

MAQSUT NARIKBAYEV UNIVERSITY



**ASSESSMENT OF THE EFFECTIVENESS OF THE COPYRIGHT
ACT IN A MUSIC INDUSTRY OF ZANZIBAR**

BY

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**A MASTER'S THESIS IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE MASTER'S IN INTELLECTUAL
PROPERTY AND BUSINESS LAW
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LIST OF ABBREVIATIONS

WIPO	World Intellectual Property Organization
COSOZA	The Office of Copyright Society of Zanzibar
CMO	Copyright Management Organization
IPR	Intellectual Property Right
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property.
WCT	Wipo Copyright Treaty

CHAPTER ONE

INTRODUCTION

1.1 Introduction

This dissertation shall discuss the assessment of the effectiveness of copyright law in the music industry in Zanzibar, the effectiveness of the law in protecting the musicians, challenges in the implementation of the law and how the rights are enforced in the music industry.

1.2 Background of the study

The Music industry in Zanzibar is growing every day and this may be attributed the increased use of digital platforms by artistes to create and distribute their work. Although this has led to more people accessing their works, there are legal as well as commercial challenges that the artistes have to contend with. Despite the existence of the Zanzibar Copyright Act, its implementation is still challenging and very weak, which leads to many artists losing income. This is due to the spread of unauthorized commercial use of their work as well as the arbitrary violation of their rights over the digital networks, such as distribution rights, production rights, and performance rights.

The Copyright Act of Zanzibar protects the rights of authors such as music composers, book writers, and painters, who have created an original work. Zanzibar became a member of the Berne Convention for the Protection of literary and Artistic works on April 25, 1994. Berne Convention provides the minimum standards for protection of copyright at the international level¹

The Copyright law was originally conceived as a tool to protect the Author and provide incentives for him to create for the social dimension of copyright law has progressively been lost of sight by the policy makers to the benefit of strictly individualize, in the recent discourse on the strengthen of legal means of protection, copyright is more frequently presented as an instant protection mechanism².

Copyright law protects a wide range of production in the literary, scientific, and artistic domains as a rule copyright protects works regardless of their merit or purpose³.

1.3 Statement of the Problem

Although Zanzibar has adopted international agreements on IPR protection and enforcement, IPR infringement, especially unauthorized

¹ Mohammed Makame *Copyright Infringement Is a Serious Offence in the World in This Digital Age: How the Copyright Act of Zanzibar Protects Intellectual Creations Against Copyright Infringement'* (2013).

² Christopher Geiger, 'Copyright and Freedom of Expression: A Literature Review' (2017) 8(3) *Journal of Intellectual Property, Information Technology and Electronic Commerce Law* 121.

³ Van Gompel S, *Formalities in Copyright Law: An Analysis of Their History, Rationales and Possible Future* (Kluwer Law International 2014)

commercial use of the works is still on the rise, the report further indicated that few users are paying royalties whereas the majority of users of copyrighted works use pirated works⁴. There is a need to assess the effectiveness of the strategies used by the Government through Copyright Act of Zanzibar in managing in the music industry.

Consequently, artists are struggling to make a living from their works due to inadequate copyright act, rampant infringement and poor royalty management systems. Also, the government will continue losing potential revenue if unauthorized commercial use of musical works is not contained because the creative sector particularly the music industry has the potential of economic contribution to rights holders and the GDP of Zanzibar. Therefore, there is a gap that needs to be filled by assessing the Copyright Act of Zanzibar in Music Industry.

Williamson and Cloonan, in their book, argue that one of the main challenges to copyright enforcement in Zanzibar is the diversity of its music industry. As Williamson and Cloonan point out, the industry is not homogeneous but rather a collection of different sectors with different needs and challenges⁵. In Zanzibar, this is evident in the existence of formal distribution of copyrighted works and informal music distribution networks. This raises questions about whether a one-size-fits-all copyright enforcement strategy can adequately address the needs of all stakeholders. The National Music Council, which represents a wide range of music industries claims to be at the center of complex of national music organizations but it sees its role as the promotion of the interests of the music industry. Also, the argument is derived from particular a perspective; that the existing notion of the music industry fails to take account the diversity within the industry and the inequalities that arise as a consequence. The music industry is based on the dominance of the recorded music sector, while the situation may be accurate in the countries where the major labels are allocated or have subsidiary operations, creating economic benefits in sales and creation, but the recording music industry is not dominant within the music industries.

1.4 Research Objectives

This study's main goal shall be to assessment the effectiveness of the Copyright Act of Zanzibar in protection of music Industry,

1.4.1 Specific Objectives

The Specific objectives of this proposal shall be to

1. To examine the strengths of the Copyright Act of Zanzibar.

⁴ Copyright Society of Zanzibar (COSOZA), *Annual Report* (2022).

⁵ Williamson and M Cloonan, *Rethinking the Music Industry* (Routledge 2007).

2. To identify the gaps in the legal framework and propose recommendations for the development of the copyright in Zanzibar.

3. To analyze the enforcement mechanism of the copyright and effectiveness in music industry.

4. To identify key challenges and barriers in the implementation of enforcement of the Copyright Act.

1.5 Research Questions

1. How does the Copyright Act protection musicians in Zanzibar?

2. What is the impact of copyright Act on the enforcement of the copyright in Zanzibar?

3. What are the challenges that musicians are faced with in enforcing their copyright?

4. What improvement can be made for the Copyright Act to be an adequate act?

1.6 Assumptions

This study shall provide valuable insight into the legal framework of the Zanzibar Copyright Act, assessing its effectiveness in protecting the rights of artists and other stakeholders in the music industry.

The research is cognizant of the fact that the music industry plays a significant role in Zanzibar's economy and cultural identity, making the existence of a well-structured and adaptable copyright law essential for its continued growth and development.

On the enforcement mechanisms, the research contends that the current copyright law used to protect the rights of artists still does not reflect the protection environment, because it has led to an increase in unauthorized commercial use of musical works and the use of music that has been licensed for such use.

In terms of social impact, it is believed that the weakness of copyright law leads to negative consequences for the status of musicians by reducing the creative spirit in their work.

1.7 Significance of the Study.

1.7.1 For the researcher: For the researcher, this shall help provide an opportunity to engage in a thorough analysis of copyright law as well as allow for further understanding of how the legal system works and how it has been implemented in the music industry in Zanzibar. This will facilitate greater power in analyzing legal reasons by examining case files related to the music industry and obtaining accurate music data in order to obtain a better understanding. It will also help other researchers to continue the process of discussing copyright law and how it reflects in the actual copyright environment in Zanzibar.

1.7.2 For the music industry: this may provide a source of understanding and awareness and to get knowledge for the rights of musicians and stakeholders in the music industry in Zanzibar.

1.7.3 For academia: For academics, this lesson shall help them be able to develop an educational background on copyright law for the developing music industry, especially in Zanzibar. This will also help develop a good foundation for future generations to know more about IP.

1.8 Delimitation of the Study

The study is limited to the management and enforcement of copyright law in Zanzibar, aimed at reflecting on the music industry and geographically confined to Zanzibar, in order to be able to verify the details of how copyright law works in that country and will focus more on the law and authorities in order to make an essential analysis of its effectiveness within Zanzibar's framework, also conducting study in Zanzibar to ensure getting better access to relevant legal documents, industrial professionals, and artists and allowing more comprehensive collection of primary data.

1.9 Limitations of the Study

Access to knowledge: The ability to collect data effectively and locate relevant materials, literature, and information (internet, cases, books and journals) may be hindered by a lack of funding, or inadequate funds: The study shall face the challenge of limited financial resources due to inadequate financial support.

Bias: Because the researcher comes from the copyright Society of Zanzibar, the collection of data is not only collected from CMO where the Copyright Act is implemented but also through musicians' Associations staff, Artists' Associations staff, Musicians, Performers, Users such as Broadcasters, Hotels, and Producers of sound recordings, even though the researcher focus is only on few users and few right holders.

Finding all relevant respondents in this study shall involve both professional and nonprofessional musicians, and traditional and non traditional musician's association staff, the researcher will use different ways to make sure that able to get all information that is needed in this study even though only some of them shall be involved. This limitation shall be minimized by using other alternative ways of communicating with respondents.

1.10 Potential impacts of the study.

1.10.1 Educational and legal impact: It could influence the policymaker, who is the Ministry of Trade and Industrial Development with the House of Representatives in Zanzibar, to revise the Copyrights Law, particularly to identify gaps in the current legal frame. For example, if the enforcement mechanism is not sufficient for the time being, the government may come up with the good resources for enforcement bodies. It could also inform how the court may interpret these laws in the future days; it could result in constant and favourable rulings during the litigation process.

1.10.2 Practical impact, this study shall find gaps in the current Copyright Act of Zanzibar, which may lead to recommend facilitate the amendment of Copyright Act of Zanzibar. This may help enhance the enforcement mechanisms for the protection of the copyrighted works.

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CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

The effectiveness of copyright laws in the music industry has been widely explored. This study examines the Copyright Act No. 14 of 2003 of Zanzibar and its impact on the music industry, focusing on how it protects musicians, their rights, and their creative works. Copyright laws play a crucial role in safeguarding artists' interests and ensuring the sustainability of their livelihoods. The Copyright Act of Zanzibar aligns with international legal instruments that protect artists' rights and their works across all member states. These agreements include the Berne Convention, TRIPS Agreement, and the WIPO Copyright Treaty. The Act provides legal protection for various stakeholders in the music industry, including musicians, publishers, producers, and performers. By establishing clear legal frameworks, the law aims to secure the rights of creators and promote a thriving creative economy in Zanzibar. However, it is still difficult to enforce the Copyright Act in Zanzibar in spite of this legal structure; musicians are unable to profit from copyright due to ineffective enforcement procedures and unauthorized commercial use of copyright protected works. This study explores issues assess in how the Copyright Act has influenced Zanzibar's music industry. This chapter presents the review of related literature on the management of music royalties by the collective management organization of Zanzibar as the main subject. It starts with a theoretical framework that provides the theories upon which the study will be based, followed by the relevance of the theoretical framework to the study.

2.2 Theoretical framework

According to the labour theory, a person has a natural right to their creativity regardless of the results. John Locke (1632-1704) is a proponent of the labour theory. One who labors upon resources either owned or held in common has a natural right to the fruits of his efforts.

An creator is entitled to receive fair compensation for their efforts Intellectual property is a product of one's mental labor, hard work, and determination; therefore, individuals should have the right to claim ownership and economic benefits from their creations. This principle extends to musicians, who invest their creativity, time, and skill in producing music. Consequently, musicians have a fundamental right to legal protection and fair compensation for their works. This study is guided by Labour Theory, which emphasizes that individuals should be rewarded for their intellectual and creative labor. The landmark case of *Millar v Taylor* reaffirmed this idea when the court ruled that an author should rightfully benefit from the financial profits of their ingenuity and hard work. This judgment aligns with the broader objective of copyright

law—to encourage creativity and the dissemination of knowledge by granting authors exclusive economic rights over their works⁶.

The foundation of John Locke's Labour Theory is the primacy of personality, which asserts that a creator and their creation are inherently linked. Locke's thesis supports the idea that individuals have a natural right to the fruits of their labor, including intellectual and artistic works. By granting creators exclusive rights, copyright law not only recognizes the personal connection between an artist and their work but also provides them with financial incentives to continue producing creative, knowledge-enriching content. Thus, copyright law serves a dual purpose: it rewards creators for their efforts while simultaneously fostering innovation and cultural development. By securing legal and economic protections for musicians and other creative professionals, copyright law ensures that artistic contributions continue to thrive and benefit society as a whole⁷.

2.2.1 Relevance of the Theoretical Frame to the Study

The creators have a legal right to their creations, a right that is unaffected by any laws. It is universal and unalienable, and the State must safeguard⁸. Many people believe that John Locke's theory is particularly relevant to intellectual property, especially in the field of music, where the relevant raw materials (facts and concepts) do appear to be held in common and where intellectual labour seems to contribute so significantly to the value of the finished product (song). Therefore, the state has a responsibility to uphold and preserve the artists' natural right to the rewards of their labour. This idea holds that the labour-based acquisition of property is only acceptable if it results in no net harm to other people. In this instance, the musicians have a right to the greatest possible reward for their labour⁹.

2.2.2 Intellectual Property theory in Copyright

The theory of intellectual property has provided the foundations of copyright law by justifying protection for creators of works of art and protecting their rights. Copyright is a branch of intellectual property law that deals with the protection of original works such as artistic, musical, and other creative works by granting creators exclusive rights to control and benefit from their works. There are many theoretical frameworks for copyright law, and each approach is different from the other, as long as intellectual property is protected anywhere in the world. The copyright law is based on the International agreement and treaties such as Berne

⁶ *Millar v Taylor* (1769) 4 Burr 2303, 98 ER 201 (KB)

⁷ John Locke, *Two Treatises of Government* (first published 1689, Cambridge University Press 1988).

⁸ Justin Hughes, 'The Philosophy of Intellectual Property' (1988) 77 *Georgetown Law Journal* 287

⁹ John Locke, *Two Treatises of Government* (first published 1689, Cambridge University Press 1988).

Convention of 1889 this is for the protection of literary works and artistic work, TRIPS Agreement, WIPO Copyright treaty.

The Copyright law as the law to promote economic efficiency, at least approximately, maximize the benefit from creating additional works minus both losses from limiting access and the cost administering copyright protection. Also they explain first, about the basic economic model of copyright protection including an analysis of the optimal degree of that protection, secondly, apply the model to the principle of doctrine of Copyright law¹⁰.

Landes and Posner, In their book the economic structure of the intellectual Property law they examine on the copyright protection and they provide then concept of optimal copyright duration, they argue about the time of work and protection must be sufficient according to their investment, they consider under the Copyright law based on economic return from their works, this may help for the copyright policy maker to understand the business concerned about copyright include music, the effect of piracy and the enforcement mechanism¹¹.

Relevance to music industry, their work particularly observes the importance of economic effectiveness of copyright in the music industry and consider on how the copyright law may affect the methods which are used by the musicians like distribution of their works, production etc.

The research emphasizes that the complex relation between intellectual property and the music industry, in focusing on how the copyright law shapes production, distribution of music, the book aims to provide an understanding on how copyright law affects the musician, producers and other stakeholders in industry¹².

Relevance on the music industry, he analysis the economic frameworks of the music industry and how the copyright law underpins it, this include exploring the roles of record label, publishers, performers right as well as financial side of the music industry in distribution of royalty and contractual issues.

2.3 Empirical Literature Review

2.3.1 Factors hindering the effectiveness of Copyright Act

2.3.2. Outdated Provisions: There are some sections in the copyright law because those sections are out of date and completely incompatible with the creative content, for example in the provision of punishment for the copyright infringer is very small. The current penalty is imprisonment of not less than two years or a maximum fine of Tsh

¹⁰William M Landes and Richard A Posner, 'An Economic Analysis of Copyright Law' (1989) 18 *Journal of Legal Studies* 325.

¹¹William M Landes and Richard A Posner, *The Economic Structure of Intellectual Property Law* (Harvard University Press 2003).

¹² Paul Goldstein, *International Copyright: Principles, Law, and Practice* (2nd edn, OUP 2001).

two million. The punishment is not punitive and the civil remedies do not adequately compensate the rights holder as provided for in section 6, section 34, section 35¹³.

Lombardi stresses that legal systems which were initially established to handle traditional media formats often find it difficult to adjust to the dimensions of the digital world. In his book *Digitization, Copyright and the Law*, Lombardi points out how outmoded statutory provisions, restricted institutional knowledge with digital evidence, and jurisdictional confusion impede the enforcement of copyright in developing countries¹⁴. He claims that for legal frameworks to be successful in safeguarding digital creative works including music they must adopt specific mechanisms for digital rights management, licensing for streaming platforms, and transnational cooperation in online infringement cases.

2.3.3 How Outdated Provision Restrict Copyright Protection in Zanzibar

Includes penalties for copyright infringement under Section 6, section 34 (civil remedies) and Section 35 (criminal sanctions). However, these penalties have become outdated and ineffective in addressing modern copyright violations in the music industry¹⁵.

Firstly, there is inadequate deterrence against copyright infringement. The current punishment for a criminal case in copyright infringement is a minimum of two years of imprisonment, while in a civil case; a fine is capped at two million Tanzanian shillings. These penalties are disproportionately low compared to the financial impact of unauthorized commercial use of copyright protected works, and unauthorized distribution in the current situation.

Secondly, copyright infringement has evolved with digital infringement, online streaming, and large-scale distribution, making the current penalties too lenient to serve as an effective deterrent.

Thirdly, weak penalties fail to protect local artists, producers, and investors in the creative industry, discouraging further investment in Zanzibar's music sector. This ultimately weakens copyright enforcement and undermines the purpose of the Act, which is to protect musicians' rights and ensure fair economic returns for their work.

Lessig explores the tension between the protection of intellectual property and the freedom of culture. While Lessig is supportive of copyright in principle, he argues that the system should be reformed to avoid stifling creativity and innovation. Lessig acknowledges the

¹³ Copyright Act [Zanzibar] No 14 of 2003

¹⁴ Ettore M Lombardi, *Digitization, Copyright and the Law* (Springer 2021).

¹⁵ Copyright Act [Zanzibar] No 14 of 2003

importance of copyright protection but suggests that overly restrictive copyrights can hinder the development of new creative works. He encourages a balance between protecting creators' rights and allowing for fair use, especially in the digital age¹⁶.

2.3.4. Lack of provision for digital platform protection: in the Zanzibar copyright Act of 2003, there is a lack of a provision to protect the rights of artist the digital environment leading to unauthorized exploitation of their works and challenges in enforcement, There is a need to review the copyright law of Zanzibar to be able to attach a clause to protect the works of artists and designers on the internet; this is because it is recognized worldwide more through the internet.

The growth of the internet has had major implications for the treatment and protection of copyright materials and other related intellectual property rights that are published electronically. The author claims that lack of competent tribunal and judges one can clearly observe the difficulty faced by the intellectual property laws in Tanzania and other countries, specifically copyright law keeping in pace with changes in technology. His work was to examine how the copyright law system in Tanzania, including Zanzibar, struggles to keep pace with the realities of technology and ensure effective protection of copyright laws in the modern era¹⁷.

WIPO highlights the significance of aligning national legislation of Copyright law protection, with treaties like the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) and the WIPO Treaty for the Protection of Audio-visual Performances to effectively address digital environments.¹⁸

UNESCO states that “many nations in Sub-Saharan Africa still lack digital copyright legislation, leaving music and audiovisual industries vulnerable to piracy, unauthorized online streaming, and monetization without approval.”¹⁹ These organizations confirm that Zanzibar’s legal system must evolve to address streaming, digital distribution, online piracy, and cross-border digital enforcement in order to fully support the music sector.

¹⁶ Lawrence Lessig, *Free Culture: The Nature and Future of Creativity* (Penguin Press 2004).

¹⁷ J Mambi, *ICT Law Book: A Source Book for Information and Communication Technologies and Cyber Law* (Mkuki na Nyota 2010)

¹⁸ World Intellectual Property Organization, *Understanding Copyright and Related Rights* (2nd edn, 2016)

¹⁹ United Nations Educational, Scientific and Cultural Organization, *Creative Digital Economy Report* (2022)

2.3.5 Lack of enforcement of the statutory provisions and coordination

The enforcement of statutory provisions is a critical factor in the effectiveness of copyright law. However, in many jurisdictions, including Zanzibar's music industry, the failure to properly enforce existing laws and the lack of coordination among relevant authorities have significantly weakened copyright protections. A major obstacle to effective copyright enforcement is the lack of collaboration between key government bodies, such as: COSOZA (Copyright Society of Zanzibar), which oversees copyright administration and licensing, law enforcement agencies which are responsible for investigating and prosecuting infringement cases and judicial bodies which interpret and apply copyright laws in legal dispute.

He highlights that Collective Management Organizations (CMOs) play a central role in enforcing copyright by monitoring copyright usage, licensing works, collecting fees, and distributing royalties to rights holders. However, in many countries, CMOs often function as monopolies, leading a lack of transparency, inefficiencies, and potential misuse of collected royalties.²⁰ This lack of accountability is further exacerbated by poor coordination between CMOs, government agencies, and law enforcement bodies, making copyright enforcement ineffective.

The ineffectiveness of statutory enforcement in many developing jurisdictions stems from fragmented institutional roles, unclear mandates, and weak inter-agency collaboration, which creates a system ill-equipped to respond to infringements, particularly in the creative sectors such as music²¹

In Zanzibar's music industry, the Copyright Society of Zanzibar (COSOZA) is tasked with enforcing copyright laws, but it struggles with limited resources, lack of inter-agency collaboration, and inefficient royalty distribution. The absence of a strong legal framework to regulate CMOs allows for delays in payments to musicians, discouraging investment in the industry.²² Without proper coordination with law enforcement agencies, piracy remains rampant, as COSOZA alone lacks the authority to conduct investigations or prosecute infringers.

2.3.6 Absence of Intellectual Property Tribunal.

Zanzibar doesn't have its own Copyright or Intellectual Property Tribunal to deal with the dispute of Intellectual property when it rose.

²⁰ Ruth Towse, *Copyright in the Creative Industries: A Global Perspective* (Edward Elgar Publishing 2018).

²¹ Ruth Taplin, *Innovation, Investment and Intellectual Property in South Korea* (Routledge 2021).

²² Copyright Society of Zanzibar (COSOZA), *Copyright Annual Report 2022* <https://www.cosoza.or.tz> accessed 23 March 2025

Without it, dealing with disputes becomes a bit of a mess. Instead of having experts in IP, are determined by non-specialized courts, which are not well equipped to handle the intricate details of IP cases. This leads to constant delays and unfavourable decisions which holds back legal progress, especially in fields like music and digital rights

The World Intellectual Property Organization (WIPO) points out that setting up specialized IP tribunals really boosts legal certainty and offers a solid foundation for consistently interpreting IP laws. WIPO suggests establishing specialized courts or tribunals to help streamline the handling of copyright claims, cut down on case backlogs, and make sure that decisions are made by judges who are well-versed in intellectual property law.²³

The growth of the internet has had major implications for the treatment and protection of copyright materials and other related intellectual property rights that are published electronically. The author claims that lack of competent tribunals and judges' one can observe the difficulty faced by the intellectual property laws in Tanzania and other countries, specifically copyright law keeping pace with changes in technology²⁴.

In Zanzibar there are various tribunals that are used to settle the different disputes which occur in the society like business tribunal, land tribunal but tribunal which concerned about intellectual property it's not there, there is no tribunal which deals with the intellectual Property, the IP matters are only settled before the court of law whether its criminal or civil it depends on how the claims occur²⁵.

2.4 Factor enhancing the effectiveness of Copyright Act 2003

2.4.1 The roles of Copyright Protection: There are several perspectives from different scholars on Act, the artist's rights are protected along with his work for a period of 50 years after the death, and if the composers were more than one artist, then their protection will be 50 years after the death of the last composer²⁶.

The purpose of copyright is not only to provide remuneration to artists for their work but also to promote them artistically in the development of technology. The existence of a specific period of protection for copyright is not fair because the artist has the right to what he has created, and creativity is the property of the artist. Why should

²³ World Intellectual Property Organization, *Intellectual Property and Judicial Systems: Report* (2020).

²⁴ J Mambi, *ICT Law Book: A Source Book for Information and Communication Technologies and Cyber Law* (Mkuki na Nyota 2010)

²⁵ Makame Mohammed, 'Copyright Infringement Is a Serious Offence in the World in This Digital Age: How the Copyright Act of Zanzibar Protects Intellectual Creations Against Copyright Infringement' (2019) *Open Access Journal*.

²⁶ Copyright Act (Zanzibar) No 14 of 2003 s,18

there be a specific period of protection? If the period of protection for copyright is increased, this will help artists and give them encouragement to invest and be able to create more works and be able to get more productivity through their work. Zanzibar is very rich in ancient music, which is considered an identity for this country, so if the period is increased in protection, this music will not be lost; it will remain under protection, and this will lead to protecting it from unauthorized exploitation and preserving the cultural heritage for future generations.

Copyright is very important to be protected in society and the world, and in terms of music, the copyright expires 50 years from the end of the year in which the music was made, If during that period the music was published copyright expires 70 years from the year such publication is made, If the during the 70 years from making the work is not published but is made available to the public by being played in public or communicated to the public copyright expires 70 years from that publication²⁷.

Any person whose rights are being violated or are already being violated may file a lawsuit with the court to seek: (a) an injunction to stop the violation or to forbid its continuation; (b) payment of any damages sustained as a result of the violation, including any profits the violator derives from the violation and damages if the violation is determined to have caused harm²⁸. Any item created in violation of this Act, as well as any receipts issued to the offender as a result of such violations, are subject to confiscation. Any violation of a right protected by this Act that is committed willfully, negligently, and for financial gain is punishable by imprisonment for a term of between six months and two years, a fine of between Tsh 300,000 and Tsh 2,000,000, or by both²⁹.

These provisions directly relate to the study by highlighting the effectiveness of enforcement mechanisms under the Act and their socio-economic impact on artists and consumers in Zanzibar, effectiveness of enforcement in protecting Artists' rights the ability to file lawsuits and seek damages provides musicians with a legal pathway to protect their work from unauthorized use. However, the effectiveness of this mechanism depends on whether artists are aware of their rights and have access to legal resources to file claims. Also, the impact on Music Industry economics by penalizing copyright violations with fines or imprisonment, the Act seeks to deter piracy and unauthorized commercial use of music, ensuring that artists retain financial benefits from their work.

²⁷ Lionel Bently and Brad Sherman, *Intellectual Property Law* (4th edn, OUP 2014).

²⁸ Copyright Act [Zanzibar] No 14 of 2003, s 34.

²⁹ Copyright Act [Zanzibar] No 14 of 2003, s 35.

2.4.2. International and Regional cooperation: Copyright is more global, so in its success every country needs to adhere to international laws and agreements in order to archive the existence of international copyright protection through harmonization of copyright law with international treaties example being the member of Berne Convention, WIPO Copyright Treaty, and others. This helps to promote investment especially in the music industry through the principle of national treatment among the members for creative's artists, this will encourage foreign investors to invest in music arts in anticipation of the certainty of the protection of their rights from works they will do without any discrimination.

This convention is one of the most crucial treaties for copyright protection. One of its standout features is the principle of national treatment. Basically, it means that any country that's signed up has to give foreign authors the same level of copyright protection as they offer their own citizens. Copyright protection is automatic³⁰. You don't have to deal with the hassle of formal registration. This fits perfectly with the idea that as soon as a creative work is out there, it's got protection. This is especially handy for authors in places like Zanzibar, where getting access to registration systems can be quite a hassle.

In this agreement represents a big step up in the world of global copyright law. It's all about raising the stakes for how intellectual property rights are handled. As a part of the World Trade Organization's agreements, TRIPS lays down some essential ground rules that every member country is supposed to stick to, ensuring that authors and creators get to control how their work is copied, shared, and shown to people³¹. For places like Zanzibar, this is a pretty big deal. They have to build legal systems that not only meet these international standards but also fit in with their own unique cultural and economic situations.

These treaties have stepped up to address the tricky copyright issues that come with online content and all these new tech gadgets we keep seeing. The WCT, which got the green light back in 1996, is a big deal because it zeroes in on the hurdles that new technologies throw at authors, and it stresses the need for protections that can keep up with these changes. In a similar vein³², the WPPT is all about making sure that performers and those who create phonograms have their rights protected in the digital world, giving artists the power to maintain control

³⁰ Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886, entered into force 5 December 1887) as amended (WIPO)

³¹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (adopted 15 April 1994, entered into force 1 January 1995) Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 UNTS 299.

³² WIPO Copyright Treaty (WCT) (adopted 20 December 1996, entered into force 6 March 2002).

over their work as it spreads online³³. For Zanzibar's Copyright Act, bringing in the benefits of these treaties could really shake things up, transforming its approach to digital copyright and offering stronger protection for local creators, especially in the lively music scene.

When we talk about strengthening the copyright protection systems in places like Zanzibar to fight off digital piracy and unauthorized use, we really have to consider how important international agreements are. These deals between countries are key they help everyone work together to enforce copyright laws across borders. By getting on board with these global agreements, Zanzibar can tap into international networks to beef up its enforcement powers, giving local artists better protection. By mixing these global frameworks with local strategies, Zanzibar might be able to tackle the unique challenges its music industry and other creative sectors face in today's digital world more effectively

2.5 Challenges and barriers in the implementation in enforcement of the Copyright Act.

The implementation and enforcement of the Copyright Act in Zanzibar face several challenges and barriers. These issues arise from legal, institutional, economic, and socio-cultural factors. Below are some key challenges:

2.5.1. Legal and Institutional Challenges

Weak Enforcement Mechanisms, The enforcement agencies, including the Copyright Society of Zanzibar (COSOZA), often lack the necessary authority, funding, and resources to effectively implement the law, loopholes in the Legal Framework ambiguities or gaps in the law may make enforcement difficult particularly in dealing with digital piracy and emerging technologies, lack of Coordination among institutions different government agencies, such as COSOZA, police, and judiciary, may not work together efficiently this is because beside from COSOZA the other agencies are not aware about copyright Act even the judges are not well versed with Copyright so it could be difficult to them to cooperate, leading to weak enforcement effort, lenient Penalties fines and punishments for copyright infringement may not be severe enough to deter violators.

2.5.2 Technological Challenge.

Digital infringement, the rise of digital platforms and social media has made it easier to reproduce and distribute copyrighted materials without authorization, this is a problem for Zanzibar because, firstly, there is no provision in the law that condemns and prohibits the use of copyrighted works online, and also, there is no punishment so far that

³³ WIPO Performances and Phonograms Treaty (WPPT) (adopted 20 December 1996, entered into force 20 May 2002).

exists for copyright violators online. Limited Capacity to Track Infringements³⁴: Zanzibar may lack advanced technological tools and expertise to monitor and combat digital copyright violations effectively; this is increasingly leading to an increase in piracy of copyrighted works in the country. Tackling the issue of copyright enforcement in Zanzibar is no walk in the park.

The absence of robust systems for keeping tabs on online violations means that breaches of intellectual property rights are far too frequent³⁵. To make matters worse, the law enforcement agencies don't seem to fully grasp the intricacies of digital rights, which make it even tougher to shield creators' works. And let's not forget about the shaky digital infrastructure, which just throws another wrench into the works when it comes to effectively tracking these violations. Technology is zooming ahead at a pace that the old systems just can't keep up with, highlighting the urgent need for reforms and capacity-building efforts to really protect creators' interests in this ever-evolving digital landscape³⁶

2.6 Research Gap

Lack of empirical assessment of impact, while the existence of the copyright Act of 2003 in Zanzibar and the Copyright Society of Zanzibar is established, there seems to be lack of the in-depth empirical studies that specifically measure the actual effectiveness of this legal framework on the ground within the Zanzibar music industry.

Lack of awareness and understanding. There is a potential gap in the understanding level of awareness and comprehension of the copyright law among the music producer, distributors, and the general public in Zanzibar.

Enforcement and implementation, challenges specific to Zanzibar, research could focus on the specific obstacles and nuances within the Zanzibar context.

Judicial gaps in enforcement. There is a lack of research on the effectiveness of penalties and legal procedures related to copyright infringement. The extent to which courts and law enforcement authorities prioritize copyright cases remains unclear, raising concerns about delays, legal loopholes, and inefficiencies.

Lack of research on digital piracy and online music distribution, the rise of digital technology and the internet has transformed the music industry, creating new challenges for copyright enforcement. However, most research on copyright in Zanzibar focuses on non-digital

³⁴ Copyright Society of Zanzibar (COSOZA), *Copyright Annual Report 2022* <https://www.cosoza.or.tz> accessed 23 March 2025

³⁵ Copyright Society of Zanzibar (COSOZA), *Copyright Annual Report 2022* <https://www.cosoza.or.tz> accessed 23 March 2025

³⁶ Ruth Taplin, *Artificial Intelligence, Intellectual Property, Cyber Risk and Robotics* (Routledge 2020).

unauthorised commercial exploitation of the works. There is no substantial study on how digital piracy through unauthorized downloads, social media, and music streaming platforms affects artists and enforcement efforts. It is unclear whether Zanzibar's Copyright Act is equipped to handle digital infringement or if enforcement agencies have adapted to the digital landscape, on how does enforcement of copyright in the digital space of infringement in Zanzibar music industry, Are the current provision of the Copyright Act adequate to address online piracy and authorized digital distribution on music in Zanzibar.

2.7 Legal and Institutional framework of copyright on music industry in Zanzibar

Copyright legislation in Zanzibar: The Copyright Act No. 14 of 2003 acts as the essential legal structure that is vital for the safeguarding of artistic creations, particularly in the evolving music sector. This law distinctly outlines the entitlements of authors, which includes protection against unauthorized use, reproduction, and distribution of their works, thereby nurturing an environment that fosters innovation and economic expansion. Furthermore, it defines the duties and responsibilities of various organizations responsible for the implementation of these rights, such as the Ministry of Trade and Industrial Development and the Copyright Society of Zanzibar, ensuring that the legal provisions are not only established but also effectively enforced. Therefore, a comprehensive evaluation of this framework reveals its advantages in assisting artists, while also emphasizing certain areas that need enhancement to boost overall efficacy in protecting creators' rights.

2.7.1 Overview about Copyright Act in Zanzibar

This legislation functions as the foundation for copyright law in Zanzibar, offering vital protection for various forms of creative expression, such as literary and artistic works. The Act defines the exclusive rights provided to authors which include the rights to reproduce, distribute, publicly perform, and adapt their creations these rights only the authors and creators own this, and no one can take it without the permission from the author or creators, highlighting the significance of protecting intellectual property, and specifies the legal remedies accessible for any violations encountered. Nevertheless, despite the progress made in establishing these protections, the absence of meaningful reforms since its implementation has rendered the Act unprepared to tackle the challenges introduced by modern technological advancements, such as the growth of digital distribution

and streaming services, which raise new questions concerning the application and enforcement of copyright³⁷.

To make sure these rights of authors and creators are observed the Copyright Act sets up methods to effectively deal with any violations and lays out clear ways for creators to legally go after those who infringe on their copyrights. The office of the Copyright society of Zanzibar or COSOZA is a big player in this whole process and the government gives all authority to do so, acting as the main authority when it comes to copyright issues. COSOZA's function is to protect the right of authors and their interest, to educate people about their rights and responsibilities, which helps boost awareness and get both creators and consumers on board with the rules. This educational push is crucial for tackling piracy and the unauthorized use of creative works, which have become pretty big problems in today's digital world.

2.7.2 The role of the Office of the Copyright Society of Zanzibar (COSOZA)

COSOZA and the Zanzibar Intellectual Property Office is absolutely essential in making sure copyright protections are upheld, as laid out in the Copyright Act No. 14 of 2003. They've got a hefty job on their hands, not just implementing the law, but also ensuring that the rights of creators are both defended and actively supported across Zanzibar. Their duties are wide-ranging. COSOZA is involved in spreading awareness about copyright matters, helping people get a grip on their rights and responsibilities. They're also in charge of handing out licenses to artists, making sure intellectual property is used legally, and keeping tabs on whether everyone's following the rules. On top of all that, they're deeply engaged in tackling copyright infringements, which really bolsters legal support for copyright holders³⁸.

The main function of cosoza is to protect the works of authors and creators and their rights, also to educate both creators and consumers about their entitlements and responsibilities under the Copyright Act, as this public education role is crucial in addressing prevalent ignorance and indifference regarding copyright protections. By organizing training sessions, seminars, and campaigns, cosoza aims to cultivate a culture of appreciation for intellectual property, thus enabling creators to protect their works from unauthorized usage. Moreover, cosoza provides informational materials that elucidate the processes of copyright enforcement, simplifying it for participants to navigate legal systems and assert their entitlements efficiently³⁹.

³⁷ Copyright Act [Zanzibar] No 14 of 2003

³⁸ Copyright Act [Zanzibar] No 14 of 2003, s 39

³⁹ *ibid*

Cosoza has really been making waves in spreading the word, mainly because they've joined forces some sorts of organizations and stakeholders. They've got partnerships cultural spots, and businesses, which really helps them extend their reach and make their educational programs pack more punch. By teaming up, they can share resources and get more people in the loop. there are still some bumps in the road when it comes to connecting with everyone, especially folks out in the sticks who might not get easy access to information. This just goes to show there's a need for more precise ways to reach these communities. Even with these hiccups, cosoza is always on the lookout for fresh ideas to link up with these areas, showing just how dedicated they are to helping folks get a better handle on copyright protections⁴⁰

Cosoza isn't just focused on outreach program for gives education; it plays a crucial role in keeping tabs on how well the societies are sticking to the Copyright Act. Think of them as the copyright police, making sure everyone's following the rules and regulations of copyright. They're always checking in on different groups, like businesses, media companies and any place where the copyrighted works are used commercially, to see if they're playing fair. And if they get solid evidence that someone's violate or infringe the copyright the law, Cosoza jumps into action. They might send out a cease-and-desist letter, or if things get serious, they could take it before the court of law for more litigation. It's super important for Cosoza to stay on the ball with this stuff because that's what keeps copyright laws strong in Zanzibar. If they start letting things slow, it could really mess up the creative scene and put a damper on artistic expression in the area.

Cosoza's working hand in hand with the Ministry of Trade and Industrial Development to really shape up the intellectual property policies in Zanzibar. This partnership's a big deal because it ensures that copyright laws are keeping pace with all the new stuff popping up in the creative industries and the digital world. By getting involved in the nitty-gritty of policymaking, Cosoza's pushing for some legal changes that better safeguard creative works, all while acknowledging the everyday challenges that creators and users face. The goal here is to craft a more solid and sensible set of intellectual property rights that not only cater to local needs but also stack up against global benchmarks.

Cosoza really steps up when it comes to solve out the copyright disputes. They know that going to bring the dispute before the court can be a real headache and cost a fortune for creators. So, instead of jumping right into legal fights before the court, Cosoza offers other ways

⁴⁰ ibid

to work things out, like getting everyone together for mediation and having a friendly negotiation⁴¹. This way, not only do they take some pressure off the courts, but they also help people come to an agreement in a much friendlier way. By encouraging these more relaxed methods, Cosoza aims to give creators an easier way to resolve their issues without getting stuck in long, drawn-out legal battles and this can help for the society to be friendly with the authors and creators and also help to avoid dispute between the infringers and the owner of the copyrighted works.

2.7.3 Current Copyright mechanism on Music industry in Zanzibar

The Copyright Act No. 14 of 2003 was put into place to protect the rights of creators and encourage originality and innovation. This piece of legislation spells out the different types of works that are protected, like musical compositions and their recordings, showing just how diverse creative expressions can be. The Act goes into detail about authorship and property rights, laying out how long these rights last, and covering both moral and economic rights. Also, Section 5 makes it clear that copyright applies to original works that are fixed in any tangible medium of expression; whether it's something we already know about or something that might be invented in the future, giving creators comprehensive protection.

The copyright systems currently overseeing music in Zanzibar are indicative of both local ambitions and broader global systems, the Office of the Copyright Society of Zanzibar (cosoza), which functions under the Ministry of Trade and Industrial Development, acts as the main authority in copyright implementation, tasked with registering musical works and enforcing copyright regulations, thus playing a vital role in safeguarding the rights of local performers.

In Zanzibar, the whole copyright scene is shaped by the Copyright Act and Neighbouring Rights Act, along with a bunch of international treaties that Tanzania has signed up for. These laws are supposed to keep musical works safe, but they often hit a wall, especially when trying to keep up with the ever-changing digital landscape. For example, the law is supposed to stop unauthorized copying and sharing, but many local musicians find it tough to actually enforce these rights. They face hurdles like not having enough legal backup or a clear understanding of the law, which makes the protections feel pretty weak. Plus, without solid enforcement, the law tends to favor those with more cash and legal expertise, which just makes the gaps in the music industry even wider.

⁴¹ Copyright Society of Zanzibar (COSOZA), *Copyright Annual Report 2022* <https://www.cosoza.or.tz> accessed 23 March 2025

2.7.4 Key provisions for protection of Musician

When it comes to music, there are a few important rules that really help protect the rights of creators.

Section 3 the subject explains about the work protection which include music works, sound recording and performance in a categories of protection⁴²

Section 6(1) the Subject to this provision is the author or other owner of copyright shall have the exclusive right to carry out or to authorize the exclusive right which are right to the sole authority to make copies, share, perform, or broadcast their creations. This means artists have control over how their music gets used, which is great for encouraging creativity.⁴³

Under Section 18, which spells out how long these protections last—basically, it covers the author's lifetime and then another fifty years. This way, creators and their families can enjoy the financial benefits of their work for quite a while⁴⁴.

Under Section 34 this section its handle the civil remedies, an injunction to prevent the infringement or to prohibit the continuation of the infringement and the payment of any damages suffered in consequence of the infringement, Including any profits enjoyed by the infringing person that are attributable to the infringement and if the infringement is found to have been prejudicial to the reputation of the person whose rights were infringed, the court may, at its discretion, award exemplary damage⁴⁵.

Section 35, Subject to the provisions of the Penal Decree, Cap. 13 and the Criminal procedure Decree, Cap. 14, any infringement of a right protected under this Act, if committed wilfully or by gross negligence and for profit-making purposes, which handles what happens if someone breaks these rules, It includes the legal actions like stopping the infringing activities, , and even taking away illegal copies, all of which help to protect rights and deal with any violations effectively⁴⁶.

2.7.5 Solutions to Strengthen the Enforcement of the Copyright Act in Zanzibar

To overcome the challenges in enforcing the Copyright Act, a combination of legal, institutional, technological, solutions is needed. Below are some key recommendations

Review and amend the Copyright Act. To conduct a comprehensive review of the Copyright Act to close legal loopholes and

⁴² Copyright Act [Zanzibar] No 14 of 2003

⁴³ ibid

⁴⁴ ibid

⁴⁵ ibid

⁴⁶ ibid

address emerging issues like digital piracy, to introduce stricter penalties for infringement to deter violations also to establish clear legal procedures for enforcement agencies to follow.

Leverage Technology for Enforcement, to develop digital tracking systems to monitor online piracy and copyright violations, implement automated tools to detect unauthorized use of copyrighted content on social media and streaming platforms.

Public Education Campaigns, Launch nationwide awareness programs to educate artists, consumers, and businesses about the importance of copyright protection, use traditional and digital media (radio, television, and social media) to spread knowledge about copyright laws, to conduct integrate copyright education in schools, to teach intellectual property rights in school curricula and university programs also to engage local communities, Work with artists, cultural leaders, and business owners to promote copyright respect.

2.8 Legal framework of Copyright in Zanzibar and enforcement in International Treaties and National Laws

2.8.1 The Berne Convention for the Protection of Literary and Artistic Works (Berne Convention 1886)

The Berne Convention is the mother of the international copyright system. According to Articles 16(1) and (2) of the Berne Convention, illegally obtained material may be seized in any member state of the Union. Member nations are urged to take the necessary steps to guarantee the implementation of the Convention by Berne's Art. 36(1). The Berne Convention desires to "protect, in as effectual and uniform a manner as possible, the rights of authors in their literary and artistic works.". The Economic rights are Reproduction Right Art. 9(1), Distribution Right Art. 14(1), Rental Right, Resale Royalty Right Art. 14 ter Adaptation Right Art. 8, 12, 14, Translation Art. 8, Public Performance Art. 7, 14 bis, 14 ter, Communication to the Public Art .7, 14 bis, 14 ter, Making Available Right. These rights are provided to owners of copyright and related rights

2.8.2. WIPO Copyright Treaty (WCT 1996)

WCT is an international treaty on copyright law adopted by the member states of the World Intellectual Property Organization (WIPO) in 1996. It provides additional protections for copyright deemed necessary due to advances in information technology since the formation of previous It provides authors of works with control over their rental and distribution which they may not have under the Berne Convention alone. It also prohibits circumvention of technological measures for the protection of works. The WCT aims to handle copyright in the digital world generally. Contracting nations are required by the treaty to put in place strong copyright protection against exploitation. The Treaty states

in Article 11 that; “Contracting Parties shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this Treaty or the Berne Convention and that restrict acts, in respect of their works, which are not authorized by the authors concerned or permitted by law.” (WCT 1996:13).

Additionally, it grants the authors extra exclusive rights required for the protection of their legal rights in the digital sphere. These include the right to rent computer programme, films, and other works that are incorporated in phonograms; the right to communicate with the public; and, most importantly, the right to make copyrighted works in the digital world available. These rights are movable and transferable.

2.8.3 WIPO Performances and Phonogram Producers Treaty (WPPT 1996-2002)

The WPPT gives performers the exclusive right to reproduce, distribute, rent, and make their performances contained in phonograms available to the public. It also grants performers the right to receive fair compensation for renting copies of phonograms and for the direct or indirect use of a phonogram that is published for commercial use but is used for broadcasting or any other form of public communication. The WPT's minimal criteria of protection are implemented for the BTAP's protection of audio-visual performers.

WPPT (1996-2002), Art. 23 stipulated that The Contracting Parties agree to take the steps required to ensure that this Treaty is applied, in conformity with their respective legal frameworks. To enable effective action against any act of infringement of rights protected by this Treaty, Contracting Parties shall ensure that enforcement procedures are available under their law, including prompt remedies to prevent infringements and remedies which constitute a deterrent to subsequent infringements. The WPPT addresses the interests of the performers in their performances and phonogram producers in their productions. It grants them exclusive rights to morals and controls their economic interests.

To make managing rights easier, national copyright laws must be consistent with widely accepted regional and worldwide norms. The basis for the success of collective management should be provided by national legislation. The rules should, at the very least, grant writers and other rights holders' exclusive rights, the opportunity to reap the rewards of their innovation, and, of course, restrictions and exceptions.

2.8.4 Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement- 1994)

The Agreement on Trade-Related Aspects of Intellectual Property Rights came forth as a result of IP concerns becoming more prominent during the Uruguay Round of Multilateral Trade Negotiations (TRIPS). IPRs and enforcement are the subjects of the extensive global TRIPS agreement. Based on the idea that a globally unified IP protection regime will promote commerce, lessen trade distortions, and remove trade barriers. The Stockholm text of the Paris Convention and the Paris text of the Berne Convention, both of which are substantive obligations under TRIPS, have been required to be complied with by parties. TRIPS establish the minimal criteria for intellectual property protection that WTO members may implement, includes almost all of the terms of the Berne Convention as laid out in TRIPS Articles 9 to 14.

2.8.5 The Copyright Act of Zanzibar no 14 of 2003

Since this Act has a mandate to the artists may entrust economic rights by issuing licenses, regulating the use of the copyright and related right works, gathering license payments, and paying royalties to the right holders, The office of the copyright society of Zanzibar is manages the entrusted rights. Both members and non-members are eligible to receive royalties, but only the right holder who has registered himself is eligible to get royalties. Foreign repertoire distributions are made possible via reciprocal representation agreements.

Any person whose rights are being violated or are already being violated may file a lawsuit with the court to seek: (a) an injunction to stop the violation or to forbid its continuation; (b) payment of any damages sustained as a result of the violation, including any profits the violator derives from the violation and damages if the violation is determined to have caused harm. Any item created in violation of this Act, as well as any receipts issued to the offender as a result of such violations, are subject to confiscation.

Any violation of a right protected by this Act that is committed willfully, negligently, and for financial gain is punishable by imprisonment for a term of between six months and three years, a fine of between Tsh 300,000 and Tsh 2,000,000, or by both, subject to the provisions of the Penal Decree, Cap. 13, and the Criminal Procedure Decree, Cap. 14.2). the court will determine the fine's amount, paying special attention to the defendant's earnings linked to the infraction. (3) If the defendant has been found guilty of a new act of infringement within five years of an earlier conviction for infringement, the court may raise the maximum penalties specified in paragraph (1) of this section by up to twice that amount. 32 (4) The court must use the actions and remedies listed in section 34 of this Act in criminal cases as well, provided that no

judgment has been made about those same actions or remedies in a civil case⁴⁷.

Subject to the applicable provisions of that Act and on such terms as it may deem reasonable, the Court having jurisdiction of a Civil action arising under this Act or a Criminal Procedure Decree shall have the authority: (a) to grant injunctions to prevent the committing, or continuing to commit, an infringement of any right protected under this Act; (b) to order the impounding of copies of works or sound recordings suspected.

2.9 Summary

The chapter reviewed the global academic literature on the subject under consideration in the current study. The review was based on research questions that intended to examine and analyze the elements that make it more difficult to enforce the copyright law, those that make it more successful, and strategies for doing so from an international, regional, and national viewpoint. According to the chapter, the research will be based on the labour theory, which holds that anybody who works with resources that are either owned or held in common has a natural right to receive compensation for their labour, and to get what Musicians deserves through the law that protect and defends him in his works and his right in general.

⁴⁷ Copyright Act (Zanzibar) No 14 of 2003, s 34–35.

CHAPTER THREE RESEARCH METHODOLOGY

3.0 Introduction

This chapter presents a research methodology that covers methods used to collect, process, and present data in this work. The researcher is employing modern techniques throughout the procedures of collecting and processing data. Apart from these techniques, this chapter also covers other attributes of research methodology such as research design, population and sampling, data collection instruments, pilot study (If necessary), data collection procedure, analysis and organization of data, ethical considerations.

3.1 Research Design.

The researcher shall use Explanatory research design using qualitative design. The qualitative research method will be used in this study because the researcher needs to look at the views and opinions of the respondents from the users of the Copyright laws. The qualitative researcher often goes to the site (home, office) of the participant to conduct the research. While traditional qualitative research often involves on-site visits to the participant's home, office, or relevant setting to gather first-hand experiences, modern advancements in communication technology have expanded the ways qualitative research can be conducted. This enables the researcher to develop a level of detail about the individual or place and to be highly involved in the actual experiences of the participants.

Qualitative research was defined by that this method is multi-method whereby it involves an interpretive and naturalistic approach to the subject matter. The implication is that qualitative researchers interpret phenomena in terms of the meaning people bring to them which gives a complete description of the subject matter which is the objective of the study. In this study, qualitative methods will be used to interpret the effectiveness of copyright law enforcement in Zanzibar's music industry by gathering insights from stakeholders, including artists, copyright enforcement officials, and enforcement agencies. This approach provides a comprehensive narrative of how copyright laws function in practice and the challenges faced in enforcement⁴⁸.

3.2 Population

Due to the nature and objectives of the study, the study population will be drawn from the Management of the Copyright Society of Zanzibar who are implement the Copyright Act in Zanzibar, Musicians, In this

⁴⁸Norman K Denzin and Yvonna S Lincoln (eds), *Handbook of Qualitative Research* (SAGE 1994).

study, the focus will be the management and staff of the Copyright Society of Zanzibar, Musicians, and law enforcement Agencies.

3.3 Sampling

The study will use purposeful and random sampling techniques, this technique allows the researcher to use cases that have the required information concerning the objectives of the study, and also purposive sampling will be used to select key informants for the study. The key informants are the Staffs in Management who implemented the Copyright Act of Zanzibar known as COSOZA, Law enforcement Agencies. However, random sampling techniques will be used on selecting musicians.

S/N	CATEGORIES	POPULATION	SAMPLE
1	Staff	23	5
2	Musicians	25	10
3	Enforcement Agencies	5	3
	Total respondents	43	18

3.4 Data collection Procedures

The study will use document reviews, structured interviews, and questionnaires in collecting different data and information concerning the collective management organization in Zanzibar.

3.5 Document review

The main documents which will be reviewed are the Copyright Act of Zanzibar of 2003, Regulations on Copyright Licensing of Public Performances and Broadcasting Regulations of Members and their Works, Contract and other reports and journals.

3.6 Questionnaires

In this study, questionnaires will serve as both the research tool and the method for gathering data. The responders will get questionnaires by hand. This allowed respondents to complete the questionnaires at their convenience, and more data will be acquired.

Authors, Musician, Copyright personnel and music industry directors will all get questionnaires.

3.7 Analysis and Organization of Data

The data will be analyzed using qualitative techniques. The data will be summarized and categorized into themes. The aim will be to provide some coherence and structure to the data. The findings will be presented in tables, and figures for easy interpretation. Additionally, the study will employ on the information sought to be played and transcribed in addition to the deductive approach for data analysis and organizing because the researcher did not need to use any other techniques to check the replies. To analyze the material, the researcher will sort the data, arrange it, and validate the answers.

3.8 Ethical Consideration

The proposed research study will apply the ethics of research during and after data collection, as well as the moral guideline of respecting intellectual property. Every piece of intellectual property utilized in this study that wasn't the researcher's own was properly cited. The Research will be conducted through voluntary participation and upon free informed consent and confidentiality, this involves the treatment of research respondents with sensitivity, care, and dignity, and one way of achieving this is by not asking the respondents to write their names. The participant's expectations regarding advantages and/or pay from participating in the study were made clear by the researcher to them. Participants were informed of the dangers and discomforts connected with taking part in the study, allowing them to make an informed decision about whether to join or not.

3.9 Conclusion

This study will assess the Copyright Act of Zanzibar in music industry and focused on awareness and understanding about the copyright Act of Zanzibar, challenges which are the musicians faced related in their works, piracy for the copyrighted works, and the Recommendations which can be used for the improvement of the Copyright Act of Zanzibar and the enforcement of this Act.

3.10 Summary.

This chapter highlighted the research methodology of the study, giving a picture of how data will be collected concerning the topic under the study and elaborated on the data processing and analysis procedure. The research approach that will be applied in this study was outlined in this chapter. The research design, target population, and sample strategy were all discussed in this chapter. The study used a purposeful and random sampling technique to collect data from a sample of three management and staff members of the Copyright Society of Zanzibar, including five staff members from law enforcement

agencies, ten musicians. The case study design will be employed since the investigation took a mixed-methods approach. The instruments utilized to acquire the data were semi-structured interviews, questionnaires, and document analysis. The researcher's study ethics were explained, as well as a thorough explanation of data analysis.

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CHAPTER FOUR

CONCLUSION AND RECOMMENDATIONS

4. Summary of Findings

Legal Framework Existence but limited practical impact, the copyright Act of Zanzibar provides a formal legal composition for the protection of musical works, harmonious with international instruments such as the Berne Convention for the Protection of Literary and Artistic Works and the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights). The act acknowledges creators and authors' exclusive rights in order to control the rights of reproduction, distribution, performance, and adaptation of their works. However, the research revealed that while the Act is theoretically robust, its implementation remains largely ineffective because many key provisions are underutilized, and enforcement agencies often lack the procedural clarity and operational mechanisms necessary to bring the law to life. Thus, despite the formal alignment with international norms, the practical protection of music creators' rights remains weak.

4.1 Inadequate Institutional Support, although there is the office of the Copyright Society of Zanzibar (COSOZA), which was established in 2003, and it marks an important step towards collective management of rights, the institution remains critically under-resourced. COSOZA faces several structural challenges, such as limited financial resources; inadequate funding hampers its ability to conduct monitoring, licensing, and enforcement operations; technical and human capacity deficits; a shortage of trained staff specialized in copyright management, enforcement, and legal compliance; and a low public profile many artists and users of copyrighted works are unaware of COSOZA's role, and few actively engage with its services.

4.2 High occurrence of Violation, the Zanzibar music industry continues to suffer from prevalent violations offline and online, physical counterfeiting, unauthorized duplication and sale of CDs, USBs, and other device in informal markets remains common. Digital Counterfeiting: Unauthorized sharing through social media sites, mobile applications, and online streaming is increasingly frequent. Unlicensed Public Shows there are so many entertainment venues such as radio stations, and event organizers use protected music without obtaining appropriate licenses. This environment of widespread unpermitted use persists largely due to the absence of effective deterrent measures, weak policing of markets, and minimal levels of successful litigation against violators.

4.3 Judicial and Administrative Gaps, limited effectiveness of judicial and administrative mechanisms to enforce copyright there are few Copyright Cases Copyright-related disputes are rarely brought

before the courts because most cases either remain unresolved informally or are abandoned due to anticipated delays and costs. Judicial Inexperience, many judges and magistrates they know nothing about IP they have limited experience or training in intellectual property law, resulting in uninformed decisions and also there is a weak of procedural tools, Tools such as interim injunctions, seizure orders (akin to Anton Piller orders), or damages awards are rarely utilized, further weakening rights enforcement, Low Trust, Rights holders often express a lack of confidence in the judiciary's ability to effectively and efficiently resolve copyright disputes.

4.2 Policy and Legal Reform Proposals

The findings of this study reveal that although the Copyright Act No. 14 of 2003 provides a legal framework for the protection of musical works in Zanzibar, substantial gaps exist between the law's intentions and its practical outcomes. To bridge these gaps, a series of policy, legal, and institutional reforms are necessary. These recommendations are aimed at creating a more efficient, accessible, and responsive copyright system that can truly support the Zanzibar music industry's growth and sustainability.

4.2.1 Strengthening the Copyright Act Itself and Legislative Amendments, to establish the Digital Copyright Provisions which can be used for the protection for the copyrighted works online or in a digital form, the current Act does not comprehensively address the challenges posed by digital technologies, such as streaming, downloading, and online sharing. Amendments should introduce specific protections for digital rights management (DRM), anti-circumvention provisions, and clear definitions of online infringement.

4.2.2 To adapt provisions for new modes of exploitation, definitions of public performance, broadcasting, and communication to the public should be broadened to cover new modes like streaming platforms, podcasts, and social media performances. Also, to strengthening penalties Introduce graduated sanctions. Penalties for infringement should be proportional but meaningful. Minor first-time infringements could attract administrative fines, while serious or repeated violations should lead to criminal penalties or civil damages. Deterrence Focus on ensuring that the law provides for statutory damages, even in cases where actual loss is hard to quantify a common challenge in copyright litigation. This is because the current act does not have these statutory damages. This is important to have in IP enforcement for the betterment of protection for the copyrighted works.

4.2.3 Specialized Judicial Mechanisms, In Zanzibar under enforcement of intellectual property issues there is no IP-Specialized Benches for settlement the disputes so to establish specialized

Intellectual Property benches within the High Court or designated magistrate courts. This specialization would enable faster, more consistent, and more informed adjudication of copyright disputes. Also Training for Judges and Prosecutor, regular training and capacity-building programs should be conducted for judicial officers and prosecutors to ensure they are equipped to handle the technical complexities of copyright law in enforcement.

4.3 Practical Enforcement Recommendations

Strengthening the legislative framework alone will not be enough to ensure the protection of music creators' rights in Zanzibar without practical, accessible, and effective enforcement mechanisms, the rights granted under the Copyright Act remain largely theoretical. Accordingly, this dissertation proposes several pragmatic strategies to enhance enforcement, encourage compliance, and build a culture of respect for copyright within the music industry and broader society.

4.3.1 Simplification and Accessibility of Copyright Services, In digital Platforms to make a system for the online registration, as for now The Copyright Society of Zanzibar it used a manual form for the registration develop user-friendly online portals where creators can easily register their works, manage their rights, and report infringements or by using mobile applications form Launch mobile apps to facilitate music licensing, royalty tracking, and rights management for users and creators in Zanzibar's widespread mobile-first society.

4.3.2 Simplified Licensing Schemes, In order to make a one-stop licensing, Implement standardized and transparent blanket licensing schemes for venues, broadcasters, and online platforms, making it easier to obtain legal licenses at affordable rates also to use the tiered licensing models, this is for introduce differentiated licensing fees based on the size and revenue of the business, ensuring small enterprises are not priced out of compliance.

4.3.3 Strengthening Enforcement Operations, to enhanced monitoring and investigation to establish specialized units within COSOZA or the Ministry of Trade and Industrial Development dedicated to monitoring music usage, both offline in markets, events and online on streaming platforms and social media Also to make some technology to deploy software tools that use algorithms and digital fingerprinting to detect unauthorized use of music online.

4.4 Suggestions for Further Research, while this dissertation provides an in-depth evaluation of the effectiveness of the Copyright Act No. 14 of 2003 in the Zanzibar music industry, it also identifies several areas requiring deeper investigation to fully understand the dynamics of copyright protection and creative sector development in the region.

4.4.1 Economic Impact of Copyright Enforcement, future research should focus on quantifying the economic impact of copyright enforcement (or lack thereof) on Zanzibar's music industry. This would involve studying, revenue losses due to piracy, potential gains from improved enforcement, and the broader contribution of the music sector to the Zanzibar economy. Such research would help policymakers appreciate the financial rationale for investing in copyright infrastructure.

4.4.2 Effectiveness of Collective Management Organizations, a longitudinal study assessing COSOZA's performance over a defined period e.g., 5–10 years would provide valuable insights into: trends in royalty collections and distributions, Stakeholder satisfaction and trust levels. COSOZA's ability to adapt to new technological and market challenges.

4.4.3. Research should also explore technological solutions for copyright protection, such as blockchain-based copyright registries present a promising avenue, ensuring transparency and traceability of ownership. Additionally, smart contracts facilitate automated licensing and royalty payments, thereby streamlining the process for creators and users alike. Moreover, artificial intelligence tools can effectively detect online infringement, leveraging sophisticated algorithms to monitor and enforce copyright laws. Together, these technological advancements may significantly enhance the enforcement framework for intellectual property, addressing current challenges and fostering a more secure environment for creative works and understanding how these innovations could be adapted to Zanzibar's specific context would help future-proof the copyright system.

4.4.4 Comparative Legal Studies, Further comparative studies with other African jurisdictions such as Kenya, South Africa, Nigeria, and Ghana it could help to identify a successful enforcement strategy, institutional models for collective managements and best practices for integrating traditional music rights within the modern copyright framework and such research would provide a basis for tailored legal and institutional reforms in Zanzibar.

5. Conclusion

This study critically assessed the effectiveness of the Copyright Act No. 14 of 2003 in regulating and protecting the rights of stakeholders within Zanzibar's music industry. It is evident that while the Act provides a formal legal framework aligned with international standards such as the Berne Convention and the TRIPS Agreement, its practical implementation remains fraught with challenges. The existence of the Act has undoubtedly raised awareness of copyright protection among artists, producers, and other stakeholders, and has laid the groundwork for formalized rights enforcement mechanisms.

However, significant gaps which are persist in enforcement, institutional capacity, public awareness, and adaptation to the evolving digital landscape. The rise of digital music distribution and piracy has outpaced the current regulatory and enforcement capacities. Moreover, limited financial and human resources at enforcement bodies like COSOZA, inadequate judicial specialization in intellectual property rights, and a general lack of educational initiatives targeting musicians have undermined the full realization of copyright protection goals.

The findings suggest that to enhance the Act's effectiveness, there must be stronger enforcement mechanisms, better judicial training, modernized laws to address digital piracy, and continuous public sensitization campaigns. Further, regional and international collaboration could assist Zanzibar in developing a more robust and future-proof copyright regime.

In conclusion, while the Copyright Act has laid a critical legal foundation for the protection of music creators in Zanzibar, its effectiveness remains partial and calls for comprehensive reforms and sustained capacity-building efforts to meet the demands of a rapidly digitizing music industry.

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APPENDICES

Appendix I: Interview Guide for COSOZA

Interview guide for the Office of the Copyright Society of Zanzibar (COSOZA)

I will be very grateful if you could spend some time to respond to these questions for me. I will assure you that any information provided will be used for academic purposes only and will be held strictly confidential. The interview is intended to collect information on the topic: Assessment of Effectiveness of Copyright Act in Music industry of Zanzibar

1. Name of organization..... Location
2. Age Sex, Educational level
3. How effective is the current legal framework for the management of copyright Act for musician in Zanzibar?
4. What are the activities performed by collective management organization? And how those activities help in the implementation of the Copyright Act?
5. What would you say about your institution's performance in the management of copyright Act?
6. Are you aware of music usage in the internet? Do you negotiate license fees with online distributors? What is your opinion on the internet distributions?
7. Are you aware of the technological protective measure (TPM) that is available to protect works in the internet? Which TPM do you use in protecting works in the digital environment?
8. What are the challenges (factors) that lead to the effectiveness or ineffectiveness of those strategies in the management copyright Act by CMO of Zanzibar?
9. Does your institution provide an awareness raising programme on management of Copyright? If yes can you give examples of how you create awareness in the community?
10. Are you aware of copyright infringement in the music industry in the digital environment? What are the acts of copyright infringement in the digital environment? Why are there acts of copyright infringement?
11. Do you receive complaints from right owners on copyright infringement and piracy? How do you settle the disputes? Are parties usually satisfied with the outcome of the settlement? Are the enforcement provisions in the copyright law is adequate?
12. Are there any anti-piracy measures in the system or that your office adopts to control piracy or infringement of copyrighted works in the digital environment?

13. What are the challenges you face in enforcing copyright in music industry?

Thank you for your participation in this study

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Appendix II
 QUESTIONNAIRES FOR MUSICIANS, PRODUCERS AND
 COSOZA

PART I: PERSONAL AND GENERAL INFORMATION

1. Name of the
 respondent.....

2. Job of the
 respondent.....

3. Gender.....

4. Age of the respondent.

a)	Between 20 Years	
b)	Between 20-40 Years	
c)	Between 41-60 Years	
d)	Above 60 years	

5. Education qualification.

a)	Primary	
b)	Secondary	
c)	Certificate	
d)	Diploma	
e)	Degree	
f)	Postgraduate	
g)	PhD and Above	

6. Have you taken any step to legally protect and declare your
 musical works in the copyright Office?

a)	Yes	
b)	No	

If Yes, Was it by

a)	Planned	
b)	Forced/requirements	
c)	Accidentally	

If No, Why? Please indicate the reasons for not protecting your musical works

a)	High application Cost	
b)	Inadequate or absence of effective enforcement mechanism	
c)	Complicated procures to protect copyright	
d)	I don't see the relevance of IPRs protection to my music	
e)	Other reason.....	

7. How would you rate your awareness on protection of musical works?

(a)	Excellent	
(b)	Good	
(c)	Fair	
(d)	Not aware	

8. How was your musical work get into digital platforms?
Through

a)	Own uploading	
b)	Management upload	
c)	Licensed someone to upload my work	
d)	I don't know	
e)	Others	

9. Which of the following economic right of your musical work has been affected in digital platforms and other forms?

a)	Reproduction	
b)	Publishing	
c)	Communication to the public	
d)	Translation	
e)	Recording	
f)	Distribution	
g)	I have no idea	

10. Is it easy for you to know a musical work, which has been uploaded illegally?

Very easy	
Not easy	
Difficulty	

11. Please express your degree of agreement or disagreement with the following statements.

		Strongly Disagree	Disagree	Neither Agree/Disagree	Agree	Strongly Agree
a)	Digitalization has helped my musical work to reach more audience.					
b)	Copyright protection for musical works in digital platforms has helped me to offer a unique and superior works over my competitors.					
	The available					

d)	protection offered by copyright law on has helped me to invest more in my music in digital platform					
e)	Copyright protection is the crucial element of musical works in digital platforms.					
f)	Before uploading or downloading music in digital platforms I always comply with copyright requirements					
g)	I have never uploaded or download a song without any agreement or payment					
h)	I know some of digital platforms with my musical works uploaded illegally but I don't know what to do.					

12. How do you assess level of effectiveness of the copyright law in protecting musical works in Zanzibar ?

(a) Very effective	
(b) Effective	
(c) Not so effective	
(d) Not effective	
(e) I don't know	

13. Copyright protection mechanism in Zanzibar is seen as incentive to musicians and right holders to create works that in turn is used to spur economic growth, do you agree?

(a) Yes	
(b) No	

14. If No what can be done to ratify the situation?

	Strongly disagree	Disagree	Neither Agree/Disagree	Agree	Strongly Agree
a) Government has provide clear policies on copyright protection in music					
b) The revision of Copyright legislation					
c) Creating a system for monitoring and controlling musical works in Zanzibar					
d) Provide proper remedies for infringement done					
e) Provision of proper licensing schemes					
f) To facilitate the administrative institutions to administer, manage and enforce					

copyright.					
g) To ensure training and awareness creation in relation to the importance of copyright and related rights in digital platforms.					

15. Do you admit the followings to be challenges in the management of musical works in Zanzibar?

	Disagree	Neither Agree/Disagree	Agree	Strongly Agree
(a) It has helped in facilitating distribution of musical works				
(b) It has increased piracy				
(c) It has created other sources of income				

16. Do you agree the following points to be the reasons for lack of effectiveness of copyright protection of musical works in Zanzibar?

1. Weak enforcement of law	
2. Inadequate campaign	
3. No Guideline from the Government/ COSOZA	
4. Poor infrastructures/ mechanisms	

17. Is it easy to prosecute copyright cases in Zanzibar?

1. Very easy	
2. Easy	
3. Not easy	
4. Not so easy	
4. Don't know	

18. What is the response of copyright office to complaints raised by copyright holders?

(a) Excellent	
(b) Good	
(c) Fair	
(d) Not aware	

19. Has your institution ever conducted anti-piracy campaign in the digital platforms?

(a) YES	
(b) NO	
(c) I DON'T KNOW	

20. Which of the followings strategies you think might help in fighting those challenges faced by management of musical works in Zanzibar?

	Disagree	Neither Agree/Disagree	Agree	Strongly Agree
a) Awareness campaigns				
b) Amendment of Copyright Act				
c) General antipiracy effort				
d) Coordination among the enforcement Agencies				
e) Enforcement of the law on piracy				
f) Close monitoring of digital platforms markets and musical industries				
g) Separating a collective society				

from the Copyright Office				
h) Introducing training programs for enforcement agencies like the judiciary, advocates, Customs, Zanzibar Broadcasting Commission and Police force (cyber-crime unit).				
i) To have IP policy in Zanzibar				
j) Effective implementation of provisions related to the fight against piracy.				
k) Training of more IP expert				
l) Establishment of Tribunal to deal with Copyright issues.				
m) Harmonization of Copyright law in line with the International standard.				
n) Updating regulations to fit the advancement of new technology in copyright.				

21. Please give any other comments or suggestions that you feel it will help for the future about copyright protection of music industry in Zanzibar.

.....

“Thank you very much for the time”