ethically when they act in such a way that they fulfill their function as provided for in a professional code of ethics. A profession maintains society's support through a good reputation built on reliability, integrity and competency among its members. Just like labor unions looks into the interests of its members and protects them from undue exploitation, professional code of ethics would go a long way in shielding librarians from malpractices.

A comparative analysis of code of ethics for librarians shows disparities in approach (Koehler and Pemberton, 2002; Vaagan, 2002; Shachaf, 2005): Those that provide broad general clauses and those that address specific activities individually (Bair, 2005). While the former approach allows for interpretation under individuals' contextual circumstances, the latter provides for ready solutions to specific ethical challenges. Both have their own merits and demerits which are beyond this papers discussion.

Efforts to promulgate code of ethics in Africa are significantly low. Africa is conspicuously missing from IFLA's list of sample code of ethics for librarians. This is despite reaffirmation made participants representing the region in 2007 at the African Conference on Information Ethics, held at Pretoria on information rights as per the Universal Declaration of Human Rights and on the value of information in society and called for equality of access in the 'Tshwane Declaration on Information Ethics in Africa' (<http://www.africaininfoethics.org/tshwanedeclaration.html>). Since then, little has been done until now. Exemplary cases of strides made in Sub-Saharan Africa though, include those of South Africa and Uganda (LIASA, 1997; Kawooya , 2004).

Resting on the premise that permissible and acceptable ethical decisions that librarians undertake rests on the legal and other statutory framework of their respective country, a view shared by Froehlich (1997) and Sturges (2003), the paper adopts a prescriptive approach to drawing up code ethics by examining only the legal and other statutory documents of the country. Universal documents deemed relevant to the country are interpreted in the context of the political and legal framework of the country. In addition, the paper acknowledges the fact that it may not be feasible to provide precise guidelines to deal with all ethical issues facing librarians given the variability of situations and the numerous other legal or otherwise interests that need to be considered. Long standing code ethics such as that of American Library Association that have been carefully thought out, articulated, debated, interpreted and revised would attest to this. Thus the following documents form the backbone for this discussion:

Bill of Rights as provided for in chapter four of the New Constitution of Kenya 2010

Article 19 Rights and fundamental freedoms

Article 27 Equality and freedom from discrimination

Article 31 Privacy

Article 33 Freedom of expression

Article 35 Access to information

Kenya Data Protection Bill, 2009

Kenya Reform Strategies, 2003

ANALYSIS OF ETHICAL ISSUES AND THEIR PROVISION

EQUITY OF ACCESS

Article 27 states that every person is equal before the law and has the right to equal protection and equal benefit of the law. Equality [here-in] includes the full and equal enjoyment of all rights and fundamental freedoms.

There is evidence of concerted efforts towards improving information access and use in Kenya. The privatization of the telecommunication sector, increased broad band capacity through fibre optic.

While the digital environment provides unprecedented opportunities for information access, it creates both technological and economical barriers to information, significantly- digital divide. This is largely attributed to the fact that the retrieval of digital information requires specialized knowledge beyond the capabilities of a big proportion of the citizenry. In addition, specialized technology (hardware and software) is essential for their retrieval not to mention the fiscal resources required. Kenya's Information and Communication sector envisions making Kenya an information and knowledge based society. One of its objectives is to improve universal access to ICT services to the public by developing the appropriate infrastructure, establishing digital villages. Ironically, the digital villages (renamed the "Pilot Pasha Centres," or PPCs -"pasha" means "to inform" in Swahili) launched in January 2009 are owned and managed by individual entrepreneurs who may not have the desirable information management proficiency and needs of the communities at heart. This has left most Kenyans flocking to mushrooming cyber cafés or relying on their cell phones to access internet-based information raising the cost of accessing information.

Considering that libraries in Kenya form the largest information system and most probably the cheapest, centres of information access, the responsibility of empowering the public by offering opportunities for equitable resource discovery to both information resources lies with them. This should be held within and without their boundaries without marginalizing any persons or communities on grounds of race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth. Taking a passive role in a matter that is core to the profession is itself unethical. Presently, the needs of the disabled are not addressed, public libraries are not equitably distributed in the country, information literacy and fluency programs insufficient, and recently the Kenya National Library Services, the largest public information network introduced fees for its services.

Libraries must therefore develop explicit policies, regulations, and procedures to promote public awareness of, and access to information resources, services, and facilities. This includes implementing strong information fluency programs; promoting and upholding professionalism in their service provision; setting explicit standards and policies for collecting, creating, preserving, managing and providing access to digital information resources within the boundaries of the legislative requirements; providing affordable services especially for those libraries the receive public funding; and promoting inclusiveness in their services to mention but a few.

FREEDOM OF EXPRESSION

Article 33 provides for the right to freedom of expression for every person including (a) freedom to seek, receive or impart information or ideas; (b) freedom of artistic creativity; and (c) academic freedom and freedom of scientific research. It goes further to state under **Article 34** that the state shall not exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium; nor penalise any person for any opinion or view or the content of any broadcast, publication or dissemination.

A landmark attribute of the digital environment is Web 2.0 characterized as an interactive, multimedia, participatory platform for inform exchange and sharing. Through its numerous applications such as face book, twitter, blogs amongst others end users can now be also creators of information - sharing their knowledge, experiences and opinions through the social networks. However as noted by Morgan (2011), the culture of sharing that is the essence of Web 2.0 has focused renewed attention on legal and ethical concerns including defamation, data protection issues, copyright, extra. No wonder despite the relatively vibrant ICT landscape as evidenced from its internet usage and penetration (Table 1), with the exception of significantly few libraries such as Strathmore University, majority of Kenya libraries have not embraced this technology.

Table 1: Internet Usage and Population Growth:

| YEAR | Users | Population | % Pen. | Usage Source |
|------|-----------|------------|--------|---------------------|
| 2000 | 200,000 | 30,339,770 | 0.7 % | ITU |
| 2008 | 3,000,000 | 37,953,838 | 7.9 % | ITU |
| 2009 | 3,359,600 | 39,002,772 | 8.6 % | ITU |
| 2010 | 3,995,500 | 41,070,934 | 9.7 % | |

Source: Internet world statistics <http://www.internetworldstats.com/af/ke.htm> [April 2012]

The freedom of expression provides for individuals to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers. However, whereas social media has been embraced as a conventional way of promoting interactive communication between parties, Kenyan libraries have largely discouraged the application of such social networks within their environs. The reasons for this are varied including individual's personal beliefs and fear of confrontation. In extreme situations libraries

and librarians have denied their clients access to digital information by blocking some sites solely on perceived grounds of their value judgement particular in cases where the libraries have religious affiliations.

This certainly contravenes individuals' freedom of access to information as the freedom of expression exempts such freedom in only a few circumstances which include propaganda for war, incitement to violence, hate speech or advocacy of hatred. Note that matters of morality are not included in the exemption list.

Libraries provision of access to information should as far as possible be free from any subjective biasness stemming from individuals' personal convictions, religious or cultural affiliations or otherwise. Distinctions must be made between personal convictions and professional duties in order to minimize personal beliefs interfering with provision of access to their information resources.

RIGHT OF PRIVACY

Article 27 states that every person has the right to privacy, which includes the right not to have the privacy of their communications infringed amongst other provisions.

The Kenya Data Protection Act, 2009 provides for the collection, protection and access to personal information.

SECTION 3 states that information collected shall be with the full knowledge and authority of the persons concerned; that is shall be necessary for the purpose for which it is collected; that the information will be protected against loss, access use, modification, or unauthorized disclosure or other misuse.

The use of ICTs to support library services and operations has in itself exposed its information to infringement. Sometimes this puts the users' details and information seeking habits at risk. Although we have not had reported cases of criminal activities associated with such infringements, we cannot underestimate their possibilities. **Libraries must protect and promote intellectual freedom of information rights regardless of the format or technology employed to create and disseminate information.** Users have both the right of confidentiality and the right of privacy. The library should uphold these rights by policy, procedure, and practice in accordance with Privacy Rights.

It is the responsibility of the libraries to minimize unwarranted exposure of their patrons' details. Libraries must be able to determine what they can legally withhold within the framework of intellectual freedom of information. Distinction between confidential information vices privileged information should be clearly spelt out, data security prioritized and enhanced and bibliomining practices done with full knowledge of the library users.

INTELLECTUAL PROPERTY RIGHTS

Chapter 2 Section 11 of the constitution of Kenya provides for the promotion of intellectual property rights of the people of Kenya and enshrined in The Copyright Act, 2001. In addition Kenya is a signatory to a number of copyright conventions and agreements such as: the Berne Convention, 1988; The Universal Copyright Convention, 1952; The Rome Convention, 1961; and WIPO Copyright Treaty, 2001 amongst others (Otike, 2011).

As Kallinikou et al. (2009) points out, “the evolution of information technology is frequently seen as a factor that sets at stake the legal rights of creators and right-holders, as a cause for stricter Intellectual Property Law and legal protection for the initial and subsequent right-holders” (p. 2). Copyright compliance is both a legal and an ethical issue. Digital information environment has made the access, use and replication of human creativity much easier. The most profound ethical issue facing libraries in this category is plagiarism. The promotion of open access and freedom of information access only serve to accelerate the ethical dilemma of libraries in managing the fair distribution and use of digital information. For example, under the Copyright Act, 2001, CAP. 130 www.kenyalaw.org, replication of works is granted under the exemptions of “fair use” and reproduction of a work under the direction and control of the government or by public libraries and other non-commercial documentation centres for public use. Unfortunately, it is not explicit on the exact amount of reproduction that is granted.

Control of patrons use patterns of digital information is a toll order for libraries universally. The vagueness in the regulations regarding permitted usage and poor enforcements of the regulations makes it almost impossible for libraries in Kenya to provide for effective adherence of fair use. Cuts in budgetary allocation to libraries have made most libraries introduce forms of income generating activities including photocopying services. Unfortunately libraries have adopted blind eyes to the number of copies patrons make of a piece work which may often amount to the whole work especially where the number of information resources are few compared to the patrons information needs.

Under such circumstances, libraries can only serve to moderate users' behavior by constant sensitization of the need for proper use of intellectual works through the library user training programs, discouragement and control of photocopying done under their jurisdiction, and reporting of such abuses when cautions are ignored.

SERVICE DELIVERY

The delivery of quality service to the public is a core mandate of the Kenyan government who in the recent years has initiated varies reform strategies with the vision of improving efficiency, transparency and accountability of service delivery. The reform strategies the

government has adopted since 2003 in order to improve service delivery include (Ukaid World Vision, 2011):

- i. Rapid Results Approach
- ii. Performance Contracting
- iii. Citizen Service Delivery Charters
- iv. Transformative Leadership, Values & Ethics
- v. Institutional Capacity Building

Underlying these initiatives is the proficiency of the human capital in delivering quality services. Digital information environment requires a relook at the prerequisite knowledge, skills and competencies required of the librarians. Gaps in these have resulted in a number of “intruders” taking up jobs essentially for librarians particular in the field of information technology. Technology is continuously changing dictating new approaches in business operations and service provision. Institutional capacity building can only be achieved through professional development programs aimed at both formal and continuous/in-house, mentorship to young professions and information sharing. In Kenya, this is largely missing. Professional support by individual institutions in the country varies ranging from good to poor. Training policies are absent and there is insignificant evidence of mentorship both at individual and national/institutional levels. A click of personnel closer to the management and the top ranking management of the libraries seem to be the ones appearing in all forms of training/workshops/conferences particular the external ones, even when they are not in line with their duty or responsibility. The slow upward mobility of younger librarians’ in the country affirms this.

Equally, is the absence of a clear jurisdiction amongst practicing librarians in the country who which in any profession defines who is allowed to do what i.e. what work does each profession perform and control (Abbott, 1988, 1998). Jurisdiction is constantly changing in response to developments in technology and in library field, jurisdiction has proved a contentious issue. Matter related to the extent to which librarianship or information science in the country exhibit traits associated with the definition of profession have slowed the recognition of Kenyan librarians as professionals. There appears to be no large source of empirical data on how people who work in libraries view their own tasks, across a range of library types, library positions, and library worker levels. This has amounted to significant variations in the way librarians at different levels are defined in the country, the way in which tasks are assigned to different categories and the knowledge and skills required of different groups of librarians. How to gauge proficiency of a librarian is left to either individual libraries or individual co-librarians. In a nutshell, there is no knowing who should really be considered as a “qualified librarian”.

Professional code of ethics for the librarians should therefore declare support of professional development of co-workers, and the fostering aspirations of potential members of the profession. Knowledge, skills and competencies of all cadres of library professionals should be identified. National efforts towards common categorization of professional librarians should be initiated.

CONCLUSION

There is no doubt that in this expanded use of digital information, librarians are faced with complex often intertwined issues of ethical concerns. Formal education and experience in the field of work does not sufficiently prepare librarians to address each of these situations. Turning a blind eye is not the answer. The Kenyan legal and political environment demands accountability at all levels and by all persons. Many of the ethical issues facing libraries in Kenya, have legal implications. It is therefore imperative that librarians understand the national and international legal framework that may have a bearing on the decisions and actions they take. Considering variations in the social, political and technological backgrounds librarians practice, it is prudent that each nation identifies the set that affects them and adopt best practices. These may not however be sufficient without a collective sense of responsibility and accountability that a professional association may accord to its members thus the need to lobby for the profession to be recognised and consequently a code of ethics for the librarians be developed. However, in so doing, Kenya libraries should also examine other information - related codes such as Society of Internet Professionals (www.sipgroup.org/sip/code.html), Association for Computing Machinery's Code of Ethics and Professional Conduct (www.acm.org/about/code-of-ethics), IFLA'S code of ethics for librarians and other information workers <http://www.ifla.org/files/faife/news/ICoE-Draft-111208.pdf> Amongst others.

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