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LEGAL REQUIREMENTS FOR PROTECTING THESIS COPYRIGHT IN THE IRAN'S NATIONAL DATABASE OF THESES AND DISSERTATIONS

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ABSTRACT

This study aims at identifying the requirements for protecting copyright of theses and dissertations in the Iran's National Database of Theses and Dissertations. This research based on grounded theory (GT) and systematic approach and was conducted at three levels of open coding, axial coding and selective coding in order to achieve the research paradigmatic model. The research population consisted of 23 Iranian experts in copyright, electronic publishing and Knowledge and Information Science. The semi-structured interview was made to reach data saturation. The obtained data from the open coding and formation of main categories were provided in the form of a paradigmatic model by means of axial coding and legal requirements for protecting copyright of theses in the Iran's National Database of Theses and Dissertations discussed and theorized in the selective coding. The results indicate that the protection of copyright of theses needs specific legal requirements. As theses are under the protection of intellectual property rights, it is necessary to obtain licensed agreement from their owners. Legal requirements that play an important role in support of copyright of theses and dissertations include committing to fair use, determining moral rights, economic rights and the ownership of theses, legal barriers, regulating a contracted mechanism for availability and dissemination, assigning the share of each party, setting a mechanism for users, Iran's membership in international conventions on copyright, protecting of copyright law, setting and updating the legal mechanisms for copyright of theses, especially in cyberspace.

Keywords: *Legal Requirements, Iran's National Database of Theses and Dissertations, Theses and Dissertations, Cyberspace, the Ownership of Theses*

INTRODUCTION

As an alive and dynamic organism, cyberspace is changing rapidly. Easy accessibility and interactivity are some of cyberspace features. Resource accessibility and resource sharing in cyberspace are easier than those of physical environment.

Nowadays, there is no concern of the lack and not accessing information. Every website or database has lots of information easily accessible by means of information technologies. Easy access satisfies user information needs from one hand and concerns work owners from the other hand. So, cyberspace needs some laws and regulations.

There are three principal legal schools for cyberspace. One is radical ideology that believes that cyberspace must be free from any control forced by governmental administration or legal and physical monitoring.

The second one recognizes the need to set some separate laws for cyberspace. The third school suggests a combination of rights and technologies to regulate the space (Bakhtiarvand, 2009).

The execution of copyright law is of main issues in the institutions that concern Theses and Dissertation Programs (Ubogu, 2006).

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In Iran, The National Database of Theses and Dissertations is responsible for making dissertations available for users. The system covers a broad scope of the information society including among others faculty members, researchers, and graduate students. It initiated by Iranian Research Institute for Information Science and Technology (IranDoc).

As one of its main objectives for disseminating scientific and technology-related documents, specially MD and doctoral theses, IranDoc started to publish the full-texts of dissertation via the system. In line with the electronic dissemination of works, digitization of Electronic Theses and Dissertations (ETDs) has been increasingly developed. Higher education institutes and universities tend to immediately disseminate and access these resources. Copyright, however, is a main issue that cannot be ignored in this context and should be protected appropriately. Regarding these main issues, this study aimed to answer this main question:

- What are the legal requirements for protecting the copyright of theses and dissertations in the Iran's National Database of Theses and Dissertations?

MATERIALS AND METHODS

As a research method, grounded theory (GT) is employed to design or develop a theory. The theory is developed from data or systematical data analysis or data gathering. In this method, obtained data is converted to some codes or concepts and the common concepts in turn are converted to some categories transmitted into the theory (Danaei-Fard and Momeni, 2008).

Coding helps us to gain a new perspective on our material and to focus on further data collection and may lead us to encounter unforeseen directions (Denzin and Lincoln, 2000). Therefore, the researchers extracted the relevant data from the text and categorized it as some codes and classified them and finally provided their related theory.

The research population included 23 experts in the field of copyright, electronic publishing and Knowledge and Information Science. They were interviewed and the interviews were continued until data saturation. Data analysis was made in three continuous phases as follows.

a. First Stage: Open Coding: Open coding is an analytical process through which some labels are assigned to data for identifying categories, their properties and dimensions. Close to data, initial coding is used as *in vivo* codes. Open coding is the result of a line-by-line review of the text of the interviews. A lot of interviews are reviewed to extract codes. These codes are reviewed and evaluated and more general concepts are derived from them. Grouping concepts together under a higher order label marks the commencement of category development (Sengstock, 2008). At this stage, the initial coding and the secondary coding were made and 1067 initial codes were extracted which in turn resulted in 28 conceptual codes and 12 categories. At the final stage of open coding, two main categories were resulted from the creation of the categories. These include “legal components” and “determination of ownership of dissertation”.

b. Second Stage: Axial Coding: The second stage is axial coding. This coding aims to making relations among categories created in the open coding phase in the form of a paradigmatic model.

c. Third Stage: Selective Coding: The core category and linking it to other categories are done in this phase. A researcher decides on main category to be included. Secondary or sub-categories are systematically linked to the core category (Hariri, 2007). Based on his/her understanding of the text, the researcher offers the paradigmatic model in a narrative form (Hassangholipour et al, 2010) The proposed theory in this study suggested the legal requirements for protecting thesis copyright to be obeyed by the Iran's National Database of Theses and Dissertations.

RESULTS AND DISCUSSION

According to the explanations given above, the components of the paradigmatic model include among others. The following figure shows the axial coding of legal requirements for thesis and dissertation copyright in the Iran's National Database of Theses and Dissertations: (Figure 1).

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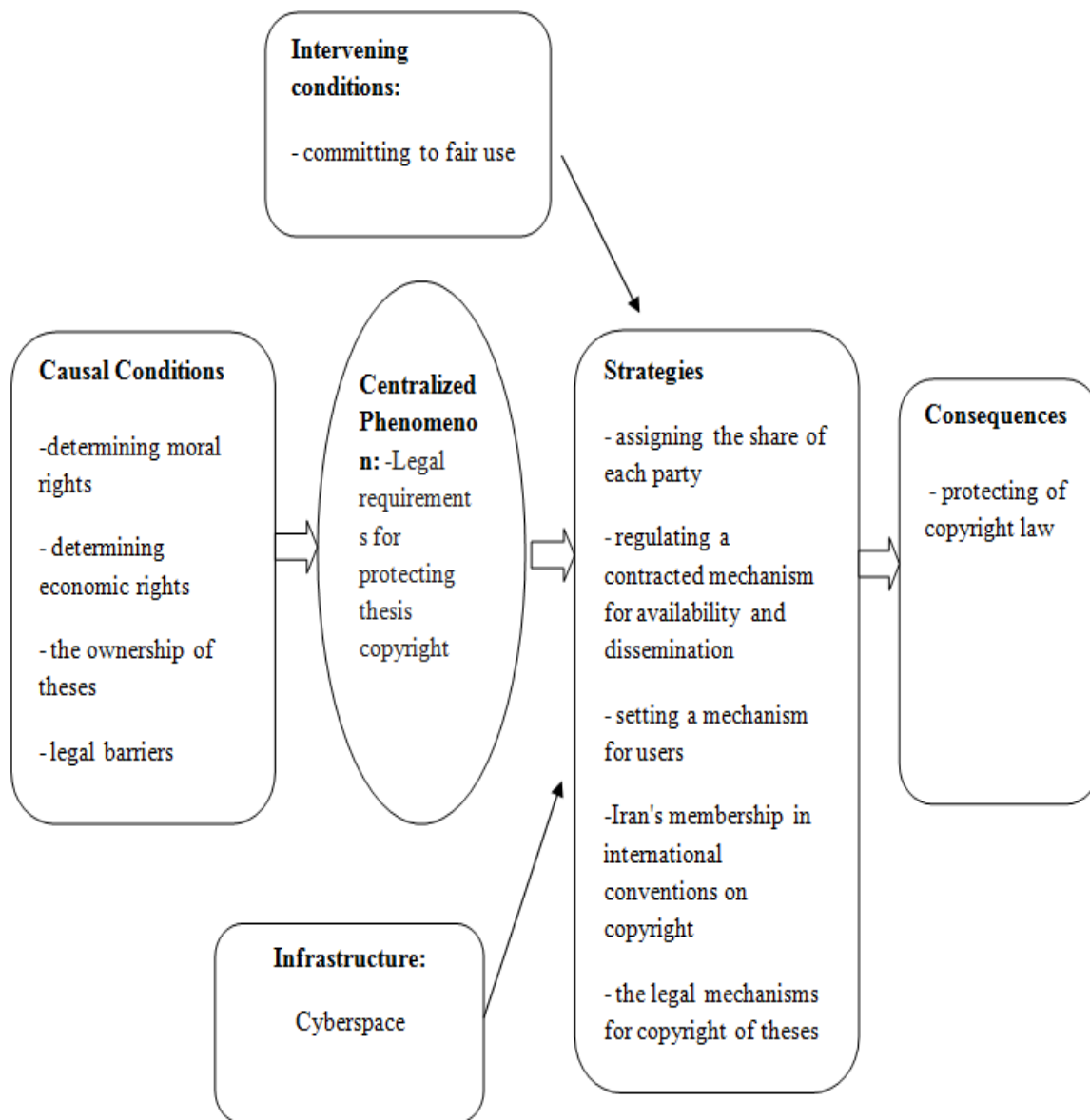


Figure 1: Axial coding for legal requirements for thesis and dissertation copyright in the Iran’s National Database of Theses and Dissertations

1- **Centralized Phenomenon:** The category is the main event to which series of actions related. As this study investigated “the legal requirements of protecting thesis copyright”, this category is chosen as the axial one.

2- **Causal Conditions:** These are the events leading to develop the axial category or main phenomenon. In this model, therefore, barriers to protecting thesis and dissertation copyright, and determining economic and moral rights authors have were conceived as the causal conditions.

3- **Intervening Conditions:** These are general conditions limiting or facilitating the strategies. In the paradigm of the study, the concepts of fair use related to the education and research, citation, and commercial aspects and those of non-profit use are considered as the intervening conditions.

4- **Strategies:** These strategies are some procedures that can be applied to respond to the phenomenon under investigation. Therefore, these strategies include Iran's membership in international conventions on copyright, determining a mechanism for users in using theses, the necessity to set legal and mutual

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contracts for determining the share of owners and contractual mechanism to determine availability statuses.

5- **Infrastructure:** it is some certain circumstances affecting actions and interactions (strategies). This represents a series of special characteristics implying the phenomenon. So, cyberspace as a Infrastructure affects strategies for protecting the copyright of theses defined in cyberspace.

6- **Consequences:** They refer to the results and consequences arising from adopting the strategies. Consequences of implementing the strategies include determining the legal mechanisms for protecting copyright of theses in cyberspace.

Discussion

Digitalized theses and dissertations are of valuable resources in library and information centers and are increasingly developing nowadays. In addition to their usefulness in satisfying users' information needs, protecting their copyright requires some legislations and regulations. Our findings accord with the findings of some previous studies. As noted by Schöpfel and Soukouya (2013), access to theses affects scientific output and provides effective dissemination of research information. As theses are under protection of intellectual right law, these researchers believe that their authors or owners must license their theses to be used. Markvarts *et al.*, (2007) studied the electronic thesis in Latvia. As they noted, in the year 2005, the University of Latvia started a program to create a full-text database of all theses at all Master and PhD levels. On average, the half of the graduates allowed the publishing of their theses. According to the national legislation, PhD theses have to be electronically published in order to make them available for the general public. This legal provision reveals a clash between copyright requirements, which prohibit publishing anything without the consent of its author, on the one hand, and academic principles, which demand that all scientific work be publicly available, on the other hand. In the present study, according to the interviewed experts' viewpoints, contracting intellectual owners and the related universities and institutes to use their theses via the system is required. In addition, availability of theses and dissertations via the Iran's National Database of Theses and Dissertations is based on the Article 8 of the Copyright Law of 1969 Iran and of academic principles. However, due to the rapid development of the theses in cyberspace, it is needed to develop a legal framework for users' lawful access and protect the copyright. The majority of interviewed experts considered the intellectual property rights. Intellectual rights of theses, regardless of the type of university are non-transferable from their owners/authors. Based on the findings, moral rights is more important than economic rights. Economic and monetary rights are different in governmental and non-profit universities and depend on the financial investments. As education in governmental universities is free, the economic property belongs to the university and is transferable to it. In non-profit and open universities, however, the student invests the costs of their academic education. Therefore, economic and monetary property belongs merely to the student rather than the university. Based on the interviews, determining the property is needed for protecting theses copyright. In line with these findings, Markvarts *et al.*, (2006) believe that the student is the mere owner of his/her thesis. Esfahani (2010) highlights copyright both from the perspective of legal and juridical law, even in virtual space. In another study, Grieg (2005) explained that on the basis of a statement, students delegate their economic rights non-exclusively to their universities in Glasgow.

Another important issue after regulating the rights of thesis ownership is the need for determining the amount of the share of each party in the form of a legislative contract. In this study, according to experts' views, this issue needs to be considered after legislating thesis ownership. Although the fair share was implied in the law, its amount is not clear. It is necessary to set a mechanism for assigning the share. Studying the protecting procedures of intellectual properties in developing the use of theses, Yujing (2012) focused on copyright in China and said that there are no adjustable and applicable regulations on copyright law in the country. The author proposed that a royalty is paid to an author based on the number of use of their works, ranging from 10-30 yuans per a 1000-word text. As he noted, the non-profit use of theses is licensed in libraries, universities and nonprofit organizations. This allows a licensed agreement between the author and the university for the purposes of interlibrary loan and document delivery services. However, the commercial aspect is different from the non-profit aspect. Considering the latter,

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to provide full-text of dissertations and theses in business websites, a licensed copyright contract should be determined by the university. Under the copyright law of 1969, the fair use for educational and research goals is licensed in Iran. Also, in the paradigmatic model of the study, fair use connects with the concepts of some aspects of education and research, citation, non-profit and commercial use, which are intervening conditions affecting the strategies obtained in the pragmatic model of the study.

Based on the findings and what can be achieved by implementing the strategies and their consequences, it is necessary to set some regulations for thesis copyright. Despite various regulations on copyright, some need to be up-dated. This finding accords with that of Arji (2008) who studied the Electronic Commerce Law and Internet Law in the USA. The author concluded that the existing regulations are not comprehensive and setting fair ones is needed, especially in cyberspace. Base on the findings, cyberspace is an important element in accessing electronic items, especially theses. The ease of copyright infringement and unstable space in cyberspace complicate the law administration. Jamshidian (2004) studied the issue in the Net space as to artistic and literal works. The law is more a matter of inefficient and inadequate in the Internet environment that makes identifying the offender and aggressor in the space rather impossible.

Determining the mechanisms for user' licensed accessibility is another requirement. As stated by the interviewees, there should be an agreement between the owner and IranDoc in which the conditions of fair use and the intellectual and commercial rights of the owners are exactly determined. Andrew (2004) studied the intellectual property and electronic media and focused on the users' final agreement in which the user rights are included for accessing, copying and storing these media and users commit to respect the rights of the authors by an official statement. Studying open access to media, Stanton and Liew (2011) concluded that the obligatory policy for open access repositories in making open resources accessible is an appropriate strategy in reducing concerns authors have. This is approved by the majority of doctoral candidates (90%) participating in their study. According to the participants' viewpoints, non-compliance with copyright law and less attention to the rights of thesis owners are some results of Iran's not joining to the Berne Convention and other international conventions. Regardless of different rules under operation in Iran in support of copyright, joining to international conventions can reduce the concerns of the authors of all information resources. Accordingly, Norouzi (2001) believes that Iran's joining to the international system of copyright would protect the rights of creators of artistic and literary works of Iranian authors and prevent unauthorized printing and reproduction of Iranian works inside the country. Fallahi (2009) recommended Iran's accession to international conventions in the field of literary and artistic intellectual property (Berne Convention and the trade-related aspects of intellectual property rights (TRIPS) Agreement) and fulfilling minimal state regulations that set the context for the country's membership in this international organization. In the present study, what the experts agree was that Iran should seek to remove legal obstacles to the emergence of this facility including a lack of up-dated legislation on copyright and Responsibility the copyright law of 1969 with respect to the electronic materials and a lack of accountability the copyright law of 1969 with respect to the issues of electronic publishing and the Internet. Esfahani (2010) believes that national legislation has not been properly designed in this field and it is required that the relevant legislation is appointed for the precise identification of the characteristics of rights tending copyright infringement to be decreased in the Internet environment.

REFERENCES

- Andrew T (2004).** Intellectual property and electronic theses [Online]. Available: <http://www.jisclegal.ac.uk/Portals/12/Documents/PDFs/ethesepaper.pdf> [Accessed 31 May 2013].
- Arji H (2008).** The impact of digital technology on copyright. MA thesis, Shahid Beheshti University, Tehran.
- Bakhtyarvand M (2009).** Civil jurisdiction in cyberspace. In: *Proceedings of the Rights of Information and Communication Technology*, edited by Jalali Farahani A (Iran's official newspaper, Tehran) 345-380.
- Danaei Fard H (2008).** Theory of effective leadership by Imam Ali in 2008 strategy theory. *Nona moaemeni. Studies - Islamic Revolution* **14** 75-110.

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Denzin NK and Lincoln YS (2000). *Handbook of Qualitative Research*, edited by Calif US (Thousand Oaks: SAGE Publications) 515.

Esfahani H (2010). Protection of Copyright on the Internet. MA thesis, Shahid Beheshti University, Tehran.

Fallahi A (2009). Intellectual property protection of computer software in the legal system and compared it with TRIPS agreement. MA thesis, Payam Noor University, Tehran.

Grieg M (2005). Implementing electronic theses at the University of Glasgow: cultural challenges. *Library Collections, Acquisitions and Technical Services* [Online] **29**, Available: http://eprints.gla.ac.uk/2295/1/LCATS_article.pdf [Accessed 12 June 2015].

Hariri N (2007). *Principles and Methods of Qualitative Research* (Islamic Azad University, Science & Research Campus) Tehran, Iran 173.

Hassangholipour H, Gholipour A, GhaziMahaleh M and RoshandelArbatani T (2010). Requirements, needs and mechanisms of commercialization of knowledge in the Faculty of Management. *Business Management* **2**(6) 41 – 60.

Jamshidian M (2004). Communication technology and intellectual property rights: protection of property rights on the Internet literary work of art. MA Thesis, Islamic Azad University, Central branch, Tehran.

Markvarts R, Gudakovska I and Karlsons G (2007). The university of Latvia ETD program: a case study of local practice [Online]. Available: <http://epc.ub.uu.se/etd2007/files/papers/paper-12.pdf> [Accessed 12 June 2015].

Norouzi A (2001). Study the advantages and disadvantages of joining the international system of copyright from the perspective of library and information science professionals. MA thesis, University of Tehran.

Schöpfel J and Soukouya M (2013). Providing Access to Electronic Theses and Dissertations: A Case Study from Togo. *D-Lib Magazine* [Online] **19**, Available: <http://www.dlib.org/dlib/november13/schopfel/11schopfel.html> [Accessed 3 November 2014].

Sengstock B (2008). A grounded theory study of nursing students experiences in the off-campus clinical setting. PhD thesis, Central Queensland University, Australia.

Stanton KV and Liew Ch L (2011). Open access theses in institutional repositories: an exploratory study of the perceptions of doctoral students. *Information Research* [Online] **16**, Available: <http://www.informationr.net/ir/17-1/paper507.html> [Accessed 12 June 2015].

Ubogu FN (2006). Copyright and thesis in Africa. In *the Zimbabwe University Libraries Consortium (ZULC) Conference on “Open Access and Creating a Knowledge Society”, Crowne Plaza Monomotapa (Zimbabwe), 24-26 April 2006* [Online]. Available: http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB8QFjAA&url=http%3A%2F%2Fwww.africanafican.com%2Ffolder13%2Fafican%2520and%2520afican%2520american%2520history%2FCheikh%2520Anta%2520Diop%2FCopyright%2520issues%2520and%2520online%2520thesis%2520in%2520Africa%2520-%2520FINAL.doc&ei=OX1XVMvaH4L0aODtgqgM&usq=AFQjCNEsd8htzrGd_TD3ErowofzsCEHwSA&bvm=bv.78677474,d.ZGU (accessed 3Nov. 2014).

Yujing Z (2012). Protection of intellectual property rights in the development and utilization of the dissertation process. *Cross-Cultural Communication (CSCanada)* [Online] **8**, Available: <http://cscanada.net/index.php/cc/article/view/2946> [Accessed 12 June 2015].