



COPYRIGHT FOR CINEMATOGRAPHIC PRODUCTIONS UNDER THE NIGERIAN LEGAL INSTRUMENT: AN INVESTIGATION OF ISLAMIC LAW STANDARDS

By

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Abstract

Copyright is a form of intellectual property that grants the originator the exclusive right to its creativity such as books, scripts, films, records etc. The significance of the copyright cannot be underestimated; as it allows the owner of the right to enjoy certain benefits such as legal protection, royalties and licensing rights. Under the Nigerian Copyright Act 2022, film productions are accorded such rights while a Board so established is empowered by provisions of the National Film and Video Censors Board Act (NFVCBA) to censor and classify such film productions. It is disheartening, however, to observe that contents of many films produced in Nigeria, which is the second largest films producing nation in the world, are immoral and this has adverse effects on the country's society especially the youths who are the majority viewers. Thus, this paper aims to investigate the application of Islamic law standards to copyright for cinematographic productions under the Nigerian legal instruments. Overall, this paper seeks to better understand the Islamic law standards when it comes to copyright for cinematography and how it should be balanced to promote creativity and ensure morality. The paper relies on content analysis of both primary ie the Qur'an, the Hadith, the Nigerian Copyright Act 2022 and NFVCBA; and secondary sources of information like articles in journals, internet materials, text books of Islamic jurisprudence and others. It is hoped that the findings of this paper will contribute to the development of an effective and equitable copyright law framework in Nigeria and beyond. The paper concludes by recommending that the Nigerian Copyright Act should be amended and categorically make provision for ineligibility of immoral cinematography copyright. The paper equally recommended that the Nigerian film productions industry (Nollywood) should borrow leaf from Indian film productions industry (Bollywood) in displaying on the screen words of caution and warning whenever scenes depicting harmful or unethical behavior, such as cigarette smoking, child abuse, women victimization, are being showed.

Keywords: Copyrights, Cinematography, Nigeria, Islamic Law Standards, Objectives.

1.0 INTRODUCTION

The significance of the concept of copyright cannot be underestimated; as it allows the owner of the right to enjoy certain benefits such as legal protection, royalties and licensing rights. By its description, copyright is a form of intellectual property that grants the originator the exclusive right to its creativity such as books, scripts, films, records etc. The Nigerian Copyright Act 2022 makes provisions for the protection of human creativity as regards cinematography. Consequently, a myriad of films have been produced in local or foreign languages or hybrid in Nigeria to the extent



that the country is the second largest films producing nation in the world.¹ Nevertheless, the contents of many of these films produced in Nigeria are fraught with immoralities such as promiscuity, armed robbery, kidnapping and host of others. Undoubtedly, the phenomenon has corrupted the Nigerian society particularly the youths who are the majority viewers.² Arguably, a number of prevalent moral decadence that occurred in the country bear testimony in this respect. Meanwhile, Islamic law, which does not only happen to be one of the recognized Nigerian sources of legal system³ but also frowns at immoralities in all ramifications, has certain standards when it comes to copyright for cinematography. In essence, for cinematography to be accorded copyright under Islamic law, such must conform to laid down Islamic principles. Thus, this paper aims to investigate the application of Islamic law standards to copyright for cinematographic productions and how it should be balanced to promote human creativity and ensure morality. Therefore, the paper is divided into five sections. After the introductory part, section two takes a look at conceptual clarifications of copyright. Under section three, a discussion will be had on appraising legal instruments on Nigerian copyright. Emphasis will be laid on film productions and censorship of film productions in Nigeria. When section four brings into fore Islamic law standards for cinematography production to enjoy copyright, section five deals with conclusion of discussion and proffers suggestions with a view to promoting production of films that devoid of immoralities in Nigeria.

2.0 CONCEPTUAL CLARIFICATIONS OF COPYRIGHT

In order to effectively appreciate the concept of copyright, it is imperative to firstly have a cursory look at the concept of intellectual property. The idea of intellectual property has been variously defined by different writers. For instance, the World Intellectual Property Organization (WIPO) defined intellectual property as ‘legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields’.⁴ Similarly, some researchers described intellectual property as ‘the protection of inventive efforts, commercial reputation, creative works and intangible creations of the mind’.⁵ To some writers, intellectual property is ‘the legal rights which may be asserted in respect of the product of the human intellect’.⁶ According to Oyewunmi, the term ‘intellectual property’ is viewed as ‘legal rights conferred on those who engage in creative,

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¹United Nations, ‘Nigeria Surpasses Hollywood as World’s Second Largest Film Producer’ *UN News* (5th May 2009) <<https://news.un.org/en/story/2009/05/299102-nigeria-surpasses-hollywood-worlds-second-largest-film-producer-un>> accessed 27 March 2025; Canon, ‘Bigger than Hollywood: The Quiet Ascent of Nigerian Cinema’ <www.canon.co.uk/view/nigerian-cinema-hollywood/> accessed 27 March 2025.

²Balogun Hajarat Olaitan, ‘Digital Entertainment: Streaming Services and Viewership Pattern of Nigerian Youths’ (2021) *CUL Technology* 16 <https://www.projects.calebuniversity.edu.ng/project/digital-entertainment-streaming-services-and-the-viewership-pattern-of-nigerian-youths/> accessed 27 March 2025.

³See OO Obilade, *The Nigerian Legal System* (Spectrum Law Publishing 2001) 20.

⁴WIPO, *Intellectual Property Handbook*, (2nd edn, WIPO Publication No 489 (E), 2004).

⁵Jennifer Heaven Mike and Greg Uloko, *Modern Approach to Intellectual Property Laws in Nigeria*, (2nd edn, Princeton & Associates Publishing Co. Ltd 2022) 2.

⁶Jeremy Phillips and Alison Firth, *Introduction to Intellectual Property Law* (4th edn, London: Butterworth 2001) 4.



inventive and promotional activities which have resulted in original, useful or other beneficial output'.⁷ For the sake of simplicity, the term is 'a legal protection accorded to intangible works of the mind (mental endeavor) or expressions of creative concepts'.⁸

That said, intellectual property may be classified into various fields, namely: copyright, performance right, protection of folklore, trademarks, character merchandizing, patent, design rights, trade secrets and confidential information, and geographical indication.⁹ However, since the focus of this paper is on copyright for cinematographic productions in Nigeria then discourse is centered on copyright.

What is copyright? The primary statute dealing with all matters relating to copyright law in Nigeria does not provide comprehensive definition of copyright. According to the Act, "copyright" means copyright under this Act.¹⁰ By considering, however, other relevant provisions of the Act, true picture of the concept of copyright is attainable. Thus, sections 10, 11, 12 and 13 of the Copyright Act 2022 provide to the effect that copyright shall be the exclusive right to do and authorize the doing of artistic, audiovisual, sound recordings and broadcasts. Aside, in its simple description, the word 'copyright' is the right to make copies of a work.¹¹ Copyright may be defined as 'a proprietary right which subsists in various 'works', for example literary works, artistic works, musical works, sound recordings, films and broadcasts'.¹² Mike and Uloko, on their parts, defined the term as 'the title which an author has in the protection of his intellectual property. It is an incorporeal property right granted by a government to the author of an original literary, dramatic, musical, artistic, or other eligible creative work'.¹³

It is important to mention here that the basis for this right is to guarantee both economic and moral benefits of the creator to enjoy the reap of what he sow. Through the enjoyment of economic rights, he will not only be able to recoup all the costs expended on the production of his works but also generate therefrom proceeds for his upkeep.¹⁴ Aside, looking from moral ground no person must be allowed to deprive another person's right of enjoying his labor.¹⁵

3.0 AN APPRAISAL OF LEGAL INSTRUMENTS ON FILM PRODUCTIONS IN NIGERIA

Earlier, it has been stated that of the items which copyright applies is cinematographic productions. Film productions have gained currency in Nigeria to the point of ranking the country as the second largest films producing nation in the world. Thus, with a view to gaining a useful insight into how film production evolved in Nigeria, this section seeks to trace historical background of film

⁷Adejoke O. Oyewunmi, *Nigeria Law of Intellectual Property* (University of Lagos Press and Bookshop Ltd 2015) 3.

⁸Mike and Uloko (n 5) 10.

⁹For details on categorizations of Intellectual Property, see Mike and Uloko (n 5) 15-19.

¹⁰s 108 (1) of the Copyright Act 2022.

¹¹Oyewunmi (n 7) 3.

¹²Cited in Oyewunmi (n 7) 21-22.

¹³Mike and Uloko (n 5) 16.

¹⁴This position is well captured under s 1(a-b) of the Copyright Act 2022.

¹⁵This explains reason Islamic Law declares eating of another person's property unjustly as forbidden. Allah states in Qur'an 4 (*Sūrah An-Nisā'*), verse 29 thus: O you who believe! Eat not up your property among yourselves unjustly except it be a trade amongst you, by mutual consent...'. See also, Qur'an 2 (*Sūrah al-Baqarah*), verse 188.



productions in the country. Specifically, the section appraises legal instruments on film productions in Nigeria.

3.1 Historical Background of Film Productions in Nigeria

Historically, film productions in Nigeria underwent three stages, namely: the colonial period, the post-colonial period and the Nollywood era.

As regards the colonial period, the British colonialists first introduced film production into Nigeria¹⁶ eleven years before the official proclamation of the entity of the country. This development, which took place in 1903 at the Captain Glover Hall in Lagos on the invitation of one Mr. Balboa by Sir Herbert Macaulay to Nigeria,¹⁷ was with the aim of justifying their imperialism and promoting their values and norms not as an entertainment *per se*.¹⁸ The first ever film produced entitled 'Palaver' in Nigeria took place in Jos, Plateau State. It is instructive to note that the contents of those films produced in this era were characterized as documentary and based on issues such as education, health, agriculture and industry. Also, entertainment films were exhibited in halls and fields with token fees while religious films were shown in churches for free.¹⁹ As a matter of fact, Christian missionaries employed filmmaking to propagate Christianity in the country.²⁰ However, the Northern Nigerian people's perception about cinema then was that it promoted moral decadence such as alcohol drinking, prostitution among male and female, and pagan religious practices.²¹

Furthermore, in 1947 the colonial film unit was scrapped and replaced by an indigenous film unit called Federal Film Unit. Nevertheless, the new film unit was unable to achieve satisfactorily in terms of energizing local contents. This was owing to the fact that the country was still under the colonial administration. Interestingly, the Cinematographic Law of Nigeria was enacted in 1948. This Law made provisions for cinema premises license, public moral protection and film censorship.²² With this Law, film production took off in Nigeria unlike before where such was imported from abroad. As a corollary of the colonialists' attitudes towards the film production in Nigeria the Entertainment Law was also enacted in July 1959, very close to when the country gained independence in October 1st 1960.²³

¹⁶Franklin Ugobude, 'Nollywood: A Complete History of How It Came to Be,'(2023) OkayAfrica <<https://www.okayafrika.com/nollywood-movies-history/>> accessed 28 March 2025; Idowu Kehinde, Motunrayo Obabiyi and Boluwatife Ogedengbe, 'History and Criticism of Film,'(2023), 3 <https://www.researchgate.net/publication/376643720_DEPARTMENT_OF_THEATRE_ART_SEMINAR_PRESENTATION_COURSE_TITLE_History_and_Criticism_of_Film_COURSE_CODE_THA_770_PROJECT_TOPIC_With_Reference_to_Appropriate_Literature_Discuss_the_Process_of_Producing_Fi> accessed 29 March 2025.

¹⁷Idowu Kehinde, Motunrayo Obabiyi and Boluwatife Ogedengbe, 'History and Criticism of Film,' 3.

¹⁸Gloria Ernest-Samuel and Divine S.U. Joe, 'A Historical Study of the Nigeria Film Industry and Its Challenges', (2019) NDUNODE: vol 16(1) 171.

¹⁹Ernest-Samuel and Joe (n 18) 172.

²⁰Franklin Ugobude, 'Nollywood: A Complete History of How It Came to Be'; Idowu Kehinde, Motunrayo Obabiyi and Boluwatife Ogedengbe, 'History and Criticism of Film,' 3.

²¹Ernest-Samuel and Joe (n 18) 173.

²²ibid.

²³ibid.



Aside, during the second stage of history of film production in Nigeria i.e. post-colonial era, significant account has not been arguably recorded. This position is attributed to various forms of political impasse. The most important crisis of this era was 1964 general election, which was adjudged to be neither free nor fair.²⁴ In reactions, there were a coup in January 15th 1966 and a counter-coup in July 29th 1966. Thereafter, Ojukwu in 30th May 1967 initiated the breakaway of eastern region from Nigeria and declared the establishment of the independent Republic of Biafra. Consequently, this declaration led to civil war between 6th July 1967 and 12th January 1970. Expectedly, film production remained stagnant during this period. However, after the war, film production started gaining attentions of both individuals and that of government. During this era, the country significantly experienced the influx and domination of American, Indian, Chinese and Japan films.²⁵ As a result, in order to ensure protection for Nigeria cinema in 1972, Nigerian Enterprises Promotion Decree No. 4 was enacted²⁶ by the then head-of-state, Yakubu Gowon compelling the foreigners to return back 300 film theatres to Nigerians.²⁷ This law had positive impact as many indigenous films were shot by a Nigerian production company here in Nigeria. It is noteworthy to state that the administration of Shehu Shagari is said to have played a significant role in the advancement of film production industry during this era. In the same token, local broadcasting stations of various regions in Nigeria equally played their roles by generating local content from indigenous theatre groups.²⁸

Final stage of history of film production in Nigeria is 'the Nollywood era' or otherwise known as the Home Video Film era. The term 'Nollywood' is said to have been patterned after 'Hollywood'²⁹ and 'Bollywood'³⁰. During this era, film making industry flourished and gained momentum particularly in 1992. It is on record that film productions industry began to attain this height during this period when a businessman called Kenneth Nnebue conceived a marketing strategy that for his large shipment of videocassettes from Taiwan to sell faster they must have something on them and this worked for him effectively.³¹ With the experiment successfully carried out by Kenneth Nnebue on *Living in Bondage* in 1992, other film makers followed suit by producing film with video and a myriad of films flooded the country.³²

The industry continues to expand to the point that it ranked as the second largest film producing nation in the world when in 2005 alone 1,292 indigenous films were censored and released by the National Film and Video Censors' Board (NFVCB).³³

3.2 An Appraisal of Legal Instruments on Film Productions in Nigeria

²⁴ibid 174.

²⁵Idowu Kehinde, Motunrayo Obabiyi and Boluwatife Ogedengbe, 'History and Criticism of Film,' 4.

²⁶Ernest-Samuel and Joe (n 18) 174.

²⁷Franklin Ugobude, 'Nollywood: A Complete History of How It Came to Be'.

²⁸Ernest-Samuel and Joe (n 18) 174.

²⁹This is American film industry.

³⁰This is Indian film industry.

³¹Ernest-Samuel and Joe (n 18) 176.

³²Idowu Kehinde, Motunrayo Obabiyi and Boluwatife Ogedengbe, 'History and Criticism of Film,' 5.

³³ibid.



Under the 1999 Constitution of the Federal Republic of Nigeria (as amended), the federal legislative arm of government i.e. National Assembly comprising Senate and House of Representatives, is exclusively empowered to legislate on copyright; for it falls under exclusive legislative list.³⁴ To this end, only relevant copyright laws enacted by the National Assembly such as the Copyright Act, 2022 and the National Film and Video Censors Board Act, 2004, are examined in this paper.

To start with, the Copyright Act 2022 (hereinafter called the Act), which repealed the Copyright Act 2004, provides for the objectives of its enactment. According to the Act, one of the objectives of the copyright concept is to protect the authors' rights and to ensure that they are not deprived of their rewards and also their intellectual efforts are accorded due recognition.³⁵ Another objective is to put in place appropriate limitations for exercise of the authors' rights with the aim of guaranteeing access to creative works.³⁶ Further, when categorizing the concept of copyright, the Act states that certain works that are copyrightable are: literary works; musical works; artistic works; audiovisual works; sound recordings; and broadcasts.³⁷ However, for any work, including audiovisual work, to be eligible for copyright such work must meet certain laid down requirements. The Act provides that in order to give the work an original character some efforts must have been put on it and that such work is 'fixed in any medium of expression known or later to be developed from which it can be perceived, reproduced or otherwise communicated either directly or with the aid of any machine or device'.³⁸ Specifically, the Act itemized those things that are devoid of eligibility for copyright to include: ideas, formats, methods of operation, principles, discoveries, procedures, official texts of a legislative nature, official state symbols such as flags, anthems, coat-of-arms, and banknote designs and so on.³⁹ It is noteworthy to point out here that aside from this, the Act fails to make provision for a list of works which may generally be considered ineligible for copyright. Thus, all immoral works, among others, ought to have been mentioned by the Act not to be entitled to copyright.

Thus, from the foregoing, audiovisual works, which form crux of this paper, are included in the copyrightable works. According to section 108(1) of the Act, 'audiovisual work' is defined to mean 'the aggregate of a series of related visual images with or without sound, which is capable of being shown as a moving picture by means of a mechanical, electrical or other device and irrespective of the nature of the material on which the visual images and sounds are carried and includes the sound track, but does not include a broadcast'. From this definition, it is deducible that the protection covers, regardless of the medium of fixation involved, any sequence of visual images that can be shown as a moving picture. Essentially, all audiovisual works inform of celluloid, videotapes, compact discs or any other device accorded protection under the Act.

Copyright in audiovisual works confers exclusive right on the holder of such right to reproduce, cause to be seen or heard in public, distribute to the public for commercial purposes the audiovisual

³⁴See the 1999 Nigerian Constitution (as amended) Second Schedule Legislative Powers Part I Exclusive Legislative List, Item 13.

³⁵s 1(a) of the Copyright Act.

³⁶s 1(b) of the Copyright Act.

³⁷s 2 (1) (a-f) of the Copyright Act.

³⁸See s 2 (3) (a-b) of the Copyright Act.

³⁹s 3 of the Copyright Act.



work that consists of visual images and sounds.⁴⁰ Equally, the Act empowers the owner of copyright to proceed against whomever infringes upon his right and the plaintiff, depending on each case, is entitled to seek for reliefs either in form of damages, injunctions or account of profits.⁴¹ It is instructive to state that in a bid to promote settlement out of court, section 37(7) of the Act provides that any disputes relating to copyright may be resolved through arbitration or any means agreed upon by the conflicting parties. Beyond this, the Act equally empowers the Commission to constitute a dispute resolution panel to resolve matters pertain to royalties' payment, terms of a license etc.⁴² All these provisions seemly encourage alternative dispute resolution rather than resulting to court proceedings always.

Moreover, the Act makes a provision for the establishment of a commission.⁴³ The Commission so established is saddled, among others, with the responsibilities of overseeing all matters pertaining to administration, regulation and enforcement of copyright in Nigeria. Additionally, it is the function of the Commission to redress cases of copyright infringement, enlighten the public on matters bordering on copyright and it is also responsible for such other matters relating to copyright in the country.⁴⁴

Apart from the Copyright Commission, the NFVCB equally plays a significant role in the administration of copyright in the entertainment industry, specifically the Nigerian film productions industry (Nollywood). According to the National Film and Video Censors' Board Act, the Board is saddled with certain responsibilities. These include to issue a license to a person to exhibit films and video works.⁴⁵ More importantly, the Board is vested with the powers of censoring and classifying the film contents to ensure that such contents are devoid of indecency and obscene and it equally works and regulates the distribution and exhibition of these works. After the censorship process, the film makers and contents creators will be informed of their rating and issued a censorship certificate according. Thus, no one is allowed to carry on any business of distributing or exhibiting films or video works without prior permission of the Board. Moreover, the Act empowers the Board to withhold its approval for a film, which in its view capable of depicting indecency, or injurious to morality or inciting public disorder, crime or undermining public interest.⁴⁶

Notwithstanding the above, a number of filmmakers and content creators defy the rules and regulations by producing and posting on social media and other digital platforms, without being properly censored and classified by the Board, some films and videos that promote same-sex relationships and promiscuity. It is against this backdrop that the NFVCB on 26th June, 2024 releases an official notice wherein filmmakers and content creators are strongly warned for running afoul of Same-Sex Marriage Prohibition Act and the NFVCB Act. The Board stresses that it will

⁴⁰See s 11 of the Copyright Act.

⁴¹s 37 (1)(2) of the Copyright Act.

⁴²s 90(2) (a-c) of the Copyright Act.

⁴³s 77 of the Copyright Act.

⁴⁴s 78(1)(a-g) of the Copyright Act.

⁴⁵s 2 of the National Film and Video Censors Board Act.

⁴⁶s 25 of the National Film and Video Censors Board Act



collaborate with relevant security agencies to crack down on the violators and that it will ensure that they face the wrath of the law.⁴⁷

From discussions so far, it has been established that audiovisual works, including film productions, are accorded protection under the Copyright Act 2022. Also, the NFVCB Act vests in the Board the powers of censoring and classifying all films and videos to ensure that such are free from obnoxious contents. The Board has been carrying out these statutory functions by censoring and classifying films and videos. However, it is argued that Islamic Law, which is one of the recognized sources of Nigerian legal systems, has unique standards for everything.⁴⁸ Therefore, for any work to enjoy copyright protection under Islamic Law such must meet up with Islamic Law standards. Hence, the next section seeks to examine whether some of the films and videos censored and classified by the NFVCB are conform to the Islamic Law standards.

4.0 ISLAMIC LAW STANDARDS FOR CINEMATOGRAPHIC PRODUCTIONS IN NIGERIA

Islamic Law seeks to necessarily realize certain general objectives, namely preservations and protections of religion (*dīn*); life (*nafs*); intellect (*‘aql*); family (*‘ird*); and property (*māl*).⁴⁹ These five objectives, which are referred to as *‘darūriyāt’* in Islamic law parlance, are defined as essential to normal order, the survival and the spiritual well-being of individuals in society so much so that if they are undermined humans’ lives will be in chaos and disruption.⁵⁰ This explains reason Islamic Law attaches much importance to their protection and promotion at all times. Hence, any attempt through whatever means, such as cinematographic productions, to jeopardize any of these essential objectives will not enjoy sanction under Islamic Law.

It is important to explore the significance of these five values in order to appreciate the reasons Islamic Law seeks to protect and promote them at all times. This is undertaken hereunder.

4.1 Religion (*al-Dīn*)

The word *‘dīn’* is described as a collection of beliefs, acts of devotion and laws which Allah enacted to regulate relationships between human beings and their God on one hand, and their relationships towards their fellows on another hand.⁵¹ As regards to the preservation of religion (*dīn*), unlike in the Western world where a little priority is given to religion, there exists in the primary source of Islamic law i.e. the Qur’an and the *Sunnah*, various provisions clearly pinpoint to the superiority of the interest of religion. For instance, the interest of religion is preferred when the subject is required to strive in the way of Allah i.e. *jihad*.⁵² This appears to be the reason why

⁴⁷NFVCB Warns against Production of Same-Sex, Pornography Films

<https://www.nfvcb.gov.ng/2024/06/26/nfvcb-warns-against-production-of-same-sex-pornographic-films/>

accessed on 18 March 2025.

⁴⁸On this, Qur’an 6 (*Sūrah al-‘Anām*), verse 38 thus: ‘... We have neglected nothing in the Book...’

⁴⁹Khallāf Abdulwahāb, *‘Ilm Uṣūl al-Fiqh* (Maktabah Dār At-Turāth, Cairo, 1942AH/1361CE) 199.

⁵⁰Mohammad Hashim Kamali, *Maqāṣid Al-Sharī‘ah: The Objectives of Islamic Law*, (1999) Islamic Studies 38(2) 195. See also Khallāf (n 49) 199.

⁵¹Khallāf (n 49) 200.

⁵²However, it must be noted that the word *‘jihad’* should not be erroneously interpreted to mean using violence to propagate Islam as it has been held by various political and religious groups. For explanations on meaning of *jihad*, see Onikosi A.A. and Abdulraheem A.Y., *Female Suicide Bombers in Nigeria: Issues and Perspective*, (2015) 1(1)



some Muslim jurists make preservation of religion first. In addition, religion instils in the individual self-discipline, sacrifice and sensitivity to the welfare of people⁵³ and even morality. This position is corroborated by the view of Chapra who was quoted to have maintained that: Faith is put first because it provided the world view which tends to influence the whole human personality. Faith provides the moral filter which injects meaning and purpose into the use of resources, and also the motivating mechanism needed for its effective operation.⁵⁴

In the same token, when a large number of Islamic scholars announced a Universal Islamic Declaration of Human Rights in 1981 citing copious of Islamic scripts in support at the United Nations, Educational, Scientific and Cultural Organization (UNESCO), many members of the United Nations High Commissioner for Human Rights (UNHCHR) claim that this will jeopardize the intercultural consensus on which the international human rights instruments were built upon. In rejecting this claim, however, other members asserted that the declaration: Add new positive dimensions to human rights, since, unlike international instruments, it attributes them to a divine source thereby adding a new moral motivation for complying with them.⁵⁵

Further, when discussing challenges facing medical ethics among European medical practitioners, Kasule posited thus: The Europeans medical profession found itself in a dilemma because moral values were not part of the secular medical tradition...Muslims did not face a similar dilemma because Islamic law, unlike European secular law, is based on a complete system of morality and can therefore handle all moral problems that arise in medicine from a legal perspective...Europeans have had a problem dealing consistently with moral issues after removing religion from public life over the 5 centuries of secularism that followed the European renaissance.⁵⁶

The line of argument is that the quotations cited above highlight the important place which religion occupies under Islamic Law. Therefore, any film produced, censored and classified whether by the Board (i.e. NFVCB) or otherwise, but its content is capable of undermining the preservation and promotion of Islamic religion, will enjoy the sanction of Islamic Law.

4.2 Life (*al-Nafs*)

As for life (*nafs*), without doubt in the absence of it there would be nothing. This pinpoints to the importance of preserving life. Priority given to life by Islamic law is evident in many places in the Qur'an. For instance, Allah laid down injunction:

AHULJ 342-344; Owoade A.A. and Onikosi A.A., *Jihad and Terrorism in Nigeria: Any Meeting Point?*(2017) 1(1) HUIJIL 40-64.

⁵³Kamali M.H., *Shari'ah Law: An Introduction*, (One World Publications 2008) 29.

⁵⁴ Quoted from Umar A *et al*, 'Accessibility to Basic Healthcare Services And Its Implications on Maqasid Al-Shari'ah: A Study Of Muslim Community in Uganda' 67<[https://www.idosi.org/mejsr/mejsr23\(6\)15/26.pdf](https://www.idosi.org/mejsr/mejsr23(6)15/26.pdf)> accessed on 15 June 2017.

⁵⁵Auda J, *Maqasid Al-Shari'ah As Philosophy of Islamic Law: A Systems Approach* (The International Institute of Islamic Thought 1428AH/2007CE) 23.

⁵⁶Kasule O.H., *Medical Ethics from Maqasi Al-Shariah*, 3 <www.google.com/search?client=firefox-b-e&q=Kasule+O.H.%2C+Medical+Ethics+from+Maqasi+Al-Shariah%2C> accessed 29 March 2025.



Because of that We ordained for the Children of Israel that if anyone killed a person, not in retaliation of murder, or (and) to spread mischief in the land- it would be as if he killed all mankind, and if anyone saved life, it would be as if he saved the life of all mankind.⁵⁷

More so, the 1999 Constitution also recognizes preservation of life as one of the basic human rights which has to be secured when it provides thus: 'Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria'.⁵⁸

Therefore, life should be preserved at all cost with all available lawful means. To preserve life, Islamic religion instituted marriage and procreation. It equally, legislated consumption of essential foods, water, and clothing. On this, Chapra and Ogunbado are being cited to have rightly noted as follows: Preserving life requires the provision of all the basic needs such as food, health care, clothing, shelter, transport, and education for survival and protection against harm.⁵⁹ Furthermore, in a bid to preserve life, Islamic Law prohibits putting oneself into destruction⁶⁰ and it obligated the Law of Equality in punishment (*qiṣāṣ*), blood money (*diyyah*) as an atonement on who killed another person unjustly.

Flowing from the above, any film produced whose content can hinder the preservation of life, such as films promoting suicide, extra-judicial killing, infliction of harm on others, will not be accorded copyright under Islamic Law. It must be mentioned here that Nollywood should draw lessons from Indian film productions industry (Bollywood) in displaying on the screen words of caution and warning whenever scenes depicting harmful or unethical behavior, such as child abuse, women victimization, are being showed.

4.3 Intellect (*al-‘Aql*)

In a drive to preserve and protect intellect, Islamic Law prohibits alcoholic drinking and consumption of intoxicating substances in all its ramifications.⁶¹ Also, Islamic Law laid down punishment for whoever intentionally drinks alcohol or consumes hard drugs. Further, since Islamic law usually considers human interest, it, therefore, attaches more importance to seeking knowledge.⁶² Hence, any film produced that is counterproductive to the preservation of intellect, such as smoking cigarette and consumption of hard drugs, does not meet Islamic Law standards and therefore no copyright is recognized for such film under Islamic Law.

4.4 Honor (*al-‘Ird*)

With the purpose of guiding against all things capable of disrupting family genealogy, Islamic religion punishes offender who commits fornication or adultery, male or female.⁶³ This is to

⁵⁷Qur'an 5 (*al-Maidah*), verse: 32. Commentary rendered by Al-Hilali M.T. and Khan M.M., *The Noble Qur'an*, (Darusalam Publishers and Distributors 1996).

⁵⁸See s 33 (1) of the 1999 Constitution of the Federal Republic of Nigeria.

⁵⁹Umar A. *et al* (n 54) 67.

⁶⁰Qur'an 2 (*Sūrah al-Baqarah*), verse 195 states thus: '...and do not throw yourselves into destruction...'

⁶¹Qur'an 5 (*Sūrah al-Mā'idah*), verse 90 provides thus: O you who believe! Intoxicants (all kinds of alcoholic drinks)...are an abomination of Satan handwork. So avoid (strictly all) that (abomination) in order you may be successful'.

⁶²The first chapter being revealed to the Prophet of Islam (peace be upon him) was 'read'. See Qur'an 96 (*Sūrah al-‘Alaq*), verse 1.

⁶³See Qur'an 24 (*Sūrah an-Nūr*), verse 2.



preserve the sanctity of family genealogy. There are many instances where DNA test showed that a particular man is not the real father of a child. For instance, Kayode Olanrewaju, a Nigerian footballer, once alleged that the DNA test he carried out on his three children revealed that he is not the biological father.⁶⁴ Although, his wife denied the allegation.⁶⁵ Islam being a religion of decency frowns at unpleasant situation as this.

Further, Islamic Law punishes whomever accuses another person wrongly of committing adultery. Thus, any film shot to promote things that can disrupt family, such as adultery, fornication, same-sex marriage, will not be accorded copyright under Islamic Law.

4.5 Property (*al-Māl*)

Islamic law obligates earning of livelihood through lawful means such as trading while it strongly frowns at begging for alms. Thus, acquisition of property through lawful means is a legal right guaranteed under Islamic Law. In order to protect this right from being trampled upon, Islamic Law prohibits theft, cheating, devouring other people's property unjustly, and destruction of property and practice of *riba* (usury).⁶⁶ Also, it laid down severe punishment for who commits offence of theft.

Thus, any film produced capable of promoting deprivation of people of their property does not meet Islamic Law standards and therefore copyright of such film is not sanctioned under Islamic Law.

5.0 CONCLUSION AND RECOMMENDATIONS

From the foregoing, it has been established that film productions industry is flourishing in Nigeria. Equally, the paper revealed that the Copyright Act 2022 accords these works copyright in order that the holders of those rights enjoy the fruits of their intellectual efforts irrespective of whether they contain indecency or not. In addition, it is explained that the NFVCB is empowered to censor and classify any film produced in Nigeria. It is also stated that as regards the copyright for these films censored and classified, Islamic law has peculiar standards which such work must meet. In other word, such film so produced should not hinder the general objectives of Islamic Law. Therefore, no circumstance should any verdict be passed to hinder the realization of these objectives. Put differently, anything capable of jeopardizing Islamic religion, destroying life, disrupting family genealogy, negatively affecting intellect and depriving people's enjoyment of their legitimate property, does not enjoy the sanction of Islamic Law.

Based on these findings, the paper recommends as follows:

- i. The Nigerian Copyright Act 2022 should be amended. Thus, the Nigerian federal lawmakers must categorically make provision for ineligibility of immoral cinematography copyright in the Act.

⁶⁴DNA Test Shows Nigerian Footballer is not the Father of all his three kids <www.youtube.com/watch?v=Mfls2c-SqBA> accessed 29 March 2025.

⁶⁵Owede Agbajileke, 'You Lied, Olanrewaju's Wife Fight Back on Alleged Failed DNA Test' *the Guardian* (Abuja, 27 May 2024) <<https://guardian.ng/news/you-lied-olanrewajus-wife-fights-back-on-alleged-failed-dna-test/>> accessed 29 March 2025.

⁶⁶Islamic Law does not permit the practice of *riba* (usury). See Qur'an 2 (*Sūrah al-Baqarah*), verses 275, 276, 278, and 279.



- ii. The NFVCB should ensure that in the course of censorship and classification of films, no film is approved whose content is to impede the preservation of religion, life, intellect, honor and people's wealth.
- iii. It is equally recommended that the Nigerian film productions industry (Nollywood) should borrow leaf from Indian film productions industry (Bollywood) in displaying on the screen words of caution and warning whenever scenes depicting harmful or unethical behavior, such as cigarette smoking, child abuse, women victimization, are being showed.