

**INTELLECTUAL KIDNAPPING: PLAGIARISM AND ITS  
CONSEQUENCES FOR A LEGAL RESEARCHER**

**OLUWASEYE O. IKUBANNI\*, ALADE A. OYEBADE\*\*,**

**TOBI OLOLU\*\*\*, MUSA HUSSAINI\*\*\*\***

**& YUSUF HUSSAINI\*\*\*\*\***

**Abstract**

*The use of the scholarly works or ideas of others without referencing or acknowledging them is not an uncommon practice in research generally. It is a practice that is as old as when writing began. Plagiarism has caused a lot of problems for legal researchers, publishers, academic institutions, and research institutes. Though not a legal offense unless intellectual property right is breached, it touches on the integrity of a researcher and is a violation of research or academic ethic, with mild to severe consequences. It is no gainsaying that advancement in technology has impacted gravely on the rise in plagiarism in legal research. This paper examined the concept of plagiarism generally and its consequences for a legal researcher. It adopted a qualitative research methodology using a doctrinal method of legal research. This research found that technological advancement is one of the major*

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\* Lecturer, Department of Jurisprudence and Public Law, College of Law, Joseph Ayo Babalola University, Ikeji-Arakeji, Osun State, Nigeria, E-mail: [ooikubanni@jabu.edu.ng](mailto:ooikubanni@jabu.edu.ng)

\*\* Lecturer, Department of Jurisprudence and Public Law, College of Law, Joseph Ayo Babalola University, Ikeji-Arakeji, Osun State; E-mail: [aaoyebade@jabu.edu.ng](mailto:aaoyebade@jabu.edu.ng)

\*\*\* Lecturer, Nigerian Law School, Dr. Nebo Graham Campus, Port Harcourt. Rivers State; [tobiololu@yahoo.com](mailto:tobiololu@yahoo.com);

\*\*\*\* Fati Lami Abubakar Institute for Legal and Administrative Studies, Minna, Niger State Email: [musahussaini922@gmail.com](mailto:musahussaini922@gmail.com).

\*\*\*\*\* Fati Lami Abubakar Institute for Legal and Administrative Studies, PMB: 133, Minna. Niger State. Phone no: 08065624565. Email: [yusufhussaini425@gmail.com](mailto:yusufhussaini425@gmail.com)

*contributors to the growth of plagiarism in legal research. Unfortunately, however, notwithstanding the punitive measures in place to sanction such inappropriate research behaviour, it still persists. The research found further that the punitive measures in place for addressing issues of plagiarism in legal research are inadequate. The research, therefore, concluded that legal researchers must uphold research ethics as if they were legislative instruments with penal sanctions. The paper recommended that considering the gravity of the offense and the inadequacy of the punitive measures adopted to curb the menace, there is a need for legislative measures in the form of penal sanctions for this misconduct.*

**Keywords:** Plagiarism, Legal Research, Legal Researcher, Academic Misconduct, Ethics

### **1. Introduction**

Plagiarism is one of the most widely discussed subjects in legal research. This is because it touches on the integrity of the researcher and the quality of the research. While research is an integral aspect of the legal profession, the growing trend of plagiarism in legal research has impacted negatively the quality of research and problem-solving which is the whole essence of research. Though the debates on the concept of plagiarism have gained momentum in recent years, there appears to be no clear line between plagiarism and legitimate study because it is often believed in academics that "standing on the shoulders" of others is what makes advanced research feasible<sup>1</sup>. Oftentimes, plagiarism is associated with the failure of a researcher to reference or cite the source of a piece of information.

Plagiarism is a serious academic crime that is prohibited in all academic institutions and professions<sup>2</sup>. Though some institutions do

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<sup>1</sup>Hermann Maurer, Frank Kappe, and Bilal Zaka, "Plagiarism: A Survey" (2006) 12(8) *Journal of Universal Computer Science*, 1051

<sup>2</sup>Donald L. McCabe and Linda Klebe Trevino, "What We Know About Cheating in College", *CHANGE*, [1996] 26, 29 cited in Stuart Green "Plagiarism, Norms, and the Limits of Theft Law: Some Observations on the Use of Criminal Sanctions in

not have a written ethical code prohibiting it<sup>3</sup>, it is a customarily established code of ethics in legal research with its attendant consequences where there is such a violation of such code. It is imperative to state that in recent times, most institutions have had technological means to detect plagiarism even though there are other traditional ways to detect plagiarism. For instance, a law lecturer who is familiar with the work from which a law student is copying may also detect plagiarism without the necessity for the use of technology<sup>4</sup>.

Today, with the advent of technology, the work of legal researchers has become a lot easier and less complex. Research can easily be done without necessarily entering any physical library through the aid of the internet<sup>5</sup>. The Internet through the web driver research networks enables a researcher to have quick access to the works of previous researchers and scholars on the subject of research<sup>6</sup>. On the contrary, in the time past, legal research had always been strictly a manual process of flipping through the pages of textbooks, law reports, journals, manuscripts, newspapers, etc but time has changed, and the internet technology has brought changes to how research is conducted<sup>7</sup>.

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Enforcing Intellectual Property Rights" (2002) 54(1) *Hastings Law Journal* (167–242; Donald L. McCabe, Linda K. Trevino, and Kenneth D. Butterfield, "Cheating in Academic Institutions: A Decade of Research", *Ethics and Behaviour* [2001]11(3), 219, 226 cited in Stuart Green (n 1) 199

<sup>3</sup> Roy Peter Clark, "The Unoriginal Sin" (November 26 2007) Available at <https://www.poynter.org/archive/2007/the-unoriginal-sin-2/> cited in Stuart Green (n 1) 199

<sup>4</sup>Staurt Green (n 2) 200

<sup>5</sup>Charles Obiora Omekwe, 'Web Sources, Resources and Strategies for Legal Research', *The Electronic Library*, [2005], (23), (3), 333-344. <http://doi.org/10.1108/02640470510603732> Accessed 13th May, 2022; John Mcmillan, "The Impact of Technology on Administrative Justice System" being a speech presented to AIAL National Administrative Law Forum, Canberra on 18<sup>th</sup> July, 2013, AIAL Forum No. 75 available at <http://classic.austlii.edu.au/journals/AIAdminLawF/2013/23.pdf> Accessed 20th August, 2021

<sup>6</sup>D.M. Tribe, "Higher Education Features: The Implication for the Teaching of Law" Keynote address at the 4<sup>th</sup> Annual LTL1 Conference, Coventry, 11-12 January, 2004

<sup>7</sup>K. Robert, "Psychological Research Online: Opportunities and Challenges" 2003 cited in Uchenna, P Daniel Ani, Kolajo, Taiwo, Emek Ogbuju & Sunday, E Adewumi, "Internet Capabilities for Effective Learning and Research: A Review"

Technology through the internet has been variously adjudged by many scholars as one of the major revolutionary developments which have impacted the research process<sup>8</sup>. This is particularly so because research is about information and data, hence, the world has changed from a physical or manual research process to a digital one. In fact, there has been a massive response amongst researchers and scholars around the world, including students to the use of technology in the conduct of research<sup>9</sup>.

Unfortunately, however, with the many advantages that technology offers researchers, it has also increased the growth of the trend of plagiarism and academic dishonesty among legal researchers. There is today, the massive growth of plagiarism which has caused serious concern in the academic world. Technology through the use of the internet makes it easy to access available sources on the internet which are usually copied and pasted directly by some researchers as their own idea without acknowledging the original source.

This paper examines the concept of plagiarism in legal research as well as its consequences. The impact of technology on the growing trend of plagiarism in legal research also forms part of the focus of this research. This aspect is very relevant considering that legal research in this era time has been highly influenced by technology. It becomes sacrosanct to investigate the extent to which technology has increased plagiarism including the use of technology to detect and curb plagiarism.

## 2. What is Research?

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*International Journal of Innovation and Scientific Research*, 2015, (13), (1), 341-348 Available at [www.researchgate.net](http://www.researchgate.net) Accessed 5<sup>th</sup> September, 2021

<sup>8</sup>A.N. Kibet, "Old Problem, New Strategies: Internet as a Tool for Research in Africa" 2006 cited in P. Uchenna, Daniel Ani, Kolajo, Taiwo, Emek Ogbuju & Sunday, E Adewumi, "Internet Capabilities for Effective Learning and Research: A Review" *International Journal of Innovation and Scientific Research*, 2015, (13), (1), 341-348 Available at [www.imespub.com](http://www.imespub.com) Accessed 5<sup>th</sup> September, 2021

<sup>9</sup>Niv Ahituv and Yael Steimberg, "The Impact of the Internet on Research Methods in Social Sciences: Are New Methodologies Being Created or Just a New Use of Existing Methodologies?" (2006) *CODATA International Conference, Beijing*, 1-21

Etymologically, research is the combination of two words, “*Re*” a prefix that means “again”<sup>10</sup> and “*Search*” which means “an attempt to find something by looking carefully for them”<sup>11</sup>. In order to achieve new scientific or technological knowledge and insight, research is consequently defined as a unique and planned investigation.<sup>12</sup> Finding and analysing information with the aim of learning more about it or developing a workable solution is the process of research.<sup>13</sup> According to Adams, research can also be described as the generation of new knowledge or the innovative application of existing knowledge to produce novel ideas, approaches, and comprehension. This definition includes the synthesis and analysis of prior research to the extent that it produces novel and innovative results.<sup>14</sup>

It also refers to carefully studying a topic, particularly to learn new information or facts about it.<sup>15</sup> Accordingly, it is often characterized as an effort to find solutions to intellectual and practical issues by using scientific techniques.<sup>16</sup> It is a methodical process of gathering and examining data in order to better comprehend the phenomenon that interests or concerns us.<sup>17</sup> It is possible to generate generalisations, principles, or theories by the systematic, unbiased examination and recording of controlled observations through research, which can then be used to forecast and potentially influence events<sup>18</sup>. The logical

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<sup>10</sup>Oxford Advanced Learners Dictionary (9<sup>th</sup> ed., Oxford University Press) 1277

<sup>11</sup>Ibid 7 P. 1395

<sup>12</sup>The Major Law Lexicon, The Encyclopedia Law Dictionary with Legal Maxims, Latin Terms and Words and Phrases, (2<sup>nd</sup> edn, LexisNexis Butterworths Wadhwa Nagpur), (2010), (5), 5909

<sup>13</sup>Soren Chunuram, “Legal Research Methodology: An Overview” (2021) 8(10)*Journal of Emerging Technologies and Innovative Research* 441

<sup>14</sup>Larry Adams, “What is Research” (2021) 9(12) *Global Scientific Journal* 388

<sup>15</sup>Ibid 7 P. 1315

<sup>16</sup>O.A. Bamiro ‘General Consideration in Writing Winning Proposals for Sponsorship by Funding Agencies with The TETFUND National Research Fund (NRF) As A Case Study’ (being a Paper Presented at the Capacity Building Workshop on Research Proposal Writing at Olabisi Onabanjo University, Ago-Iwoye on 12<sup>th</sup> August, 2021)

<sup>17</sup>Ibid 11

<sup>18</sup>Obioma Nwaorgu, “Overview of Research and its Methodology” Paper Presented at the Train the Trainers Research Workshop held at Nnamdi Azikiwe University,

inference that may be drawn from the above definition is that research is embarked upon in order to do over again what has been previously done before with the intention of making a new discovery of fact(s). It is an investigation into a subject matter.

### 3. What is Legal Research

On the other hand, legal research is a deliberate search for the law about a particular topic that improves the study of law.<sup>19</sup> It is a subfield of knowledge study that examines the foundations of law and legal structures.<sup>20</sup> Similarly, doing legal research entails acquiring legal resources with the intention of learning fresh data that will improve our comprehension of a certain legal subject or topic.<sup>21</sup> The relationship between the legal system and the society that it is intended to rule must be the focus of legal research. The law is additionally referred to as a behavioral science because it regulates human behaviour. It is said in language that is suitable for the circumstance. No matter where the legislation came from, it will never be able to solve every issue. The law must adapt to the times in order to remain helpful, relevant, and alive in the face of societal change. As a result, the purpose of legal research is to find faults in existing laws and suggest suitable fixes.<sup>22</sup>

However, locating the law is not always straightforward. It requires doing a careful analysis of judicial pronouncements, statutory provisions, and legal writings.<sup>23</sup> To advance the study of law, one must look at the motivating factors or guiding principles of the law. Law is an instrument of social change. The need to regulate social behaviours and values is such a complex task that requires systematic investigation into the existing legislation in order to understand the current state of knowledge in such aspects of law and their social relevance and

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Awka, Nigeria. Available <https://oer.unizik.edu.ng/wp-content/uploads/sites/6/2017/11/Overview-of-Research-and-its-Methodologies-PROF-NWAORGU.pdf> [accessed 4th August 2023]

<sup>19</sup>Soren Chunuram (n 13) 442

<sup>20</sup>*Ibid* 443

<sup>21</sup>*Ibid*

<sup>22</sup>*Ibid* 445

<sup>23</sup>*Ibid*

efficacy<sup>24</sup>. Research in the area of knowledge associated with the fundamentals of law and legal institutions is referred to as "legal research".<sup>25</sup>

#### 4. The Concept of Plagiarism

The concept of Plagiarism is frankly a broad one. Etymologically, Plagiarism was derived from the latin word "*Plagiarus*" which connotes "kidnappers". It is therefore easy to literally infer that plagiarism means when someone steals another's work and publishes the same as his own. It also means an act of copying someone else's work or works, ideas and pretending that they are your own<sup>26</sup>. It also happens when a writer purposefully employs another person's words, concepts, or other unique (and not widely known) information without giving due credit to the original author.<sup>27</sup> According to Satyanarayana, plagiarism means the use of text, figures, photos, or tables without the publisher's or author's explicit permission, acknowledgment, or citation as the owner of the intellectual property is prohibited.<sup>28</sup>

Taking this definition further, it means publishing the thought borrowed from another person as though it is original, stealing literary matter from the work of another author. It happens when someone falsely represents someone else's words, whether they are protected by copyright or not—a hasty student, a careless professor, or an unscrupulous writer—as his own.<sup>29</sup> It is imperative to emphasize that true plagiarism is an academic theft or dishonesty. The clear intention of the offender is to falsely represent the concepts or techniques as being their own<sup>30</sup>. On the contrary, Maurer et al disagree with the idea

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<sup>24</sup>*Ibid* 443

<sup>25</sup>*Ibid*

<sup>26</sup>Oxford Advanced Learners Dictionary (9<sup>th</sup> edn, Oxford University Press), 1169

<sup>27</sup>'Defining and Avoiding Plagiarism' Council of Writing Program Administrators, 2003. The WPA Statement on Best Practices. cited in H.Naziya, "Internet and Increasing Issues of Plagiarism"

<sup>28</sup>Kaikala Satyanarayana, "Indian Journal of Medical Research [2010]131(3)373

<sup>29</sup>The Major Law Lexicon, *The Encyclopedia Law Dictionary with Legal Maxims, Latin Terms and Words and Phrases* (4<sup>th</sup> ed., LexisNexis Butterworths Wedhwa Nagpur) [2010] 5, 5147

<sup>30</sup>Kaikala Satyanarayana (n 28) 373

that plagiarism is intentional conduct. Plagiarism can be inadvertent or accidental, and it can also include self-stolen material<sup>31</sup>. It is not always theft from another person that is malicious.

It is not a legal offense but an ethical one that confers on academic authorities not a court of law unless a copyright infringement has taken place<sup>32</sup>. Plagiarism is described as an ‘unoriginal sin’<sup>33</sup>, and a ‘cancer that erodes the rich legacy of scholarship’<sup>34</sup>. Plagiarism is research misconduct<sup>35</sup>. According to Stuart, though plagiarism is not a crime, it hovers around the realm of morals<sup>36</sup>

The issue of plagiarism is one of the most widely discussed challenges of research in academic institutions particularly in the 21<sup>st</sup> century. This issue is one that borders on the integrity of the researcher. It is the ethic in academic research that where a researcher borrows the thoughts, ideas of another author or perhaps expresses quotes or uses the result of another author in his own research, he must acknowledge the author in his own research<sup>37</sup>. This way plagiarism may be avoided. It is imperative to mention that extent or form of plagiarism is irrelevant, once any part of a research work is plagiarized; the whole

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<sup>31</sup>Hermann Maurer, Frank Kappe, and Bilal Zaka, (n 1) 1051

<sup>32</sup>Ibid 9

<sup>33</sup>Aly Colon, “Avoid the Pitfalls of Plagiarism, Writer, [2001],(114)1, 8

<sup>34</sup>Robert L Zangrando, “Historians Procedure of Handling Plagiarism” (1992) 7(4) *Publishing Research Quarterly*57-64

<sup>35</sup>United States Department of Health and Human Services Public Health Service Policies on Research Misconduct; Final Rule, 42 CFR Parts 50 & 93. Available at [https://ori.hhs.gov/sites/default/files/42\\_cfr\\_parts\\_50\\_and\\_93\\_2005.pdf](https://ori.hhs.gov/sites/default/files/42_cfr_parts_50_and_93_2005.pdf). [Accessed 26<sup>th</sup> July 2023]

<sup>36</sup>Stuart Green "Plagiarism, Norms, and the Limits of Theft Law: Some Observations on the Use of Criminal Sanctions in Enforcing Intellectual Property Rights" (2002) 54(1) *Hastings Law Journal* (2002) 167–242

<sup>37</sup>N Bums and S.K Grove, ‘The Practice of Nursing Research: Conduct Critique and Utilization’ 5th edn, St. Louis, MO, Elsevier/Saunders cited in OA Gbadamosi, N.M Adeniyi, and O.A Ayodele, ‘Ethical Issues in Legal Research and Writing’ A Course Material for Advanced Research Methodology for Postgraduate Students, College of Law, Osun State University.



work is plagiarized and rendered unacceptable as a scholarly work. In fact, plagiarism defeats the essence of embarking on research<sup>38</sup>.

#### 4.1 Examples of Instances of Plagiarism in Legal Research

There are a number of conducts that constitutes plagiarism in legal research. Though the list is not exhaustive, the following are most common:

1. Reproduction of Tables or Figures from an earlier article in subsequent publications<sup>39</sup>;
2. Publish the same/similar article in a local and also in an international journal with the same/different authorship<sup>40</sup>;
3. Copy-paste: copying word-to-word textual contents<sup>41</sup>;
4. Idea plagiarism: using a similar concept or opinion which is not common knowledge<sup>42</sup>;
5. Paraphrasing: changing grammar, similar meaning words, re-ordering sentences in original work. Or restating same contents in different words<sup>43</sup>;
6. Prtistic plagiarism: presenting some one else's work using different media, such as text, images, voice or video<sup>44</sup>
7. Code plagiarism: using program code, algorithms, classes, or functions without permission or reference<sup>45</sup>.
8. Forgotten or expired links to resources: addition of quotations or reference marks but failing to provide information or up-to-date links to sources.
9. No proper use of quotation marks: failing to identify exact parts of borrowed contents<sup>46</sup>.

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<sup>38</sup>B Ravideep, 'Plagiarism and Legal Research: Ethical Approach of Qualitative Research' (2018) 59(4) *Journal of Engineering Technologies and Innovative Research* 1114 Available at [www.researcgate.net](http://www.researcgate.net) Accessed 5<sup>th</sup> September 2021

<sup>39</sup>M. Schein and R. Paladugu "Redundant Surgical Publications: Tip of the Iceberg" *Surgery* [2001] 129, 655-661 cited in Kaikala Satyanarayana (n 28) 373

<sup>40</sup>*Ibid*

<sup>41</sup>Hermann Maurer, Frank Kappe, and Bilal Zaka (n 1) 1052

<sup>42</sup>*Ibid*

<sup>43</sup>*Ibid*

<sup>44</sup>*Ibid*

<sup>45</sup>*Ibid*

<sup>46</sup>*Ibid*

10. Misinformation of references: adding references to incorrect or nonexisting original sources<sup>47</sup>.
11. Translated plagiarism: cross-language content translation and use without reference to original work<sup>48</sup>

#### 4.2 Types of Plagiarism

There are various types of plagiarism. They include but are not limited to the following:

- i. **Self-Plagiarism:** This form of plagiarism occurs when a student or legal researcher publishes his or her own earlier work or combines pieces of his own earlier works as though it was originally written<sup>49</sup>.
- ii. **Intentional Plagiarism:** This is where a legal researcher presents him or herself as the primary author of a work that is written by someone else with the knowledge that someone else had written that work<sup>50</sup>. International plagiarism happens in a number of ways such as copying and pasting content from online, citing sources you did not use; patchwriting (copying a piece and only changing a few words here and there), and so on<sup>51</sup>
- iii. **Unintentional Plagiarism:** This type of plagiarism happens when a writer submits similar works because they are either uninformed about pertinent research, unconcerned with writing ethics, or uninformed about required citation styles.<sup>52</sup>
- iv. **Mosaic/patchwriting:** This occurs when a new author replaces, rearranges, or otherwise modifies the text of an earlier article the sentences or words to give it a fresh appearance without attribution of the original author<sup>53</sup>.

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<sup>47</sup>*Ibid*

<sup>48</sup>*Ibid*

<sup>49</sup> M.N. Islam, N. A. Koka, M.O. AbdulWahab and M. R. Khan, 'Plagiarism: All About how to Avoid' (2021) 10(1) *British Journal of English* 1-11, 3

<sup>50</sup>*Ibid*

<sup>51</sup>*Ibid*

<sup>52</sup> Yam Roka, 'Plagiarism: Types, Causes, and How to Avoid this Worldwide Problem' (2017) 14(3) *Nepal Journal of Neuroscience* 3

<sup>53</sup> *Ibid*

### 5. The Impact of Technology on Plagiarism in Legal Research

Today, there is an increase in this academic theft and dishonesty due to the advancement in technology<sup>54</sup>. In fact, technology has aggravated plagiarism among students within the education sector<sup>55</sup> and legal researchers which has been described as impending doom which hangs over and threatens to undo the entire education enterprise<sup>56</sup>. Technology makes it difficult to really detect plagiarism<sup>57</sup>. It is interesting to note that it is difficult to spot plagiarism that amounts to something other than direct copying and pasting<sup>58</sup>. Technology has increased the practice of copying and pasting in academic writing. Technology through the internet has been variously adjudged by many scholars as one of the major revolutionary development which has impacted the research process<sup>59</sup>.

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<sup>54</sup>David Carl Ison, 'Does the Online Environment Promote Plagiarism? A Comparative Study of Dissertations from brick-and-mortar versus Online Institution' (2014) 10(2) *MERLOT Journal of Online Teaching and Learning* 272-282; Also David Carl Ison, 'Plagiarism Among Dissertations: Prevalence at Online Institutions' *Journal of Academic Ethics*, [2012], (10), (3), 227-236 [http://scholar.google.com/scholar?hl=en&as\\_sdt=0%2C5&q=plagiarism+Among+Dissertations%3A+Prevalence+of+Online+institutions+by+DC+Ison&btnG=d=gs\\_qab\\_s&t=1652656332230&u=%23p%3DQunqb253h4AJ](http://scholar.google.com/scholar?hl=en&as_sdt=0%2C5&q=plagiarism+Among+Dissertations%3A+Prevalence+of+Online+institutions+by+DC+Ison&btnG=d=gs_qab_s&t=1652656332230&u=%23p%3DQunqb253h4AJ) Accessed 16<sup>th</sup> May 2022

<sup>55</sup>Y. Wang, 'University Student Online Plagiarism' (2008) 7(4) *International Journal of E-Learning* 743-757 cited in B Ravideep, 'Plagiarism and Legal Research: Ethical Approach of Qualitative Research' (2018) 5(4) *Journal of Engineering Technologies and Innovative Research*, 1114 Available at [www.researchgate.net](http://www.researchgate.net) Accessed 5<sup>th</sup> September 2021

<sup>56</sup>R.M. Howard, 'Understanding Internet Plagiarism' *Computers and Composition*, [2007] (24) (1), 3-15, B Ravideep (n 55) 1114

<sup>57</sup>Syed Shahabuddin, 'Plagiarism in Academia' (2009) 21(3) *International Journal of Teaching and Learning in Higher Education* 357 available at <http://www.isetl.org/ijtlhe/> Accessed 11<sup>th</sup> September 2021

<sup>58</sup>Ben Rosemond, "Plagiarism, Academic Norms and the Governance of the Profession" (2002) 22(3) *Politics* 167-174

<sup>59</sup>Kibet A Ng'etich, 'Old Problem, New Strategies: Internet as a Tool for Research in Africa' 2006 <http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.467.9572rank=1&q=Old%20Problem.%20New%20strategies:%20internet%20as%20a%20tool%20for%20research%20in%20africa&osm=&ossid=> Accessed 16<sup>th</sup> May, 2022

In the time past, academic research had always been strictly a manual process of flipping through the pages of textbooks, journals, manuscripts, newspapers, etc but time has changed, the internet technology has brought changes to how research is conducted<sup>60</sup>. Prior to the advent of technology, hard work, and diligence was the hallmark of every researcher. Publication of articles in journals was a very tedious endeavour that required incessant visits to libraries, buying books, magazines, and newspapers, and even making photocopies of useful materials for research.

Today, researchers have become so lazy to conduct original work. Rather, they simply visit the internet for material that is mostly copied and pasted. It is saddening that not much has been done within academic institutions to curb this menace. The Internet through web driver research networks enables a researcher to have quick access to the works of previous researchers and scholars on the subject of research<sup>61</sup>. Interestingly, technology has also provided a mechanism to detect plagiarism in academic writing especially where it is an electronically plagiarized work. Today, we have some text-matching software that helps to detect plagiarism.

### **6. Consequences of Plagiarism to Legal Researchers**

Plagiarism is a serious academic crime that is committed by law students, law lecturers, and legal researchers generally. Plagiarism in legal research has a number of consequences for a legal researcher. These consequences often times depends on the nature and degree of the misconduct.

However, the following are some of the consequences of plagiarism to a legal researcher:

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<sup>60</sup> Robert Kraut, Judith Olson, Mahzarin Banaji, Amy Bruckman, Jeffrey Cohen, and Mick Couper, 'Psychological Research Online: Opportunities and Challenges' (2005) 59(2) *American Psychologist*, 105

<sup>61</sup> Tribe, D.M "Higher Education Features: The Implication For The Teaching of Law" Keynote Address at the 4<sup>th</sup> Annual LTL1 Conference, Coventry, 11-12 January 2004

- a. Copyright Infringement:** The term "copyright" refers to a person's legal claim to something or some property. This item or piece of property is the result of that person's mental and intellectual labour, and he is alone responsible for it<sup>62</sup>. By the Copyright Act 2022, literary, musical, and aesthetic works, audiovisual works, sound recordings, and broadcasts are eligible for copyright<sup>63</sup>. The Copyright Act recognises the use of another person's work without authorization as a copyright infringement<sup>64</sup> that has both civil and criminal consequences.

**i. Civil Consequences**

The Copyright Act holds a violation of the legislation as a statutory breach with a civil consequence under Section 37 (1) and (2) of the Act for which the owner of the literary work can secure reliefs that range from damages to injunction, and so on. This Section states that the legitimate owner, assignee, or authorised licensee of the copyright may file a lawsuit for copyright violation in the court with jurisdiction over the location where the violation took place, subject to the provisions of this Act.<sup>65</sup> Furthermore, the plaintiff in any action for copyright infringement shall be entitled to reliefs, including monetary compensation, an injunction, accounts, or other remedies available in any similar procedures with respect to violation of other intellectual rights.<sup>66</sup>

**ii. Criminal Consequences**

The law governing copyright also addresses Copyright Act violations as a criminal offense with punitive consequences that include terms of imprisonment and a fine for any researcher found to have breached this Act. The Act provides generally under Section 44 that any person who generates or induces to be made any unauthorised copies of a work for which copyright protections exist for sale, hire, or for reasons

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<sup>62</sup> T.O. Dada, *General Principles of Law* (3rd Ed, Lagos 2013) 421

<sup>63</sup> Section 2(1) of the Copyright Act 2022

<sup>64</sup> *Ibid*, S. 36

<sup>65</sup> *Ibid*, S. 37 (1)

<sup>66</sup> *Ibid*, S. 37(2)

of commerce or business<sup>67</sup>; imports or arranges for the importation into Nigeria of any work that, if created in Nigeria, would be considered to be an infringement copy<sup>68</sup>; or has any plate, master tape, machine, equipment, device, or contraption for the purpose of producing any unauthorised copies of such works, is guilty of an offence and is subject to a fine of at least N10,000 for each copy dealt with in violation of this section, a term of incarceration of at least five years, or both, upon conviction.<sup>69</sup>

iii. **Social Sanction or Stigmatization:** This is one of the most immediate consequences of plagiarism. If a legal researcher is found to have breached this fundamental academic standard or ethical, they run the risk of losing the respect of their peers and receiving the disapproval of the same colleagues whose opinions they appreciate the most.<sup>70</sup> The respect of his peers and the benefits that come with it, such as academic credit, prestige, and financial reward, are taken away from the plagiarist as a result of this punishment, according to Stuart, making it especially suitable.<sup>71</sup>

iv. **Career Damnation:** In the most critical circumstances, where there is an established case of plagiarism against a legal researcher, depending on the severity or gravity of such misconduct, the career of such a legal researcher may be ruined by such a singular act. This is so because, even though there might not be any pronouncement by a committee set up to look into such misconduct, however, the permanent shadow of disgrace cast on the person of the plagiarist is sufficient to either force him or her out of the system<sup>72</sup>

v. **Suspension, Failure, Expulsion, Dismissal, or License Revocation:** This is also one of the major consequences of plagiarism to legal researchers depending on whether the plagiarist is a law

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<sup>67</sup>Ibid S. 44 (1) (a)

<sup>68</sup>Ibid (b)

<sup>69</sup>Ibid (c)

<sup>70</sup>Stuart Green (n 36) 196

<sup>71</sup>Ibid

<sup>72</sup>Ibid

student, law lecturer, or a lawyer. Where the plagiarist is a law student, the disciplinary committee set up by the institution to investigate may recommend the failure, suspension, or even expulsion of such student where the wrong is grave. In the case of a law lecturer found guilty of plagiarism, the consequence may be as grave as dismissal while a lawyer may have his license revoked<sup>73</sup>

The United States District Court in *Diane Dewilde v Guy Gannett Publishing Co.*<sup>74</sup> states thus

The memorandum plagiarizes Defendants' memorandum in significant part, copying the legal portions of it on all counts except for Count III virtually verbatim. On Count III Plaintiff's counsel has cited no legal authority. Throughout the brief, Plaintiff's counsel has inserted his own facts and conclusions, contrary to those written by defense counsel, but it is clear that he did no legal research and remained content to let defense counsel do all the work. Defense counsel has graciously or perhaps inadvertently failed to call this major breach in professional conduct to the Court's attention. The Court, however, cannot let it pass without condemnation. Plagiarism is unacceptable in any grammar school, college, or law school, and *even* in politics. It is wholly intolerable in the practice of law. The Court has obviously disregarded the memorandum submitted by Plaintiff's counsel, first for its untimely filing under Local Rule 19 and second, because it does not represent any additional contribution on the part of Plaintiff's counsel to the Court understands of the law<sup>75</sup>.

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<sup>73</sup>*Diane Dewilde v Guy Gannett Publishing Co.* (1992) 797 F. Supp. 55; **Plagiarism Policy, University of Ghana Reporter (2016) 54(4) 3**

<sup>74</sup>(1992) 797 F. Supp. 55

<sup>75</sup>*Ibid*

vi. **Retraction of Plagiarized Work and Blacklisting of Plagiarists:** The withdrawal of the article, blacklisting of the author with or without an institution, and an apology letter are some of the penalties for plagiarism.<sup>76</sup> The editorial board, editor, or journal policies generally determine how severe the penalty is. In mild cases, the author is asked to write an explanation letter and submit a correction; in severe cases, the author is prohibited from writing for publications in the future. The degree of plagiarism can show how significant it is, regardless of whether it is simple text copying, self-plagiarism, or concept plagiarism.

## 7. How to Avoid Plagiarism

- i. Legal research must always reference or cite his or her source
- ii. Legal research must avoid copying and paste
- iii. Legal researchers using his own words must learn to write in or their own words
- iv. Legal research should seek authorisation to use data, figures, or tables in previously published work by a different author.
- v. Technology helps detect plagiarism: Legal researcher may at the end of research conduct a plagiarism or similarity test on the finished work to determine the level of its originality. Though the list is not exhaustive, some of these software applications include Turnitin, Grammarly, Prepostseo, Plagly, Copyleaks, Paperrater, Plagium, DupliChecker to mention but few.

## 8. Conclusion

Plagiarism is unethical. In fact, it may be punishable under the law in the case of a copyrighted work. There is no justifiable reason for plagiarizing. Unless plagiarism is stopped, there will ultimately be no free exchange of ideas. According to Hoover, plagiarism can be minimised or avoided by reducing the cost of contesting plagiarised work; protecting those whose work has been plagiarised; detecting plagiarism through the use of software; reporting the plagiarists to

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<sup>76</sup>

Yam Roka (n 52)5



their superior; publicising the name of the plagiarist after they have been notified and have had the opportunity to explain their behaviour; developing a professional website supervised by a board of a few editors of national publications.<sup>77</sup>

## 9. Recommendations

This paper makes the following recommendations:

- i. **Adherence to ethical codes:** Ethics is the heart of any research. The quality of any research is largely dependent on the extent of adherence of the researcher to basic research ethics. It is desirable that researchers should ensure strict adherence to ethical codes in order to build trust within the research community.
- ii. **Introduction of Text-matching Software in Academic Institutions:** The issue of academic integrity is very important in any research. It is imperative to mention that dealing with plagiarism is a very tedious exercise. It is very uneasy and time-consuming for the academic staff of an institution to be cross-checking the paper submitted with original texts in order to detect plagiarism. Considering that technology has orchestrated the increase in plagiarism in recent times, it is recommended that in order to detect electronic-related plagiarism, introduce Text-matching software such as Turnitin, Grammarly, etc to detect plagiarized works. Academic institutions should carefully scrutinize research works submitted for either publication in a journal or award of academic degrees through the use of plagiarism test software.
- iii. **Penalization for Academic dishonesty:** There is a need for academic institutions to imbibe and institutionalize the need to penalize any act of dishonesty or intellectual theft when discovered. This will further help researchers to comply with the basic ethical codes that apply in academic writing and promote hard work among researchers.

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<sup>77</sup> G.A. Hoover, "A game-theoretic model of Plagiarism" (2006) 34(4) *Atlantic Economic Journal*, 449-454

- iv. **Criminalisation of Plagiarism:** Plagiarism has been variously described as kidnapping, intellectual theft, and intellectual crime. Where an individual commits a crime, there are penal laws that create offences and punish them. Legislative measures ought to be taken to consider plagiarism as a category of crime though in research fields. Though not everyone may be guilty of it because it is a crime that can only be committed by researchers and not everyone is a researcher. However, it should be taken as a national issue because there is some level of plagiarism that leads to national disgrace or embarrassment. In order to encourage scholarship, plagiarism should be elevated to a realm of crime.
- v. **Educating staff of Academic Institutions on how to use Technology in detecting Plagiarism:** It is unfortunate that in this 21<sup>st</sup> century, some staffs of academic institutions are illiterate when it comes to the use of computers. There is a yawning need to engage academic staff in computer education and how to use electronic software to detect plagiarism. Unless this effort is put into place, even where plagiarism detector software is provided, the effort will still be fruitless and plagiarism will continue to thrive in academic institutions.