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Decision No. 19

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

Law

For the Protection of Copyright

Article one -1- This law protects the authors of innovated literary, artistic and scientific works, whatever their type, method of expression, importance and purpose of their classification.

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 real identity of the author.

Article two - 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.
- 2- Works conveyed verbally such as lectures, lessons, speeches, preaches and the like.
- 3- Works entered under the arts of drawing and painting with lines or by colors, engraving, sculpture or architecture.
- 4- Dramatic works and musical plays.

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- 5- Works performed by artistic movements or steps and are materially prepared for production.
- 6- Musical works, whether they are accompanied by vocable or not.
- 7- Photographic and cinematic works.
- 8- Works prepared for radio or television.
- 9- Maps, drawings and scientific stereographs.
- 10- Public recitals of the Holy Qura'an.

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

Article four - Without prejudice to the rights of the author of the original work, any person who translates a work into Arabic or any other language, reviews it, changes it from one type of literary and art or science to another type, or who summarize, adapts or modifies it, explains 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 and in the same conditions of the first photograph.

Article five - Without prejudice to rights of the author of the original work, 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, melody, reciting, painting, drawing, movement, steps or by any other method.

Article six - Protection shall not include the following:

- 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 become public property.

In all cases, the sources from which the copying is made should be clearly mentioned as well as the names of the authors.

Article fifteen - Copying can 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 related to economic discussions, political and religious character which preoccupy the public opinion, as long as nothing is mentioned in the newspaper which expressly prohibited from publishing. In the case where copying is made; there should be a clear reference to the source from which it was copied.

The determined Protection in this law shall not include the daily news and various events that are considered as ordinary news published by newspapers.

Article sixteen - 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 public meetings, as long as such speeches are addressed to the public.

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

Article eighteen - 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 determines a date for publication, the work may not be published before that date.

Article nineteen - The heirs of an author shall have the exclusive right to exercise the financial exploitation rights provided for in Articles seven, eight and ten 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 twenty - Without prejudice to the provisions of Article nine of this law, the financial exploitation rights provided for in Articles seven, eight and ten 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 legal person, public or private, the financial exploitation rights shall expire after the elapse of thirty years as from the date of first publication of the work.

Article twenty one - 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 twenty two- 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 twenty three - If the author's heirs or successors do not exercise the rights provided for in Articles eighteen and nineteen 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 by 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 twenty four - A work shall be regarded as published as of the date of placing it within reach of the public and 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 parts 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 twenty five - If more than one person takes part in compiling a work 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 twenty six - If more than one person takes part in compiling a work 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 twenty seven - 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 twenty eight - If a work has a pseudonym then it shall be assumed that the author has authorized the publisher to exercise the rights recognized in this law, until the author announces his identity and proves it. Such an announcement can be made through a will.

Article twenty nine - 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 thirty - If more than one person participates in compiling a work 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 shared work, or to authorize 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 thirty one - Each of the following shall be considered as a partner in composing cinematic works or works prepared for radio or television broadcasting:

- 1- The scenarist or the owner of the written theme of the program.
- 2- The adapter of the present literary work to make it executable.
- 3- The dialogist.
- 4- The work's musical composer if he composed the music specifically for this work.
- 5- 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 thirty two - 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 authoring. The author of the literary part or the musical part of the work shall have the right to publish his work which belongs to him in any way other than the cinema, radio or television, unless otherwise agreed.

Article thirty three - If one of the participants in compiling a cinematic work or a work prepared for radio and 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 authoring.

Article thirty four - The person who handles achieving a work 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 on behalf of author of the cinematic literature and his successors to agree in presenting the work and exploiting it, without prejudice to the rights of the authors of quoted literary and musical literatures, unless otherwise agreed.

Article thirty five - The official parties in charge of radio or 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 exploiter of the location from which the work is broadcasted or in which it is presented, if required.

Article thirty six - 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 interest. Even in the previous case, no photograph shall be permitted to be shown or circulated if its publication entails detriment to the honor, 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 thirty seven - 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 thirty eight - 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 disposition 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 thirty nine - It shall be regarded as null and void the disposal of all author's future intellectual output.

Article forty - Any disposal of the rights provided for in Articles seven, eight and ten of this law by a person other than the author shall be regarded as null and void.

Article forty one - The author's disposal of his rights in a work of art, whether whole or partial can be on the basis of a share percentage in the revenue resulting from exploitation of the work.

Article forty two - 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 that 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 forty three - 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 offer compensates 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 forty four - Every author has been assaulted within any of his rights that provided for in this law shall have the right to get an appropriate compensation.

Article forty five - 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:

- 1- Whoever infringes upon the copyrights provided for in Articles five, seven, eight, nine and ten of this law.
- 2- Whoever sells or offers for sale counterfeit works of art, or imports into Iraq, without the author's permission or his deputy, works published abroad and included in the protection provided for in this law.
- 3- Whoever counterfeits in Iraq works of art published abroad, or sells these works or exports or shipped 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 five, seven, eight, nine and ten and which are not useful except for this publication and all counterfeit copies must be confiscated as well.

Article forty six - 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 work, its copies or photocopies, as well as the material used in re-publishing the work or making copies thereof, provided that said materials are not fit except for re-

publishing the work. As regards melody, acting and conveying to the public, the court may order computation of the revenue resulting from publication or presentation and seizing it.

Article forty seven - 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 unless 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 melody or recitation. 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 eleven 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 judgment in one newspaper, magazine or more at the responsible party's expense.

Article forty eight - All publishers of works 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 forty nine - 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. While the works 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 fifty - The Ottoman Copyright Law shall be repealed.

Article fifty one - Regulations may be issued to facilitate the implementation of the provisions of this law.

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

Article fifty three - The Ministers shall be commissioned with the implementation of the provisions of this law.

Issued in Baghdad on the 4th day of Dhu'l Qada, 1390 A.H. corresponding to the 2nd day of January 1971

Ahmad Hassan Al-Bakr
Chairman of Revolution Leadership Council

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Reasons of Applying the Law

It has been noted that the emergence of modern means of copyright has encouraged the forgery of the book, picture, CD, film, and the other works, which made the author as an object for assaulting his rights and depriving him from getting his profits. In order to stop such injustice which has incurred by the author, and to make away for him for taking the benefit from his works as well as to encourage the movement of scientific, literary and artistic authorship, and to make opportunities for author to go forward in a way of being free to live pleased life. On the basis of the objectives of 17 July revolution which aim to respect and care for thinkers, researchers and artists, and protect them, this law has initiated.

ジェットロ仮訳

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