Higher Education
in the International Digital Economy:
Effects of Conflicting
Copyright Regimes
on Cross-Border Teaching

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About Education International:

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Abstract

A survey of teachers in higher education who teach across borders shows that they experience, in all regions of the world, similar problems with inability to access materials for themselves or for their students. They also find that they need to change course design, materials or assignments, because of copyright-related problems. These problems can range from geographically-restricted content to inaccessibly high-priced materials to contract limitations on access to library-purchased materials. Globally-accessible higher education is limited by copyright obstacles to educational mission. This study also supports existing empirical work in copyright showing chilling effects from strict copyright policies.

Keywords:

Higher education,
copyright,
exceptions and limitations,
teaching

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Introduction

This study investigates how clashing copyright regimes affect the work of cross-border teaching in higher education. It explores constraints on pedagogy both from copyright policies at the national level and from conflicts between regimes internationally. The international conflicts are particularly relevant because increasingly, higher education is conducted with virtual elements and across national borders. This cross-border activity can occur because co-teachers work in different jurisdictions, because students are far-flung, or because universities have international branches.

As the recent pandemic demonstrated, and as previous research has shown, pedagogy requires flexibility that tests existing copyright laws and institutional norms, including when dealing with online environments. However, little is known about actual professorial practice in working across jurisdictions. Thus, this research is guided by the question, "How do teachers in higher education who work across borders experience obstacles to accomplishing their mission from copyright-related issues?" We ask both what obstacles teachers encounter, and also what they do when faced with them.

Copyright and cross-border education

This research question is timely, as the field of higher education increasingly involves crossing jurisdictional borders. Copyright is territorial; each national copyright policy governs the work and actions of people within it. Copyright regimes may not only be complex within a jurisdiction, but they may be different from those in another.

The increasing trend in international higher education offerings makes this question particularly relevant. Teaching that reaches students across borders, and that involves collaboration between teachers in different parts of the world, has been identified as an area of possible economic growth. Over recent decades, there has been a worldwide increase in the mobility of educational professionals, across different education levels and geographic regions. An abundance of scholarship details the benefits of and challenges for migrant teachers. When adjusting to new educational contexts, migrants or cross-border teachers face challenges that range from conflicting administrative regulations to cultural problems related to pedagogy practices and different teaching values and expectations. (Caravatti et al., 2014; Bense, 2016).

This international trend intensified with the Covid-19 pandemic. For many, the pandemic forced a sudden change in teaching-learning, with compulsive lockdowns affecting the education sector. Online modalities attracted intense attention during this period, and boosted challenges faced by teachers when migrating to online platforms.

Empirical studies reveal a general lack of knowledge and skills to handle online educational infrastructures, including in regard to copyright issues. In a survey by Hassan et al. (2020), most teachers (74%) said that they address plagiarism and copyright issues when creating their online teaching content, and they also agreed that creating e-content

takes more time and effort than classroom teaching. The surge in online teaching also fueled awareness of the need to support copyright literacy in online and hybrid learning situations (Gilmour & Garcia, 2021). A comparative analysis of copyright policies showed that in various jurisdictions, protection of copyright owners went beyond the requirements of international treaties, and hampered the work of educators (Wahid & Azmi, 2012).

Academic libraries face the challenge of supporting the research and teaching needs of faculty, staff, and students alike, helping them navigate copyright and licensing matters in a moment in which there was an increase in requests for e-resources and questions about them (Norris et al., 2021). The pandemic also prompted new guidelines for the use of alternative copyright options for teaching materials such as films and other audiovisual content (Hudson, 2022). It fostered the discussion of interventions to remedy copyright infringements in the name of serving the needs of online students, including the embrace of in-house and open-access publishing by higher education institutions (Hudson & Wragg, 2020). As Contardi et al. demonstrate, the abrupt shift to online learning modalities widely illustrated how copyright inflexibility could be a barrier to educational engagement during a crisis. It also opened the door to new ways of managing educational resources. In this context, the authors concluded, current copyright exemptions, especially under European law, may not be enough to safeguard the experience of students and teachers using copyrighted content within digital platforms and across countries (Contardi et al., 2022).

The difficulty of navigating copyright exemptions is amplified in cross-border settings. For example, in Europe, studies by Jütte (2019) and Priora et al. (2022) demonstrate that there is much uncertainty about how copyright exemptions apply to cross-border contexts, from different users' perspectives to fragmented national implementations of the law. Researchers concluded that such uncertainty is harmful to the teaching mission, especially to those teaching and studying from within developing countries (Wahid & Azmi, 2012).

These problems have been recognized but not been fully addressed with open-access materials or existing exceptions. Open Educational Resources (OER) have been widely heralded as a way to lower barriers across borders to the cost of textbooks. But research in various jurisdictions shows copyright presents obstacles to OER disrupting traditional textbook models, particularly in distance education scenarios (Chen & Panda, 2013; Santosh & Panda, 2016). An analysis of the EU's Directive on Copyright in the Digital Single Market's showed that its educational exception fails to provide a legal framework that ensures full legal certainty and addresses the concerns of those engaged in teaching (Jütte, 2019).

Research on copyright in the increasingly common situation of globalized teaching has shown that copyright policies can be expected to lead to problems in meeting the teaching mission. However, the literature does not show evidence from the teachers themselves about how they experience these problems in doing their work, and how they cope with them. Thus, we explored this question directly with teachers who work across national borders.

Copyright and cultural production

This study is relevant to the burgeoning area of empirical research in copyright studies more broadly, as well. Educational practices are relevant to this channel of inquiry. Educational processes clearly have immediate and long-term social benefits, as they enable greater participation in society. Education is crucial to cultural and economic growth, to political stability, and to individual fulfillment. Problems that teachers have in accomplishing their educational mission are visible directly and immediately, as they conflict with the teaching mission. Thus, education is an arena in which inquiry about copyright's effect on cultural production is relevant.

Copyright studies scholars have long debated the value and costs of long, strong, internationally harmonized copyright for cultural production. While copyright-dependent industry interests have vociferously argued that copyright is a crucial guardian of the fount of creativity, many legal scholars have argued that the inherent censorship aspects of copyright have significantly constraining effects on innovation and cultural production (Boyle, 1996; Jaszi, 1994; Patterson & Lindberg, 1991; Tushnet, 2009). Certainly, copyright is not crucial to cultural production. Not only has cultural production flourished for millennia in the absence of copyright law, but even in the full vigor of copyright monopoly, artists' practices often respond to other priorities (Bowrey, 2021). Entire business sectors, such as high-fashion clothing design, and some markets, e.g., Hong Kong films 1970s-1990s, have operated effectively and lucratively without copyright protections. Some vigorous markets, e.g., weather-based services, are grounded in non-copyrighted data (Esanu & Uhlir, 2004).

Empirical research in general has documented the constraining effects of copyright monopoly. It has also shown the importance of exceptions and limitations to monopoly rights, for creative production. There has now been a generation of empirical scholarship on the relationship of copyright and cultural production, as reviewed by Sprigman (2018). Scholars have used laboratory experiments (e.g., Bechtold et al., 2016), ethnographic/ interview work (e.g., Bowrey & Handler, 2014) and natural experiments (e.g., Aufderheide & Jaszi, 2018; Waldfogel, 2012).

Copyright limitations are particularly pertinent to the library context, which has a direct effect on teachers' choices. Libraries, archives, and other memory institutions are stewards of some of the largest collections of copyrighted content in the world. Libraries are at the crux of information sharing---particularly in the education context---as they share information with both teachers, students, and play a vital role in the acquisition of coursework, media, and academic literature.

Academic research, which has a direct effect on what and how teachers teach, is facing a crisis related to copyright. The proliferation of paywall and copyright barriers has led both to barriers to learning, and to the rise of increased piracy. Motivated by maximizing access, pirate websites have amassed a significant user base. (Mohan & Gupta, 2022)

Some of the more prominent "*academic pirates*," such as Sci-Hub, have managed to provide access to over 68% of the world's scholarly literature (Mohan & Gupta, 2022).

As a result, researchers and teachers sometimes bypass the legal channels of acquiring materials through their libraries, often because libraries cannot afford the costs of these scholarly journals. This process feeds a negative spiral of increased control measures on the part of commercial vendors to libraries, which then exacerbates the problems teachers have.

E-books have tremendous potential to help further remote learning goals, including by reaching populations that can be disenfranchised from brick-and-mortar libraries: remote and regional users; shift and 'gig' workers; and those with mobility or vision impairments (Sieghart, 2013; Flynn et al, 2019). But that potential is affected by laws that regulate e-books very differently to their physical equivalents. Acquiring and lending e-books involves the making of copies and transmissions, and that can't be done without the copyright owner's permission. Thus, libraries need publishers' permission to hold e-books in their collections and lend them out, often under highly restrictive terms (Giblin & Weatherall, 2015). E-book access is commonly limited by geography, number of users permitted to access at one time, and number of times a book may be accessed in total. The price of universal or in-perpetuity access may be prohibitive or even unavailable. This often results, among other things, in discrepancies between the content that is available in some jurisdictions, but not others.

Thus, empirical research on copyright's effects on cultural production in other and related areas—especially libraries, where collecting and access behaviors directly affect teachers—also suggests, as had research in higher education specifically, that teachers working across borders in higher education may also experience constraints to mission from copyright.

This study adds the voices of teachers themselves to the inquiry. It explores how teachers do their work when they work across borders, given known copyright access and use problems.

Methodology

This research relies on the results of a survey and in-depth interviews. Between March 15 and May 15, 2023, we ran a survey via the Qualtrics platform, assuring secure data storage. This study was approved by the American University Institutional Review Board (IRB) and answers were fully anonymized through Qualtrics. The survey consisted of a total of nine questions:

Q1: Do you teach or have you taught in higher education?

Q2: Do you teach, or have you taught, across national borders? For instance, co-teaching with someone in another country; teaching students located in different countries; and teaching for an institution based in one country, but at a location in another.

Q3: Have you ever encountered obstacles related to copyright because you were teaching across borders?

Q4: If yes or "not sure" to Q3, what problems have you encountered
when teaching across borders? Choose all that apply.

Q5: How have you coped with the copyright challenges of
working across borders? Select as many as apply.

Q6: Would you be willing to talk to us about your issues, or communicate via email?

Q7: Please share your email here, and we will follow up with
you to see if you are interested in talking with us.

Q8: In which regions are you located when you teach or
have you taught? (Choose as many as apply.)

Q9: In which regions do/have your students or co-teachers
teach or learn? (Choose as many as apply.)

Respondents were recruited through Educational International networks, as well as via emails to listservs of the professional organizations Association of Internet Researchers (AoIR), the International Communication Association (ICA), Library Futures, Authors Alliance, University Film and Video Association (UFVA), Access to Knowledge and the academic networks IPProf-l, Cyberprof-l, and Righttoresearch. The authors also shared the survey with their own networks in the federated social media Mastodon instances AoIR.social and Scholar.social. Several of the listservs, as well as the social media, featured communication, as teachers in various fields of communication are particularly dependent on current copyrighted material, and are usually aware that they are.

No specific demographic information was collected, as we did not develop research questions related to the effect of such demographic categories as race, gender and age on the problems teachers experience with copyright in doing their jobs.

A total of 238 respondents started to take the survey, of whom 214 were eligible because they stated they have experience teaching across borders.

Interviews

Respondents were contacted for interviews if, in their survey responses, they provided their contact information in a survey question asking for an interview. A total of 27 individuals provided their email addresses, out of which 24 were valid (i.e., no bounce-back). Out of the 24 individuals whom we contacted, six responded to our multiple requests for follow-up, and those six were subsequently interviewed via Google Meet video.

At the start of each interview, respondents were informed about the anonymized nature of data collection and were assured that no personally identifiable information, or information that could be used to trace back to respondents, would be included in the final report. Respondents were asked for consent to record the interviews for temporary use (with expectation to destroy upon publication), as well as for consent to develop a transcript, kept in secure storage. Each interview began with a summary of the research project, our methodology, and the intended purpose of the research results.

The interviews were conducted as open-ended conversations, using a semi-structured protocol. The interviews began with background information-gathering, such as where the respondent teaches, the location(s) of their students, and the nature of their coursework. We asked respondents to expound on their responses in the survey, to describe the materials access and sharing problems that they faced, as well as challenges with designing appropriate assignments. We then asked how they coped with these problems and adapted their work to accommodate them. Finally, we asked what each respondent would do differently within their courses if they were not faced with such barriers.

Results

Survey respondents were free to choose which survey questions they wanted to answer. Moreover, for most multiple-answer questions in the survey, they could choose any number of answers that resonated with their own experience. Therefore, and as we indicate below, for some questions the results and percentages reported in this study sometimes refer to the total number of answers to the question, and not necessarily to the total number of respondents that chose to answer a particular survey question.

Interviews universally reinforced conclusions from the survey. (All interviewees are referred to here with they/them pronouns, to protect identity.)

As seen below, out of 78 survey respondents who chose to disclose in which regions they are located when they teach, all five regions of the world were represented. (Middle Eastern respondents could choose between the relevant regions—Africa, Europe, Asia.)
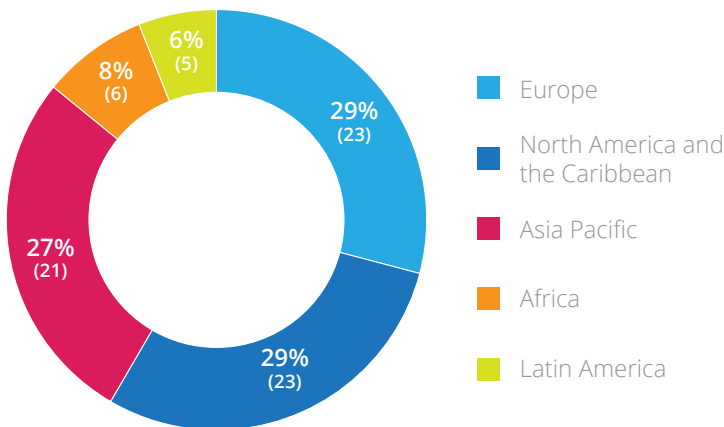

Europe — 29% (23)
North America and the Caribbean — 29% (23)
Asia Pacific — 27% (21)
Africa — 8% (6)
Latin America — 6% (5)

Figure 1. Where respondents were located

Source: authors' elaboration

The same can be said about where their students and co-teachers are located, as seen below. More students and co-teachers than respondents were situated in Asia and Latin

America. The majority of cross-border teachers that took the survey were located in Europe or North America and the Caribbean, but the majority of students and co-teachers were located in Europe or Asia.
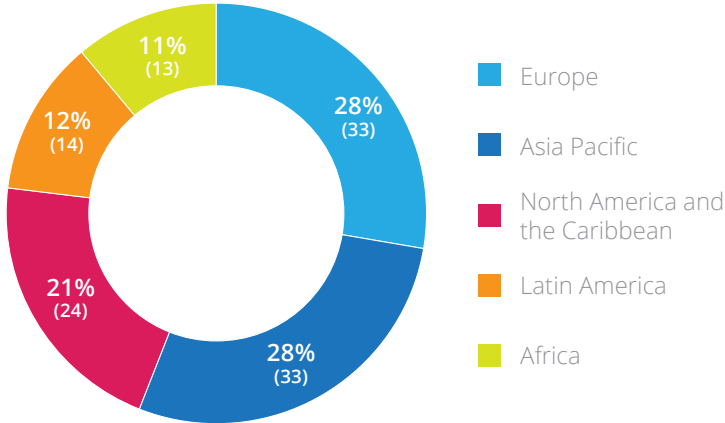

Figure 2. **Where students and co-teachers were located**

Source: authors' elaboration

Problems in cross-border teaching

About half of cross-border teachers report copyright problems. Out of 157 respondents to that question, 51% reported either they have encountered copyright problems or were not sure if that was the case.
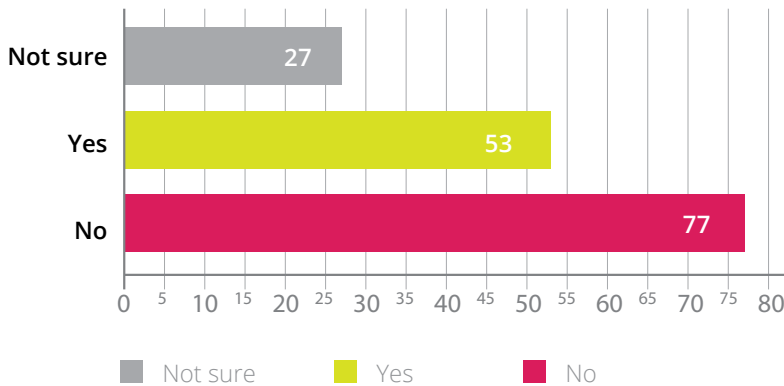

Figure 3. **Experience of copyright problems in cross-border teaching**

Source: authors' elaboration

When it comes to the types of problems they encounter, out of 146 respondents, people typically experienced more than one challenge. The most common was about access to materials. Over half of the responses (aggregating 6,8,10 and 14) registered that students or teachers could not access materials across borders. Access problems included their own incapacity to display teaching materials to students in another country (20%), libraries impeding access (11%), problems when sharing materials (10%), or when accessing material that is in a different country (11%).

ID	Answer	%	Count
6	Can't show/display teaching materials in class to students in another country	19.86%	29
7	Costs were too high to purchase/license materials for use in another country	18.49%	27
12	Other (please explain)	15.07%	22
8	Library would not provide access to materials to teacher or students in another country	10.96%	16
14	Can't access teaching materials that are in another country	10.96%	16
10	Can't share teaching materials with international co-teacher/students	10.27%	15
9	Can't break encryption to quote from material because it is illegal in one of the countries involved	4.79%	7
11	Can't share student work outside course in one of the countries	4.11%	6
4	None	2.74%	4
5	Not sure	2.74%	4

Figure 4. Problems encountered with copyright

Source: authors' elaboration

Dealing with copyright problems

Some 104 respondents shared how they cope with the copyright challenges they face when teaching across borders. They could choose more than one option. One fifth (21%) of responses indicate they try to ignore copyright problems. As explained by one respondent, "*While I teach how to navigate copyright / IP issues according to my home [deleted name of country] copyright law, I don't concern myself too much with seeing how this relates to IP law elsewhere*."

Among the minority of respondents who volunteered written comments, a few also volunteered the information that they had committed what they understood to be copyright infringement. (We deliberately avoided asking respondents specifically about actions they believed violated rules or laws, but a few volunteered this information anyway.) When we asked interviewees about workarounds, some of the common responses were: "*We have ways*" and "*we make it work*." All of them divulged without reservation techniques that could infringe copyright. These workarounds included sharing content among colleagues, using VPNs, copying online streams and then uploading them, or using a database such as LibGen or SciHub.

"*We breached copyright rules to make the course work by providing pdfs to readings,*" one survey respondent noted. Another wrote, "*Students use VPN and illegal downloading services to access materials.*" The widespread practice of photocopying or otherwise reproducing from one copy, especially among students, was also mentioned. One wrote, "*Mostly I ignore the copyright laws and find ways to by-pass systems. There are many ways (VPN + TOR + library passwords from overseas colleagues + Sci-Hub and other similar websites) to obtain and share materials that can't easily be policed or traced*." These practices also include involving colleagues living under different copyright jurisdictions to circumvent problems: "*I asked a colleague to download a video file and send it to me via email.*" One interviewee set up a Facebook Group for their class, to share course readings by uploading PDFs to the Group. They said the reason for this was that their university may have paid for a license to a specific text that the university in which their students were located did not, and so they were otherwise unable to obtain access to it. A survey respondent wrote that they occasionally upload copyrighted films to Vimeo so that their students are able to access them, using Handbrake to break encryption on the film. They explained that, when looking for a film, they initially go through all the (legal) channels that are expected of them to try to make the works available.

Workarounds permitted some respondents and interviewees to teach their courses with their first-choice materials. Many respondents, however, even when they were employing workarounds to get their own and student access to materials, also had to change their teaching to accommodate copyright problems. The bulk of the survey responses (60%) reported some sort of adaptation of teaching. Teachers change the materials they use because of copyright (38%), or the assignments they use (14%). They also provide different assignments to people in different countries (8%). In a few cases (3%), teachers give up, either by deciding not to teach a particular course (2%), or giving up the idea of co-teaching with someone in a different country (1%).

Some teachers openly expressed caution and deliberate avoidance of workarounds, sometimes out of concern for what their copyright choices may entail to the institutions they are working in and for. For instance, one respondent said:

[National] law [in a country in the Global South] allows for flexible use of copyrighted material for academic purposes and institutions; however, I am teaching here from [an institution in] another country and the material I am looking at sharing with colleagues and students is subject to this other country's domestic law and more restrictive licensing terms. Out of cautiousness and in order to prevent any unintended legal challenge for the academic institution in [other country], I avoid using that material when teaching there remotely.

More often than not, their university systems are stretched for resources and there is insufficient copyright advice available. One respondent stated:

University left students and staff to figure out copyright on their own. According to [national] copyright law, a lot of copying is LEGAL IN EDUCATION or RESEARCH (non-profit). Especially during COVID, with many international students (and staff) living in other jurisdictions this posed a problem that was never addressed and no support was offered.

Time and energy are not the only costs involved. Material costs can be involved, including personal ones. One interviewee stated that they have purchased films with their own money, in order to upload and share with their students because the film was not otherwise available from the library, and they did not want to direct students to Netflix, since some might not have an account available to them. A survey respondent mentioned:

I purchase materials for my personal collection and use them in class. But I also ask our library to purchase the materials when they can...Currently our library, which was once open to buying anything and everything because they were building a collection, now has a limited budget.

Uncertainty and confusion about copyright is common. Out of those survey respondents who answered whether they have encountered copyright problems or not, almost a fifth (17%, 27 respondents) answered they were unsure about their own experience. Sometimes teachers reported issues such as national-censorship blockages as a copyright challenge, when it typically is a political policy choice. Conversely, some described contract terms, which are related to copyright since it is the copyright that permits the holder to set contract terms, as not related to copyright. However, contracts that their libraries sign with vendors are indeed grounded in copyright policy, and bind users to certain actions as a result of the vendors' copyright monopoly rights.

Discussion

The problems

Teachers face a range of problems related to copyright, as this study shows. The majority of respondents to the survey, as well as all the interviewees, reported having problems with copyright. However, many problems teachers experience are not identified directly as copyright problems, even though they are caused by copyright policies. Fig. 4 demonstrates the commonality of teachers' experience at one remove from, but directly linked, to copyright policy.

For instance, teachers' issues with copyright may also be experienced as problems with

terms of service or technological limitations of platforms, because of often-pre-emptive monitoring of use of copyrighted material. Automated bots searching out copyrighted material are notoriously bad at identifying, or even unable to tell what is an exempted use of copyrighted material. In a few instances (5%), people specifically reported not being permitted (e.g., under anticircumvention laws similar to the Digital Millennium Copyright Act) to break encryption. Other complained, including in interview, of being blocked on platforms such as Zoom or proprietary learning-management software from using material under a legitimate copyright exemption. One wrote, "*film clips and images from certain streaming services are blocked/blacked out from Zoom even though the usage is educational fair use*."[1] In all these cases, it is probable that technological mechanisms go well beyond copyright in blocking use of copyrighted material.

Or teachers may experience copyright obstacles as problems with geoblocking, because of control over copyrighted material. In any case, their problems all go back to a tight control— sometimes well beyond requirements of copyright law itself— over copyrighted materials. This tight control is typically exercised within a pattern of geopolitical North-South power dynamics.

Teachers may also experience problems with library access, because of vendor contracts or low budgets to purchase copyrighted materials. Costs of licensing and purchase, a direct exploitation of copyright monopoly, get in their way, for cross-border teachers. E-book access terms can be so limited that they are unworkable for crossborder teachers. In 19% of responses, teachers complained that materials were hypothetically available under copyright but not affordable to use in a country they needed either to teach in or have students access the material in. Some respondents complained that textbook companies limited access to necessary worksheets to students in the country of licensing, while they taught students in another. They noted as well experiencing problems when "*overseas students can't access materials through university databases.*" These are all problems related to the contract terms libraries agreed to with their vendors.

Access problems are not caused by copyright alone, however. One common problem teaching across borders is the national-level blocking of entire platforms, such as YouTube, for censorship or other reasons of the state, e.g., privileging its own national platforms.

How teachers dealt with problems

With a fifth of respondents openly saying they ignored what they believed to be either institutional rules or a nation's laws, we saw a substantial minority of teachers who were willing openly to acknowledge that they did not consider copyright when executing their mission. Presumably these people also found private workarounds to address the needs they experienced that led them to ignore copyright restrictions. Three respondents/interviewees also stated that they were able to "*fly under the radar*"

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1   This comment, in using the phrase "*educational fair use*" demonstrates a loose lay understanding of the law. In jurisdictions where fair use applies, educational and fair use exemptions are distinct, although both may legitimately apply in a teaching context. Fair use is easily imaginable in the scenario provided.

in this way because their courses were comparatively small. Many more responses, indeed the great majority--even from those who were willing flout rules--involved reluctantly finding second-tier curriculum and materials.

Some teachers believed they were just too unimportant for someone to care: "*I share/ use the materials anyway and wait to see if anyone will sue me.*" Others felt they were pioneering a technique that later would require better resources to be expanded. Some chose second-choice materials, redid assignments, or otherwise adapted to provide what they believed to be an inferior experience. A few abandoned hope.

Why do teachers do the kind of adaptation that they do?

Under such an uncertain and potentially risk-taking scenario, what values are being upheld so that teachers keep trying to deal with the copyright challenges they face? Meeting mission appears crucial to choices, when teachers decide to go "under the radar." *One communications teacher explained in interview that they chose these options because they are "deeply committed to these films being available, and finding ways to do it. If these films aren't findable, they won't be found, and we'll lose entire eras and subgenres.*" One survey respondent noted that if it gets to a point if something is unavailable due to geography or lack of ownership, I will [do a workaround.] Because it means the scholarship and analysis of that text will otherwise be unachievable. If we can't analyze questions or look deeply, it means we can't question society - and that's the space I work in.

Another survey respondent wrote:

> *With films and broadcast content, it is often necessary just to decide not to use the resource, or rely on asking the students to watch it in their own time if they can. Sometimes a risk-managed approach like showing a short extract of such content may feel justifiable for educational purposes.*

Another respondent expressed a radical critique of the consequences of copyright law in general, because of the ways it violated a teacher's mission to foster knowledge:

> *Scholarship and my students come first. I work in a underdeveloped, non-Western context where libraries do not have the resources to get journal and data base access. Moreover, I consider the typical copyright period for artistic and academic material (usually 70+ years) immoral. Consider, in contrast, the relatively short period of protection (about 20 or 30 years) for discoveries by pharmaceutical companies. It has never been adequately explained to me why a pharmaceutical company can recover many hundred-millions in expenses in such a short period, but why access to an out-of-press book from someone long dead should be restricted...To give a concrete example, a central database for both my research and teaching is the* HathiTrust Digital Library.[2] *However, most poor*

2   HathiTrust Digital Library (HDL) is a large-scale collaborative repository of digital content from about 80 research libraries in the U.S., Canada and Europe. It includes works from those collections digitized via Google Books and the Internet Archive digitization initiatives, as well as content digitized locally by libraries. All its contents are accessible to members of the collaborating institutions. The library's contents are also fully searchable, with snippets only displayed in the case of copyrighted works, by the general public. The general public may also access public-domain materials in full. Digital access to full texts of copyrighted works is provided as well to

universities do not have (and presumably cannot afford) access. Also, HathiTrust uses geoblocking, meaning that it is possible to access more materials if one is based in the United States. Copyright is thus reinforcing existing inequalities. Also, frustratingly, many of the electronic texts with restricted access held by HathiTrust are actually no longer covered by copyright. I can only presume that there are no resources at HathiTrust to check the copyright status of each text, meaning -- I can only guess -- that HathiTrust has erred on the side of caution and blocked materials that have not been checked. I give financial support to the Internet Archive in the hope that it might one day enable global access to the resources restricted by for profit institutions.

The idea that copyright reinforces existing inequalities in the teaching environment, especially across borders and in non-western contexts, resonated with other respondents too. Whether teachers were wary, cautious, resigned, entrepreneurial or politically motivated around copyright policy, they commonly put the efficacy of their students' education above all else. They were resentful about being forced to find workarounds, to make second-best choices, and to forego rewarding pedagogical experiences.

What are the implications of the obstacles teachers encounters?

The results of the survey show clearly that only in a minority of cases did teachers say that they chose to find workarounds, legal or not, to their copyright problems. Often they were stuck with second-choice options, more labor, and even wasting time on a project that could not go forward. And even teachers who chose workarounds often had to settle for less. In all these cases, and as they were acutely aware, the loss was not only their individual loss, but a loss to individual student experience in that course and, more importantly still, to the development of truly cross-border pedagogy.

The copyright problems reported not only limit the resources available to teachers and students, but may also impede creativity. They keep teachers from motivating students to do their best work. For instance, one respondent mentioned, "*We teach how to get round it [copyright], and most projects do have to be clearable [according to global North country] IP law, but we have some, archive-based projects where we relax this in order not to stifle creativity*." Not everyone thinks they can afford to relax their copyright standards, and not everyone even has that choice. These problems prompt some teachers, however reluctantly, to harmonize their teaching to the more restrictive environment, and payment. Teachers may avoid what would be their first choices for teaching because of copyright constraints, which thus limit their full teaching potential. They may have to settle for second- or third-choice materials, and to take valuable time to find that.

Whatever their choices, teachers who work across borders have to work longer than other teachers for their results. Teachers invest substantial extra labor in finding

patrons with print disabilities certified by a partner institution. Copyright status of the holdings is determined by the work's bibliographic information. Access for the general public depends in part on the user's IP address, which is taken into consideration in calculating the work's status in different copyright regimes. For other purposes, for instance computational or nonconsumptive use (analyzing large bodies of text for patterns, not for the specific work), U.S. copyright law is the default.

workarounds, in developing second-choice solutions, and investing time in new projects that do not work out because of copyright. For example, one interviewee stated that one of the biggest "*costs*" to the teacher was time spent searching for alternative course content because their first-choice was blocked, due to copyright restrictions. When asked what would be different for them if not presented with these copyright barriers, many respondents responded that they would save substantial time from either searching for alternative content, or finding workarounds. Students may also share some of this extra labor burden, and the difficult choice whether or not to potentially infringe copyright. This both increases student labor and inhibits their learning mission. One respondent extended these perceived effects to their students, stating, "*It would make students' lives easier*" [if certain films weren't blocked in the students' countries].

Conclusion

Copyright is very present in the minds of the teachers we contacted. They must constantly navigate copyright questions. They experience frustration, the necessity to change course design or selected materials, and the need to change course assignments. They sometimes choose to do or permit activities that they believe may violate the law, out of a commitment to their pedagogical mission.

Such cautiousness and risk-taking initiatives cost teachers and students not only their teaching creativity and content options but are also time and energy. Just navigating what types of content they can or cannot introduce to their cross-border students adds to their teaching workload. In the words of one interviewee, "*It is not so much that there are barriers/problems, it is the fact that it is so time-consuming to clear and also to check that there are no tech issues in student access.*" Moreover, teachers do not always have the support they need to understand their rights and limits when it comes to sharing material with their cross-border students.

The results of the survey and interviews reinforce previous conclusions in the literature. As documented above, teachers experience copyright confusion, lack of support, lack of proper library access from their own institutions, prohibitive pricing, and technical blocking.

This has direct and profound effects on their work, impeding mission and limiting their ability to share success. Expansive copyright in any one jurisdiction, as well as conflicting copyright regimes, limit the quality of teaching, as shown by teachers' need to use personal workarounds, to change curriculum, and to abandon projects. It necessarily inhibits the growth of the sector, since personal workaround solutions cannot be shared publicly, and substandard pedagogy is unlikely to inspire adoption.

Copyright policy is inevitably entangled in questions of how to access and share pedagogical resources. If teachers who work across borders have more reliable access to materials, more confidence in their pedagogical choices and better access to resources, they could do better, more efficient work meeting their pedagogical mission. Lowering

barriers to cross-border pedagogy can also lower barriers between global North and South in access to learning, and it can contribute to growth of the collaborative international trend in international education.

Next steps

A range of potential actions could lower barriers for teachers:

- Tutorials and resources on copyright relevant to the needs of cross-border teachers;
- More development of Open Educational Resources, particularly for textbooks;
- Library contracts with vendors that permit full service to students in other jurisdictions, under the same limited terms (e.g., available for the time period of the course on a learning management system; making library materials accessible with appropriate institutional credentials from international locations);
- Greater investment by an institution for its international and cross-border pedagogy;
- Changes in copyright policy that expand exceptions and limitations for educational use across jurisdictions.

Whatever measures are taken to improve the options for teachers who work across borders, the voice of teachers themselves will be crucial to any changes, at an institutional or a governmental level. Teachers are the ultimate guarantors of the educational mission. The educational mission is at stake when copyright impedes teachers' work. Pedagogy that can lower educational inequity across national borders is at stake when copyright impedes the work of teachers teaching across borders.

Limitations

The survey is limited by the number of respondents, as well as our inability to verify whether they reported accurately the realities of teaching across borders. Because we are dealing with a sensitive legal issue, we presume some respondents may have been hesitant to mention actions that might be technically illegal, such as sharing copyright-protected content widely with students. Further studies could gather information from a wider pool of respondents, and obtain more demographic and experiential data to provide comparisons among subgroups.

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APPENDIX: Hypothetical situations

Our respondents and interviewees deserve the anonymity we promised them, and so in this report we have eschewed providing specific details about any one teacher's situation. Here, in order to draw appropriately from their experience, we provide synthetic scenarios drawn from what we heard from teachers.

Scenario One: Missing a crucial piece

Peter Pedagogue works in a country in the Global South, for an institution in the Global North. He teaches Introduction to Biology online, to students in various countries. As he is required to do for this required course, he uses a textbook assigned by his teaching unit to all teachers of the course. His students have access to the textbook inside the learning management system they all use. But some of them can't get access to the interactive, multimedia, online worksheets and tutorials, given the country they are from. The textbook manufacturer also locks out anyone using a commercial VPN. If you were Peter, what would you do?

Scenario Two: It Was Working Fine Until....

Tamar Teacherly produces weekly course modules from her home office in a country in the Global North. Her course attracts students from Global North and South. Her political science lectures are full of news clips, audio and video from press conferences, and excerpts from articles—all illustrating her arguments about the interrelationships between diplomacy and journalism. But she has discovered that the online platform she uses has an automatic detection system for copyrighted material, and blocks it from showing up. Prof. Teacherly is no hacker, and no techie. And her institution doesn't offer her any help, either. What's her next move?

Scenario Three: So Near and Yet So Far

Fred Frankly works in the Global South, in a different country from the institution for which he works, which is also in the Global South. His job is to teach history to undergrads who sign up from various locations. He uses segments from, and sometimes whole documentary films in his teaching, and some of them are only available on streaming services. In some countries where his students are, these platforms are not available. The government frowns on--and can detect-- use of VPNs. What can Fred do?

Scenario Four: But It's on Netflix!

Petra Professor teaches in a country in the Global South, for an institution in the Global North. She teaches a course on contemporary media to students in the Global South. She often finds the students cannot access the films she wants to show them because the films are only available from streaming services in the Global North. Although some of her students have accounts for this streaming service, its offerings in their country do not include what Petra wants to show. What's Petra's best pedagogical option?

Scenario Five: But It's in the Library!

Isha Instructor works from a branch campus located in the Global North for a university that is in a different country in the Global North. Her students are located in several countries. The sociology publications that Isha wants to share with her students are only hosted on the main campus' platform and cannot be accessed by the students in the other country because the university did not include such terms in its license agreement. Isha does not want to break the law or encourage her students to break the law. How can Isha share the research?

Scenario Six: It Was a Great Idea

Taika Tester and Gary Grader work in two different countries, one in the Global North and one in the Global South. They have developed an innovative, collaborative curriculum to study cross-cultural international studies, focusing on conflict resolution. Their institutions have very different learning platforms, library resources, and copyright laws. While their universities are excited about the idea of collaboration, the professors' efforts to find ways to work together in practice, using their universities' own platforms, have been futile. They can't even find someone who can answer their questions, a lot of the time. They have resorted to widely shared commercial platforms such as Facebook, to discuss and share materials. So far, no one in either professor's institution has complained. But as well, their experiment has not been replicated, because they are reluctant to publicize their methods, for fear they might be doing something that is technically wrong. Is this a problem? If so, for whom?

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