

Coalition Provisional Authority Order Number 83

Amendment to the Copyright Law

Pursuant to my authority as Administrator of the Coalition Provisional Authority (CPA) and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 and 1511 (2003),

Having worked closely with the Governing Council to ensure that economic change as necessary to benefit the people of Iraq occurs in a manner acceptable to the people of Iraq,

Acknowledging the Governing Council's desire to bring about significant change to the Iraqi intellectual property system as necessary to improve the economic condition of the people of Iraq,

Determined to improve the conditions of life, technical skills, and opportunities for all Iraqis and to fight unemployment with its associated deleterious effect on public security, Recognizing that companies, lenders and entrepreneurs require a fair, efficient, and predictable environment for protection of their intellectual property,

Noting that several provisions of the current Iraqi copyright legislation does not meet current internationally-recognized standards of protection,

Recognizing the demonstrated interest of the Iraqi Governing Council for Iraq to become a full member in the international trading system, known as the World Trade Organization, and the desirability of adopting modern intellectual property standards,

Acting in a manner consistent with the Report of the Secretary General to the Security Council of July 17, 2003, concerning the need for the development of Iraq and its transition from a non-transparent centrally planned economy to a free market economy characterized by sustainable economic growth through the establishment of a dynamic private sector, and the need to enact institutional and legal reforms to give it effect,

Having coordinated with the international financial institutions, as referenced in paragraph 8(e) of the U.N. Security Council Resolution 1483,

In close consultation with and acting in coordination with the Governing Council, I hereby promulgate the following:

Section 1
Purpose

The purpose of this Order is to amend Copyright Law No. 3 of 1971 to ensure that Iraqi copyright law meets current internationally-recognized standards of protection, and to incorporate the modern standards of the World Trade Organization into Iraqi law.

Section 2
Amendments to Copyright Law

1. Article 1 of the Copyright Law No. 3 of 1971 ("the Law") is amended to read as follows:

"1. This law protects the authors of original literary, artistic and scientific works, whatever their type, method of expression, importance and purpose.

2. The person in whose name the work is published, whether by mentioning his name on the work or by any other means, shall be considered the author, unless there is evidence to the contrary. This provision shall apply to pseudonyms, provided there is not the least doubt as to the identify of the author."

2. Article 2 is amended to read as follows: "The protection shall include the works whose method of expression is in writing, sound, drawing, painting or movement, and in particular the following:

1. Written works of all types
 2. Computer programs, whether in source or object code, which shall be protected as literary works
 3. Works conveyed verbally such as lectures, lessons, speeches, sermons and the like
 4. Works entered under the arts of drawing and painting with lines and colors, engraving, sculpture and architecture
 5. Dramatic works and musical plays
 6. Works performed by artistic movements or steps and are materially prepared for production
 7. Musical works, whether accompanied by words or not
 8. Photographic and cinematographic works
 9. Works prepared for radio and television
 10. Charts, drawings and scientific three-dimensional figures
 11. Public recitals of the Holy Koran
 12. Sound recordings
 13. Compilations of data”
3. Article 3 is amended to read as follows: “Protection shall include the title of the work, if it is characterized by originality and not indicative of the work’s subject matter.”
 4. Article 6 is amended to read as follows: “Protection shall include the following where characterized by originality, arrangement or any other personal effort which deserves protection:
 1. Collections which comprise various works of verse, prose, music and other collections, without affecting the copyrights of the author of each of these works
 2. Collections of works which have fallen into the public domain
 3. Collections of official documents, such as texts of international laws, regulations and agreements, judicial judgments and various official documents”
 5. Article 8 is amended to read as follows: “The author holds the exclusive right to exercise the rights in his/her works. Without the written permission of the author or his/her successors, no person shall do any of the following acts:
 1. Reproduce a work in any manner or form, whether transitory or permanent, including onto photographic (including cinematographic) film or onto a digital or electronic storage medium.
 2. Translate, adapt, musically arrange or otherwise transform a pre-existing work.
 3. Authorize commercial rental to the public of the original and copies of the work.
 4. Distribute the original and copies of a work through sale or other transfer of ownership.
 5. Import any copies of a work. This includes copies that were prepared with the permission of the copyright owner.
 6. Transmit or otherwise communicate a work to the public by means of a recital, speech, lecture, display, acting performance, radio or television broadcast, cinema or any other wire or wireless means, including the making available to the public of works in a way

that the members of the public may access the work from a place and at a time individually chosen by them.”

6. Article 9 is suspended.
7. A new provision is supplemented between Articles 10 and 11 to read as follows:
 - “1. If the work was created on behalf of another person, the rights in the work shall revert to the author unless there is a written agreement stipulating otherwise.
 2. Notwithstanding subparagraph (a), and in any other Law, if an employee created during his employment a work related to the activities or business of the employer, or uses the experiences, information, instruments or articles of the employer under the employee’s own disposal in his attempt to create such work, the rights in the work shall be to the benefit of the employer, unless otherwise agreed upon in writing.
 3. The rights in the work shall be to the benefit of the employee if the rights created by the same are not related to the business of the employer, and the employee does not use the experiences, information, instruments or raw materials of the employer in his attempt to create the work, unless otherwise agreed upon in writing.”
8. Article 11 is suspended.
9. Article 15 is amended to read as follows: “Copying may not be made of serialized novels, short stories or other literary, artistic or scientific works published by their authors in the newspapers or periodicals, except with their permission.”
10. A new provision is supplemented between Article 15 and Article 16 to read as follows: “Exceptions to exclusive rights of the author shall be confined to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.”
11. Article 20 is amended to read as follows:
 - “1. The author’s economic rights provided for in this Law shall be protected throughout the lifetime of the author and for 50 years from the date of his death.
 2. The economic rights relating to works of joint authorship shall be protected throughout the lives of all co-authors and for 50 years from the death of the last survivor.
 3. Where the copyright holder is a legal entity, the economic rights relating to the authors of collective works, other than authors of works of applied art, shall be protected for 50 years from the date on which the work was published or made available to the public for the first time, whichever comes first. Where the copyright holder is a natural person, the protection period shall be calculated according to the rule stipulated in subparagraph (a) and (b).

The economic rights relating to a work published for the first time after the death of the author shall expire after 50 years from the date on which the work was published or made available to the public for the first time, whichever comes first.

 4. The economic rights relating to a work published anonymously or under pseudonym shall be protected for a period of 50 years, from the date on which the work was published or made available to the public for the first time, whichever comes first, unless the identity of the author is known and established or revealed by the author, in which case the term of protection shall be calculated according to the rule stipulated in subparagraph (a).
 5. The economic rights of the author of a work of applied art shall expire after a period of 50 years from the date on which the work was published or made available to the public for the first time, whichever comes first.
 6. In cases where the term of protection is calculated from the date on which the work was published or made available to the public for the first time, the term shall be calculated taking into consideration the date that comes first, regardless of any re-publication or making available to the public, unless substantial changes were made by the author in the work so that it may be considered as a new work. Where the work consists of several parts or volumes published

separately and at intervals, each part or volume shall be considered as an independent work for the purpose of calculating the term of protection.”

12. Article 21 is suspended.

13. Article 23 is suspended.

14. A new provision is supplemented between Article 34 and Article 35 to read as follows:

“1. Performers shall have the following exclusive rights:

(a) broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance and the fixation of their unfixed performances;

(b) authorizing the direct or indirect reproduction of their performances fixed in phonograms in any manner or form whether transitory or permanent, including digital electronic format;

(c) distributing to the public the original and copies of their phonograms containing the fixations of their performance through sale or other transfer of ownership;

(d) importing copies of their phonograms whether or not the phonogram was made with the performer's authorization;

(e) making available to the public, by wire or wireless means, any performance fixed in a phonogram, in such a way that members of the public may access the fixed performance from a place and at a time individually chosen by them.

2. Independently of a performer's economic rights, and even after the transfer of those rights, the performer shall, as regards his/her live aural performances or performances fixed in phonograms, have the right to claim to be identified as the performer of his/her performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of his/her performances that would be prejudicial to his/her reputation.

3. Performers shall enjoy an exclusive economic right for the exploitation of their performances for a period of 50 years calculated from the date on which the performance or the recording took place, as may be the case.

4. The producer of phonograms shall have the following exclusive rights:

(a) broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance and the fixation of their unfixed performances;

(b) authorizing the direct or indirect reproduction of their performances fixed in phonograms in any manner or form whether transitory or permanent, including digital electronic format;

(c) distributing to the public the original and copies of their phonograms containing the fixations of their performance through sale or other transfer of ownership;

(d) importing copies of their phonograms whether or not the phonogram was made with the performer's authorization;

(e) making available to the public, by wire or wireless means, any performance fixed in a phonogram, in such a way that members of the public may access the fixed performance from a place and at a time individually chosen by them.

5. Producers of sound recordings shall enjoy an exclusive economic right to exploit their recordings for a period of 50 years calculated from the date on which the recording was made or made public, whichever comes first.

6. Broadcasting organizations shall have the following exclusive rights:

(a) fix and record their broadcasts and to authorize direct or indirect reproduction of the fixations of their broadcasts

(b) rebroadcast their programs by wireless means and transmit them to the public.

7. Broadcasting organizations shall enjoy an exclusive right to exploit their programs for a period of 50 years calculated from the date on which the program was broadcast for the first time.”

15. A new provision is supplemented between Article 34bis and Article 35 to read as follows: “In order to ensure that no hierarchy is established between rights of authors, on the one hand, and rights of at least performers and producers of phonograms, on the other hand, each Party shall establish that in cases where authorization is needed from both the author of a work embodied in a phonogram and a performer or producer owning rights in the phonogram, the need for the authorization of the author does not cease to exist because the authorization of the performer or producer is also required. Likewise, each Party shall establish that in cases where authorization is needed from both the author of a work embodied in a phonogram and at least of a performer or producer owning rights in the phonogram, the need for the authorization of the performer or producer does not cease to exist because the authorization of the author is also required.”
16. Article 35 is suspended.
17. Article 36 is suspended.
18. Article 44 is amended to read as follows: “Each author whose rights in his work provided in accordance with the provisions of this law are infringed upon, shall be entitled to appropriate compensation. In deciding compensation, the cultural standing of the author, the literary, scientific or artistic value of the work and the extent the infringer benefited by exploiting the work shall be taken into consideration.”
19. Article 45 is amended to read as follows: “Any act committed by any of the following shall be considered an act of piracy punishable by a fine of not less than 5,000,000 dinars and not exceeding 10,000,000 dinars.”
20. Article 45(2) is amended to read as follows: “2. Whoever offers for sale, distribution or rental of an infringing work, transmits an infringing work to the public in any manner, uses an infringing work for material gain, brings an infringing work into or out of Iraq, knowing or having adequate reason to believe that the work is unauthorized.”
21. The final paragraph of Article 45 is amended to read as follows: “In case of subsequent conviction, the offender shall be sentenced to imprisonment for a period not less than five years and not more than ten years and to a fine not less than 100,000,000 dinars and not more than 200,000,000 dinars or to any one of these penalties. The Court may also, in the case of subsequent conviction, order the closure, for a certain period or for good, of the establishment which has been used by the counterfeiters or their partners to commit the offense.”
22. An additional paragraph of Article 45 is added to read as follows: “The Court may also order the forfeiture and destruction of all infringing copies or sound recordings and all implements, devices or equipment used in the manufacture of such infringing copies or sound recordings.”
23. Article 46 is amended to read as follows:

“1. The Court may upon proper application by the copyright owner or any of his/her heirs or successors issue injunctive relief in relation to any infringement of the rights set forth in Articles 5, 7, 8, 10 and 34bis of this Law provided that the application contain a detailed and complete description of the work, performance, phonogram, or program against which the infringement occurred.

The Court may decide to:

- (a) Order the infringer to cease infringing activities;
 - (b) Confiscate the infringing copies and any materials and devices used in the commission of the infringement; and
 - (c) Confiscate the proceeds of the infringement.
2. The request may be presented before, during or after filing the lawsuit.

3. Upon verification that the petitioner is the owner of the right and that his rights have been violated or that a violation is imminent, the Court may apply any of the procedures provided for in subparagraph (a) of this Article on a provisional basis to prevent the occurrence of the infringement or to preserve some evidence related to the act of infringement.

4. In cases where delay may cause damage to the right holder which is difficult to calculate, or in cases where there is a proven risk that delay may lead to the loss of evidence related to the infringement, the Court may adopt any of the procedures stipulated in subparagraph (a) of this Article on a provisional basis without notifying the defendant and in his absence. The defendant shall be notified of the procedures adopted by the Court as soon as the procedure is implemented. The defendant may request a hearing within a reasonable period after his notification of the procedure. The Court shall decide to confirm, amend or nullify the provisional measure at the time of the hearing.

5. The request for application of provisional measures provided for in subparagraphs (c) and (d) of this Article must be accompanied by an adequate monetary guarantee to prevent abuse and to guarantee any damages which may occur to the defendant if the plaintiff is not justified in his claim.

6. Upon request of the defendant, the provisional measures applied prior to the filing of a lawsuit under subparagraphs (c) and (d) of this Article shall be nullified if the lawsuit is not filed within eight days from the date on which the Court issued the decision to apply the provisional measures.

7. In cases where the provisional measures applied in accordance with subparagraphs (c) and (d) of this Article are nullified due to a lapse of the filing period of the lawsuit, the default of the claimant, or based on evidence that there is no infringement or threat of infringement, the court may, upon the request of the defendant, order adequate compensation for the damages resulting from these procedures.

8. The Court may order the claimant who acted abusively in requesting any of the procedures listed in this article to adequately compensate the party against whom the procedures were taken for damages incurred as a result this abuse.”

24. Article 47 is amended to read follows:

“In no case shall buildings and what they have in or on them of engravings, drawings, ornamentations or geometrical shapes be subject to seizure. Furthermore, no ruling shall order their destruction, the change of their features, or their confiscation for the purpose of safeguarding the copyrights of the architect whose designs were used for the building and whose drawings were put in them illegally. This shall not violate his right in obtaining fair compensation for the foregoing.”

25. Article 48 is suspended.

26. Article 49 is amended to read as follows: "The provisions of this law shall apply to the works of Iraqi and foreign authors which are published, acted or presented for the first time in the Republic of Iraq, as well as to the works of Iraqi authors which are published, acted or presented for the first time in a foreign country. The protection of copyright and related rights provided under this Law shall be extended to foreigners, whether natural persons or legal entities, on a basis no less favorable than that accorded to Iraqi nationals with regard to the protection and enjoyment of such intellectual property rights and nay benefits derived from such rights."

27. A new provision is supplemented between Article 49 and Article 50 to read as follows: "The provisions of this Law shall apply to works existing at the time it takes effect, provided the term of protection for those works have not yet fallen into the public domain in their country of origin."

Section 3 Entry into Force

This order shall enter into force on the date of signature.

L. Paul Bremer, Administrator
Coalition Provisional Authority

CPA/ORD/ 29 April 2004/83

Copyright Law No. 3 for the Year 1971
for the Protection of Copyright

In the name of the People
The Revolution Leadership Council

Pursuant to the provisions of Paragraph (a) of Article 42 of the temporary constitution, and at the presentation of the Minister of Information, The Revolution Leadership Council decided in its session held on 4/1/1971 to issue the following law:

Law No. 3 for the year 1971 for the Protection of Copyright

Article 1

This law protects the authors of innovated literary, artistic and scientific works, whatever their type, method of expression, importance and purpose.

The person in whose name the work is published, whether by mentioning his name on the work or by any other means, shall be considered the author, unless there is evidence to the contrary. This provision shall apply to pseudonyms, provided there is not the least doubt as to the identity of the author.

Article 2

The protection shall include the works whose method of expression is in writing, sound, drawing, painting or movement, and in particular the following:

Written works.

Works conveyed verbally such as lectures, lessons, speeches, preaches and the like.

Works entered under the arts of drawing and painting with lines and colours, engraving, sculpture and architecture.

Dramatic works and musical plays.

Works performed by artistic movements or steps and are materially prepared for production.

Musical works, whether accompanied by words or not.

Photographic and cinematic works.

Works prepared for radio or television.

Charts, drawings and scientific three-dimensional figures.

Public recitals of the Holy Koran.

Article 3

Protection shall include the title of the work, if it is characterized by innovation and not indicative of the work's subject matter.

Article 4

Without prejudice to the rights of the original author, any person who translates a work into Arabic or any other language, reviews it, changes it from one type of literature, art or science to another type, summarizes, adapts or modifies it, comments on it or makes an index to it, in such a manner as to render it in a new form, shall enjoy protection under this law. However, the copyright of a photographic work shall not entail preventing others from taking new photographs of the photographed object, even if the new photograph has been taken from the same place or in the same conditions of the first photograph.

Article 5

Without prejudice to rights of the original author, a performer shall enjoy protection, and he shall be considered as a performer, each one who executes or transmits to the public a work of art created by another, whether such performance is by singing, playing music, eurythmics, delivery, painting, drawing, movement, steps or by any other method.

Article 6

Protection shall not include the following:

Collections which comprise various works of verse, prose, music and other collections, without affecting the copyrights of the author of each of these works.

Collections of works which have become public property.

Collections of official documents, such as texts of international laws, regulations and agreements, judicial judgements and various official documents. The above mentioned collections shall enjoy protection if they are characterized by innovation, arrangement or any other personal effort which deserves protection.

Article 7

The author shall have the exclusive right to decide publishing his work and determining the method of publication. He shall also have the right to make benefit of his work in any legitimate method he selects. No other person may exercise this right without his prior permission or the permission of the party to whom this right is transferred.

Article 8

The author's right to make benefit of his work shall include the following:

To print, broadcast and produce the work, and allow others to do so.

To allow (under the special conditions he sets down) using one or many copies of his work by the persons who utilize them for rent and borrowing and other matters related to presenting the work to the public, if the purpose of such presentation is profit or providing aid to a certain project.

To allow the public presentation of his dramatic or musical work or its transmission to the public by any means.

To deliver or allow the delivery of his literary or dramatic work to the public.

Article 9

The right of protection of an author's right or a translator's right in the translation of his work into Arabic, shall expire if he does not exercise this right himself or through others within three years as from the date of the first publication of the work. Works may be translated into Arabic after the elapse of one year as from the date of applying for approval for translation from the author or from the person to whom the right of translation was transferred without utilizing it.

Article 10

The author shall have the exclusive right to have his work attributed to him, and he or anyone acting for him shall have the right to shove any infringement upon his work. He may also prevent any deletion or change in the work. However, if a deletion or change occurs in the translation of the work and it is mentioned , then the author shall have no right to prevent it, unless the translator overlooks to refer to the places of deletion or change, or if the translation results in affecting the author's reputation or his cultural or artistic standing.

Article 11

It shall not be possible to seize the copyright in any work of art. However, it shall be allowed to seize the copies of the work which have been published. Likewise, it shall not be permitted to seize the work whose owner dies before publishing it, unless it is proven that he had intended to publish it before his death.

Article 12

After the publication of his work, the author may not prevent its expression in eurythmics, acting or delivery if it took place during a family gathering, society, private club or school meeting, as long as this meeting does not directly or indirectly yield a financial return. The armed forces musical band and other bands of the State shall have the right to play the musical works without having to pay any consideration to the author as long as it does not yield directly or indirectly a financial return .

Article 13

The author may not prevent a person making one copy of a published work for his own use.

Article 14

After the publication of a work, the author may not prohibit analyses and short quotations from it, if they are intended for criticism, discussion, education or information as long as they refer to the name of the author, if he is known, and to the source from which it is taken.

The following shall be allowed in school books and history, literature, science and art books:

Copying short quotations from published works.

Copying published works on graphics, three-dimensional and photographic arts, provided that the copying is limited to the extent necessary to explain what is written and in all cases, the sources from which the copying is made should be clearly mentioned as well as the names of the authors.

Article 15

Copying may not be made of serialized novels, short stories or other literary, artistic or scientific works published by their authors in the newspapers or periodicals, except with their permission. However, newspapers can copy the articles published in other newspapers, which are of current economic, political and religious character which preoccupy the public opinion unless the newspaper which publishes those articles states that copying is prohibited and in the case where copying is made, there should be a reference to the source from which it was copied.

Article 16

Newspapers, radio and television shall be permitted to publish as news without the author's permission, the speeches delivered in open meetings of political, administrative or judicial councils, as well as the speeches of political nature delivered in open meetings, as long as such speeches are addressed to the public.

Article 17

In the cases provided for in the previous two articles, the author shall have the exclusive right to publish a collection of his written works or articles.

Article 18

The heirs of an author shall have the exclusive right to decide publishing his works which were not published during his life time, unless the author requests otherwise in his will. However, if the author fixes a date for publication, the work may not be published before that date.

Article 19

The heirs of an author shall have the exclusive right to exercise the financial utilization rights provided for in Articles 7, 8 and 10 of this law. If the work is a joint effort and one of the authors dies without leaving an heir or a legatee, his share shall devolve to his partners in the authorship or their successors, unless it is otherwise agreed .

Article 20

Without prejudice to the provisions of Article 9 Of this law, the financial utilization rights provided for in Articles 7, 8 and 10 shall expire with the elapse of twenty five years after the death of the author, provided that the total period of protection shall not be less than fifty years as from the date of publication of the work. However, with respect to photographic and cinematic works which are limited to the mechanical transmission of scenery, such rights shall expire with the elapse of five years as from the date of first publication of the work. While the period of protection for joint works shall be calculated as from the date of death of the last author who survived. If the author is a body corporate, public or private, the financial utilization rights shall expire after the elapse of thirty years as from the date of first publication of the work.

Article 21

The protection provided for in this law shall not include works published without the name of the author or its pseudonym. However, if the author or his heirs reveal his identity, the period of protection shall start on the date of such disclosure.

Article 22

The period of protection for works published for the first time after the author's death shall be calculated as from the date of his death.

Article 23

If the author's heirs or successors do not exercise the rights provided for in Articles 18 and 19 of this law, and the Minister of Information thought that the public interest dictates publishing of the work, he shall have the right to ask them through a registered letter to publish it. If three months elapse as from the date of notification and they do not publish the work, the Minister may publish the work, without violation to the rights of the heirs or successors to a fair compensation.

Article 24

A work of art shall be regarded as published as of the date of placing it within reach of the public for the first time. Re-publication shall not be taken into consideration unless the author makes basic amendments at the time of re-publication that it can be considered a new work of art. If the work of art consists of several books or volumes published separately at different intervals, then every book or volume shall be regarded as an independent work as far as the publication date is concerned.

Article 25

If more than one person takes part in compiling a work of art in such a way to make it impossible to separate the share of each one of them in the work, then all of them shall be regarded as equal owners of the work unless otherwise agreed. In this case, the copyright cannot be exercised without the agreement of all the participating authors, and each one of the authors shall be considered as an agent for the other authors. If a dispute arises between the authors, it will be settled before the court of first instance. However, each of the participating authors shall have the right to file a lawsuit if any copyright infringement takes place.

Article 26

If more than one person takes part in compiling a work of art in such a way to make it possible to separate the share of each one of the participants in compiling the work, then each one of them shall have the right to exploit copyright of the part which he contributed provided that it is not detrimental to the exploitation of the joint work, unless otherwise agreed.

Article 27

A collective work is a work in which a group of persons share willingly in making it under the directives of a natural or legal person and the work of the participant authors is merged in the general idea of the work which is put down by that natural or legal person in such a way to make it impossible to separate the work done by each of the participants in compiling the work and setting it apart. The natural or legal person who directs and organizes the creation of the work shall be regarded as author of the work and he shall have the exclusive right to exercise the author's rights therein.

Article 28

If a work of art bears a pseudonym then it shall be assumed that the author has authorized the publisher to exercise the rights provided for in this law, until the author announces his identity and proves it. Such an announcement can be made through a will.

Article 29

If more than one person participates in compiling a music-song work, the author of the musical part shall have the right to license to others the public performance of the whole work, or to authorize, publish or reproduce the work, provided this does not prejudice the copyright of the literary part of the work. The author of the literary part has the right to publish his part only, provided that he does not dispose of it as a basis for another musical work, unless otherwise agreed.

Article 30

If more than one person participates in a work of art which is performed by movements accompanied by music, shows accompanied by music and all other similar works, the author of the non-musical part of the work shall have the right to license to others the public performance of the whole work, or to authorize, publish or reproduce the work. As regards the author of the musical part of the work, he shall have the right to dispose of the music part only, provided that the music is not used in a work similar to the joint work, unless otherwise agreed.

Article 31

Each of the following shall be considered as a partner in composing cinematic works or works prepared for radio or television broadcasting:

The scenarist or the author of the written theme of the programme.

The adapter of the present literary work to make it executable.

The dialogist.

The work's musical composer if he composed the music specifically for the work.

The director of the work if he has exercised actual control in executing it and has achieved positive results from the intellectual part to bring the work into being.

If the cinematic work or the work prepared for radio or television broadcasting is simplified or derived from another previous work, then the author of the earlier work shall be considered as a partner in the new work.

Article 32

The scenarist, the adapter of the literary work, the dialogist and the director shall jointly have the right to show the cinematic work or the work prepared for radio or television broadcasting despite the objection of the author of the original literary part or the composer of the musical part, provided that this does not prejudice the objector's rights derived from participating in the work. The author of the literary part and the musical part of the work shall be entitled to publish the part which belongs to him in any way other than the cinema, radio or television, unless otherwise agreed.

Article 33

If one of the participants in compiling a cinematic work or a work prepared for radio or television broadcasting refrains from completing his part of the work, this shall not entail preventing any of the other participants from using the part which he has completed, provided this does not prejudice the rights of the refraining participant resulting from his participation in the work.

Article 34

The person who handles achieving a work of art or takes the responsibility of achieving it and provides the authors with the material and financial means which guarantee producing and directing the work shall be considered the producer of the cinematic work or the work prepared for radio or television broadcasting. The producer shall be regarded as the publisher of the cinematic work and shall enjoy all the rights of the publisher on the work itself and any copies of it. The producer, shall throughout the period agreed upon to exploit the work, act as a deputy to the author of the work and his successors in contracting with other parties to show and exploit the work, without prejudice to the rights of the authors of adapted literary and musical parts, unless otherwise agreed.

Article 35

The official parties in charge of radio and television broadcasting shall have the right to broadcast or present the works which are shown in the theatres or in any other public place. The managers of these public places shall make it possible for the said official parties to make the necessary artistic arrangements for such broadcasting or presentation. The official parties shall mention the name of the author and the title of the work and pay a fair compensation to the author or his successor and to the owner of the place from which the work is broadcasted or in which it is presented, if required.

Article 36

Whoever has taken a photograph shall not have the right to show, publish or distribute the original photograph or copies thereof, without an authorization from those represented in the photograph, unless otherwise agreed. This provision shall not apply if publishing the photograph takes place in the context of public events or if it relates to officials or persons enjoying public renown or if the public authorities have given permission to its publication for the general welfare. Even in the previous case, no photograph shall be permitted to be shown or circulated if its publication entails detriment to the honour, reputation or social standing of the person presented in the photograph. However, the person presented in the photograph shall have the right to authorize its publication in newspapers, magazines and similar publications even if the person who takes the photograph does not allow it, unless there is an agreement to the contrary. These provisions shall apply to pictures no matter the method by which they were made, whether painting, engraving, sculpture or any other means.

Article 37

The author shall have the exclusive right to publish his letters, however this right may not be exercised without prior authorization from the addressee, if publication of those letters is detrimental to him.

Article 38

The author may transfer to others the rights of financial exploitation provided for in this law. However, the transfer of one of these rights does not result in giving the right to exercise any other right. It is stipulated for the disposal to be valid that it should be in writing and shall determine in all frankness and detail each disposable right, stating its extent, purpose, exploitation period and place. The author shall refrain from taking any action that may hinder using the disposed of rights.

Article 39

It shall be regarded as null and void the disposal of all the author's future intellectual output.

Article 40

Any disposal of the rights provided for in Articles (7, (8 and (10 of this law by a person other than the author shall be regarded as null and void.

Article 41

The author's disposal of his rights in a work of art, whether whole or partial may be on the basis of a share percentage in the revenue resulting from utilization of the work.

Article 42

If the ownership of the original copy of a work is transferred, this shall not include the transfer of the copyright in that work. However, any person who owns the copy shall have the right to display it to the public and he shall not be obligated to grant the author the right to copy, reproduce or display it, unless otherwise agreed.

Article 43

The author shall have exclusive right, if serious moral reasons arise, to ask the court of first instance to decide the withdrawal of his work from circulation or the introduction of substantial modifications to it in spite of his disposal of the financial exploitation rights. The author shall be obligated in this case to pay to the party to which the financial exploitation devolved, a fair compensation to be estimated by the court, which may decide to obligate the author to pay this compensation in advance within a certain period of time, otherwise this will invalidate the decision of the court, or the court may obligate the author to present a guarantor acceptable to it.

Article 44

Every author whose any of his rights in his work of art provided for in accordance with the provisions of this law are infringed upon, shall be entitled to an appropriate compensation.

Article 45

Any act committed by any of the following shall be considered a counterfeit offense punishable by a fine not less than ten dinars and not exceeding one hundred dinars:

Whoever infringes upon the copyrights provided for in Articles (5, (7, (8, (9 and (10 of this law.

Whoever sells or offers for sale counterfeit works of art, or imports into Iraq, without the author's permission or his deputy, works of art published abroad and included in the protection provided for in this law.

Whoever counterfeits in Iraq works of art published abroad, or sells these works or exports or ships them abroad.

In case of repetition of the crimes, the offender shall be sentenced to imprisonment for a period not exceeding three months and to a fine not exceeding three hundred dinars or to any one of these penalties. The court may as well in the case of repetition of the crime order the closure, for a certain period or for good, of the establishment which has been used by the counterfeiters or their partners to commit to the offense. The court may as well, order the confiscation of all the instruments used for illegal publication which has occurred in violation with the provisions of Articles (5, (7, (8, (9 and (10 and which are not useful except for this publication and all counterfeit copies must be confiscated as well.

Article 46

The court of first instance may, at the request of the concerned parties, and after making a detailed description of the work which was illegally published or re-published, order the seizure of the original copy, its copies or photocopies, as well as the material used in re-publishing the work or making copies thereof, provided the said materials are not fit except for re-publishing the work. As regards eurythmy, acting and conveying to the public, the court may order computation of the revenue resulting from publication or presentation and seizing it.

Article 47

The court of first instance, may upon a petition filed by the author, order the destruction of a work of art copies or photocopies which have been illegally published as well as the materials used in publishing the work provided that they are not useful for anything else and the court may order to change the features of the copies, photocopies and the materials or make them unfit for use and all of this shall be at the expense of the responsible party. The court shall not order the said procedures if the copyright in a work of art shall lapse within a period of less than two years from the date of the issuance of the court's decision. In this case, these procedures shall be replaced with levying seizure until the remaining period expires. The aggrieved party may request, instead of destroying the copies or photocopies, and within the limits of the compensation due to him, confiscating the copies of the work published or its copies and the materials which are only fit for its re-publication and selling them to settle his account. He may also request seizure of the revenue resulting from illegal eurythmy or delivery. In all cases, the compensation shall be a preferential debt to the net sales value and the seized amounts of money. To this preferential debt, only legal fees and expenses incurred in maintaining such things and the collection of the compensation shall take precedence. In application of the provisions of Article 11 of this law, buildings may not be seized, destroyed or confiscated for the purpose of preserving the rights of the architect whose designs and drawings were illegally used. In all cases the court may at the request of the aggrieved party, order publishing the judgement in one newspaper, magazine or more at the responsible party's expense.

Article 48

All publishers of works of art which are prepared for publication by making copies thereof, must deposit, within one month as from the date of publication, five copies of the work at the national library. Non-depositing of a work of art shall be punishable with a fine not exceeding twenty five dinars, however, it shall not result in prejudicing the copyrights stipulated by this law. These provisions do not apply to works of art published in newspapers and periodicals, unless they were published separately.

Article 49

The provisions of this law shall apply to the works of art of Iraqi and foreign authors which are published, acted or presented for the first time in the Republic of Iraq, as well as to the works of art of Iraqi authors which are published, acted or presented for the first time in a foreign country. While the works of art of foreign authors which are published for the first time in a foreign country shall not be protected by this law, unless this foreign country provides similar protection for Iraqi authors for their published, acted or presented works for the first time in the Republic of Iraq and such protection is extended to the dependent countries of this foreign country.

Article 50

The Ottoman Copyright Law shall be repealed.

Article 51

Regulations may be issued to facilitate the implementation of the provisions of this law.

Article 52

This law shall be effective as from the date of its publication in the Official Gazette.

Article 53

The ministers shall be commissioned with the implementation of the provisions of this law.

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Ahmad Hassan Al-Bakr
Chairman
Revolution Leadership Council

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