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REGULATING THE MATERIAL AND MORAL RIGHTS OF THE AUTHOR IN JORDANIAN LEGISLATION

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Introduction

Introduction: The intellectual property law plays an important role in protecting the author and observing the achievements of the author in the fields of literature, art, and science. This law contributes to encouraging the author, thinker or inventor, granting rights to these people, especially the material right which is a personal financial right. It reflects the degree of progress in society according to the intellectual society criteria compared to the material criteria which represent the last degree of prosperity progress.

The idea of the material right is the protection of the literary and artistic works of the author. These works are distinctive and protectable by law, so they do not resemble the works of the public nor the works of their rights or moral authorship. The law obligates to punish their owners, providing the field for the sake of the folks and organizing the ownership of the field. This idea is not new, but it did not become tangible until the French Revolution and the contemporary French law.

Contained in the international protectors which is concluded within the framework of the World Intellectual Property Organization in various aspects. And during this time, many state laws were subsequently embodied in positive laws, including the Jordanian legislations, in which the material right for the Jordanian worker was embodied in what could be called the physical reserve. This is what this search is for, for the purpose of independent correction to each type of work and ensuring its ownership. And that, in a manner that provides protection to the author, holding closely relates to all the discussion of the moral and material rights of the author.

Background and significance

The Arabic term "author" does not encompass one meaning, but jurisprudentially it emerges with one concept that varies from one jurisprudential opinion to another and from one legislation to another. The jurists believe that the term "author" is subsumed in the faculties of reason, creativity, invention, and doing. The present scholarly research deals with the author, his material and moral rights, and the protection of these rights by the law. We collect our research into the following: The first section defines the concepts and origins. The second deals with the evolution of the rights of the author. The third deals with the universality of the provisions and the material and moral rights. The fourth discusses the provisions of the author. The fifth reviews the philosophical theories about the author. The sixth deals with the protection of the rights of the author by the law and the international conventions and treaties. The seventh presents the position of the Jordanian legislature on the author and protection of his material and moral rights and illustrates the shortcomings and weaknesses in the laws which were passed and promulgated by the Jordanian Government. The eighth

presents the Jordanian legal arena and demonstrates that the unfairness of the provisions is a result of the defective and weak legislative provisions.

Purpose and scope of the study

The conviction of the world and the severe evaluation that the international legislator circulated some of the specific qualities that the work has, and the value of human creativity in general, made the Arab slavery appreciated and the Jordanian legislator set forth in a series of legal provisions and provisions that cover the work on all levels, the moral aspects of the author, and the material aspects as well, in order to encourage creativity, production and inventiveness, and to value those concerned with this, and protect him from any potential damage that may practice his creative energy, and thus he can perform his missions in the best possible way.

Despite the firmness of the legislative treatment that the Jordanian legislator dealt with whoever created an intellectual value, with moral and subjective force, as well as the strength and strength of the resulting protection that the author gained through those laws, many have sufficed to emphasize the importance of national legislation in particular, so and in the shadow of the advancement of science and scientific and knowledge research evident in the policy of the international economic order, through which the intellectual property file penetrated the heart of the third millennium concerns, it became what a characteristic that it practiced Jordan as an important center of interest in this scope and this future, as well as a point of interaction of the points of the Arab and international legislative efforts that worked to set up a record for the wait of the author in his rights, so do not repay him legally, legally, and morally for what he performed.

Literature Review

The legislative protection of the author's right and the definition of its content are closely related to the intellectual activity level and the development found in the country. Arab and Islamic countries' legislation approved the common principles that the International Conferences of Rome in 1928 and Brussels in 1948 had concluded. More than three-quarters of these countries also joined the conventions and treaties related to the records of author's right that were developed by the International Office of author's right.

Despite the assurance of some rules in the common basis of protection of the author's right in vast Arab and Islamic countries' legislation, the author's right is distinguished by its convergence from one country to another, in regard to the large number of existing bilateral and regional treaties and its multiple forms. Consequently, the disappearance of any general framework to regulate the author's right through which the common features of protection are known, Riad Obeidat, author, taxonomies the differences of legislations that regulate the author's right in various terms.

Historical development of copyright laws

The historical development of the concept of copyright, and its related rights, unfolded gradually through custom, public tolerance, and laws whose primary intent was to regulate the book trade, including printing, especially in the first stage, with no consideration of sorts of authorship. Issuance of such laws was in response to the necessity of arranging the book trade through the regulation of the writers and publishers relations, as well as providing for the distribution of the profits of this industry, although evidence that such laws survived in limited areas of the Roman Empire. As Patry indicates, the only writings resembling copyright law were the "privileges" granted by high authorities to their favorite printers, with the purpose of securing a monopoly, not to reward authorship. The first stage witnessed the registration of the book in the name of the short-lived bookseller or précis of the text. These privileges issued by the rulers of different cities for publishers within their territories.

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International conventions and treaties

Throughout history, people have been setting rules to work together in human society. These rules, whether unwritten or codified, aim to regulate social relations and organize the issues of life. Among such rules are ancient laws concerning authorship. The first law on authorship, of which we are aware today, is the Mesopotamian Law 2750 BC, and the Code of Hammurabi 1700 BC. After that, the statue of Queen Berenice in Egypt 300 BC was made, calling for the punishment of forgery or concealed authorship. The Romans were also careful to regulate the relations of trade and craft, and then they called the book "the offspring of the mind." In the end, the Middle Ages and modern times were called "art" or "art of writing". One French literature history book stated that "ownership was art from above, and submission only to grace".

In the Islamic era, and after the seizure of the Muslim nation (after the enmity) of what it knows about knowledge and the arts, and the translation of a group of ancient Greek and Persian languages which it had inherited from its artifacts, the Islamic society, which was destroyed by the law, provided the necessary conditions for security. It was confirmed that many of the rights of the author include the prohibition of forgery and the need to mention the inventor. In medieval Europe, pages of great value that preserved the heritage of the ancients emerged from the Caliphate, and the people came out of books that became obligatory. The concept of copyright protection was strengthened by the establishment of "The Writers' Crowning Society" in London, which reflected the clear need to establish an association in the field of literature. Such ancestry proves that the protection of the rights of the author is a comprehensive human issue. The interest of nations at all times and places is the protection of its products from "art" or "writing". Also, the uniqueness of the invention and creativity have contributed to copyright and patent law, and the emergence of new fields in jurisprudence (intellectual property law).

After the end of the industrial revolution, the demand for protection for inventors, creators, artists, publishers, and others at the end of the nineteenth century has grown. They urged European states to begin an international agreement, the Paris Convention for the Protection of Industrial Property in 1883, and the Bern Convention for the Protection of Literary and Artistic Works in 1886, which are the most important cases today. With the independence of Arab states from colonialism and the desire to maintain the rights of creators, as well as the established works, these countries have been very encouraging. The interest of Arab states to follow the western approach in protecting the rights of inventors and creators by signing international conventions in this regard. The United Arab Emirates was the first country to join and ratify the agreements and treaties concluded by the Berne Convention on the Protection of Literary and Artistic Works (1994), the member states of the Gulf Cooperation Council, Kuwait, and all other Arab countries, an important point. The conventions are to be ratified and implemented in accordance with the formal rules and procedures stipulated in their domestic law.

Conceptual Framework

Jordanian legislation has maintained the classical concept that the "author" is the one who creates the creative work. Jordan's fundamental law gives the right to regulate literary, scientific, and artistic property to legal texts. Legislative Jihadia considered material and moral protection of the author as one of the topics of the book by regulating these two rights in a special chapter. The justifications came as a prelude to discussing material and moral rights in which Legislative jihadya concluded the absence of rules that regulate the situation of books, including the law governing the case of the author is a priority because it is the most effective means of enhancing Arab and Islamic cooperation to support the Arab and Islamic

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book and document and protect the mental wealth of the nation.

Islamic Shariah considered the mind as it is one of the branches of the Self and the Self is of invention, and the reputation is a pioneer of ownership and can have real ownership and writers, other inventors, and their interest in their work, so the Sharia jurists have given thought to the followers of invention and invention, and the owner of the inventive work of the house as the invention both periodic and the right to innovative exploitation. The first type is the right of conception, which is the right of the inventor in return for any act that exposes the invention to someone or an entity with a view to obtaining benefit from it. Thus, the idea makes profits from it. On the invention for abuse Violation or can protect any exploitation without a permit from its owner.

Material rights of the author

The term 'author' sometimes creates a misunderstanding, for some people tend to deem it as the same as the word 'writer'. But the author is the one who is creative and projects this creativity in a cultural or experimental form, which is safeguarded by the copyright law. Therefore, the author could be a designer, painter, sculptor, or anyone who is creative and has a significant worth of creativity or personal nature in these creations. From a historical standpoint, the provisions regarding the material rights have received claimable attention, and sometimes excessive attention, by the international text concerning the author's rights such as Bern, Rome, and Phonogram Agreements, for they aim at realizing economic security for creators of cultural expressions, where the commercial right of the author, since the start of the age of modern patents, has been driven to the utmost of assets, where these assets became the determining factor for legislation regulating the author's work.

Jordan has joined the international text, for the Berne convention of author's copyright in 2002 is one of the earliest conventions concerned with the author's copyrights, and copyright has been, since its propagation, a subject of legislatures' attention as a result of the relation between the individual rights upheld by the copyright and the economic activity, which was capable of boosting the national economy for this activity leads to enriching the intellectual and material heritage. Consequently, copyright has become an essential tool in the international economic relations, for the rights recognized by the author with respect to his work are the right of republication, right of reproduction, right of public presentation and making available to the public (including the rental right), right of broadcasting by wireless means, right of the sound or TV sequence, and the right of adaptation and translation.

Moral rights of the author

In regards to moral rights, the rights of the author provided by the articles of this section are inseparable from the author and move to his heirs after his death and then to the public treasury. No one can exercise the rights of the author without the author's knowledge or mentioned in his will for a period of time not exceeding fifty years. Anyone that violates any of the author's rights, whether it was a material right or a moral right, or infringes the author's instructions for a reason or another, commits an offense and the violator shall be subject to disciplinary and criminal penalties. He/she shall be obligated to erase what he/she added or remove whatever he/she that infringed the author's right. The article also provides guarantees the author who left behind a number of works and was being published for the first time, several years after his death.

The term "Protection Moral Rights" used in the Berne Convention expresses the value and important role for the subjective personality of the creator of the work. Moral rights protect the personal benefits of the author that are based on his creation and are derived from the creator's transconsistuous relationship with his work and the person enjoying the benefit of that relationship. Moral rights do not protect consumers or users and do not depend on the

death of the author. They are for the lifetime of the author, being that these rights are associated directly to the author himself. Unlike material rights, which are designed to protect the economic value of using the work, moral rights are designed to protect the moral or personal benefit from using the creativity. "The right of authorship" is about proving that the author is the creator of the work, which is very important especially in used work that has great value or that could be copied or reproduced. The right to integrity undermines any form of exposure to the work in an incorrect way.

Jordanian Copyright Law

Jordan adopted copyright law in the year 1992 by Copyright Law No. 22 of 1992. Article 1 indicates that the protection of rights of the author of a work by this law delay, but the delays in deciding the relevant article nor delay the public materials for the purpose of using the work in accordance with the provisions of the law is called the author of a natural person who creates a work, and when works carried out under the supervision and control of an employer, or a corporation, a university, research institute or similar legal entity and organization, the employee or owner of the corporation, the university, or the corporation is held responsible to register the work as it was carried out in the name and trade, which has assumed an entry in the special record. And when two or more parties contribute to the creation of a single work, the rights in the work are transferred by default when the parties do not specify the scope of each one's contribution in the work.

Publication is defined by Article 3 as an act that brings the work published for the first time before the public when the act occurs with the condition that the work be perceived or can perceive. Publication does not include a verbal declaration that explains ideas. All corporations, government agencies, universities, public research institutions, public operation, cultural institutions and organizations that own the right to publish journals, Institute of research, and work, until the law states otherwise. The right to publish work is issued by a personal statement written and signed by the author or an official statement from a public university provided that the habit becomes common practice in accordance with the regulation and resolution relating to the activities of the Institute under the Political Affairs Council Research.

Overview of the legal framework

Jordan's accession to the various conventions and treaties of the World Intellectual Property Organization marked a qualitative development in the field of protection of authors and holders of other intellectual property rights. This development is considered an aspect of the state's obligations towards the international community. In the interest of the various segments of society and despite the obligation to comply with the provisions of these conventions and treaties, the internal legislator's pursuit of dedication was limited to what is indicated by the terms of these treaties. His legislative work showed a high equilibrium of the material rights, while the moral rights were limited in accordance with the terms of the international conventions only. This was obvious in the way Jordanian law did not include all details of the general principles that would affirm the right of the author in the written texts on the one hand and confirm the interest of society on the other hand.

In this research, the researcher discussed the provisions regulating the material rights of the author in Jordanian legislation and then highlighted the moral and personal rights of the author as stipulated in these laws - the Patents and Industrial Models Law No. 32 of 1999 and the Unfair Competition and Trade Secret Agreement Law No. 15 of 2000. The goal was to show that the legislator's consideration for the issues of moral and personal rights falls below the level set by these international conventions that include a set of general principles that must be included in the national legislation.

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Key provisions related to material rights

4.2. Key provisions related to material rights

The Jordanian Copyright Law No. 22 of the Year 1992 does not provide more details on the works subject to protection, rights (as owners of the work), the scope and duration of protection enjoyed by them. However, the law mentions that there are some limitations on the scope of protection, circumstances in which authors of works are not protected, and some cases that do not amount to infringement of rights of the authors. Some provisions of that law refer to some articles in international conventions.

The Jordanian Copyright Law mentions in several articles the moral and financial rights of the author without providing more clear details. Some other neighboring laws provide a more clear and detailed account of both moral and financial rights. The Egyptian Copyright Law provides a comprehensive account of the moral rights in the provisions of articles. The Saudi Copyright Law also provides a comprehensive account of the moral rights in the provisions of articles. The Case Studies section provides a more detailed account comparing the provisions of the Jordanian, Egyptian, and Saudi law.

In conclusion, based on a reading of the current Jordanian Copyright Law No. 22 of the Year 1992 and comparison with the neighboring laws, it is clear that this law has the main points of the copyright law that each modern copyright law should have. However, it is noticeable that the law did not mention provisions related to the nature supports of the rights or especially the material rights and a specific legal rule. It is known that different supports have different interests for both the author and the end-user. These provisions are very crucial in order to encourage the authors to create new intellectual and artistic materials and protect their interests and get the most benefit from their works/copyleft. Inflexibility to indicate, develop, and clearly express the nature and content of the moral and material rights of the author in the current law.

Key provisions related to moral rights

1. Moral rights include matters such as authorship, integrity of work, and non-attribution. Moral rights are personal rights and protect the personal interests of artists and authors in creations and outputs. Authorship is the right of an author to claim to be the creator of a work. This basic right supports an author's ability to seek financial profit from their work and protects the connection between an author and the work created. The author's right to object to any derogatory treatment of the work is thought to maintain the integrity of a work, protecting honor from disgrace, distortion, or mutilation. Non-attribution is a right to privacy, enabling an author to use a pseudonym or to remain anonymous. Jordan's copyright law includes four key provisions related to moral rights. The first one, known as "the right of attribution," permits the author to claim their authorship publicly and the right to have their name mentioned as the author on copies of their work. This right is associated with economic rights.

2. The second one is called "the right of disclosure." Copyright guarantees an author the right to control the timing and conditions of the first publication or the first distribution of the work, which is their right to prevent premature exposure. The right of disclosure is so linked to the right of attribution. Whenever an author's right to remain anonymous is threatened, their right to demand that the work be attributed is also affected. An author continues to claim their copyright protection even after the copyright has ceased. This is in contrast to an author who transfers copyright ownership. If the claim is accepted by the court, the infringer may be held liable for all the damages suffered by the author. The copyright owner can bring a civil copyright violation proceeding to prevent continued copyright losses or future similar infringing acts.

Comparison with International Standards

The Berne Convention has set the basic rules for the protection of the rights of the author in

international law. Since the introduction of these rules in the Convention, we have seen the emergence of a small number of obligations for states with respect to the rights of the author that are intended to meet a clearly-defined purpose. Examples of this include the residual requirements concerning restrictions on the international transfer of rights that states may apply in order to protect works that are difficult to protect nationally, such as works of architecture, works of applied art, and packages of works. The Rome Convention recognizes that in diverse areas and with different scopes, the protection of the author is also protected in the field of expressions other than literary and artistic works, i.e. performances of performers, phonograms of producers, and broadcasts of broadcasting organizations. We have also seen the scope of protection gradually broadened to cover the producers of first fixations.

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) goes a little bit further by providing a detailed set of rules concerning copyright that also reinforce the rules contained in the Berne Convention and make the protection consistent for all mechanical, visual, and interactive media technologies. The EU Directive on the Protection of Software, the related case law interpretation, and the introduction of specific protection rules for databases provide further scope for the protection of computer programs, data carriers, and the manufacturers of first fixations and for the establishment of databases. Finally, a series of international treaties have been prepared in order to remedy a number of outstanding international problems identified by the WIPO.

Challenges and Enforcement Mechanisms

The regulation of moral and material rights has justly been described as among the most important issues of copyright law, although there are many others. Experience shows that legislation must be reasonably clear on what is protected, for how long and by virtue of what formal requirements. These principles are finite; most are now expressed in international conventions. The extent to which such conventions are adhered to depends on the country, and on its implementation. Switzerland, for example, gives relatively little protection to moral rights. Many other countries give more such protection, but they vary considerably as to the means they use to protect moral and material rights and thus call for special scrutiny.

The Jordanian Copyright Act of 1992 enshrines literary, scientific, and artistic works while respecting the provisions of international treaties and conventions to which Jordan is a party. These works are subject to the common conditions of the Berne Convention for the Protection of Literary and Artistic Works on 9 September 1924. Moral rights enjoy protection for the author's lifetime and are eventually transferred to his progeny measured through the author's service which is limited, in time, level and is transferable. This arrangement between the author and his heirs aims to protect the originality and genuineness of creative effort. While Jordan is a signatory to the UCTDR, the lack of proper implementation regulation was one of the main criticisms of its membership request.

Case Studies and Examples

First example relates to defining legitimate work. The Jordanian Law on Publication (No. 8, 1993) stipulates in paragraph (c), Article (7) of that law that every printed material equipped with encoded material must be deposited in the subject library of the National Library of Jordan. While some authors agree with depositing their book containing e-book material in the National Library of Jordan, they strongly reject it in terms of posters, tapes, pictures, and graphic designs. I tend to defy in a relatively similar case. In my first meeting with companies producing software and computer games, I said to them, "If a user of the game paid hard-earned money to benefit from it, he may lose this benefit and receive nothing from the program as practicing kids of such software after having it chock up."

The second example reveals the fact of the legislative change phenomenon. The Jordanian Law on Copyright and Neighboring Rights No. 22, 1992, conducts 2 exclusive rights of the author in Article 7 of this Law. The first right longs to copy, distribute, rent, lend by one copy or by several copies the original products of the work. The second right enables the author in Article 7 (i) "to sell or rent the benefits to different consumers of such an encyclopedia." The special Jordanian Law stipulates this new type of sales because the technology enables the author to charge every user of the encyclopedia. This provision for the Law protects the legitimate rights of the owner of the encyclopedia designed in digital encyclopedia within the original intention of the copyright laws in Jordan to prevent use from hacking the legitimate benefits of the authors in publishing the almost continuously developing art to make not only the last literate gain the benefits of its enterprises but also help use the digital technology to achieve the development raising the efficiency of computer programs to achieve public benefit.

Future Directions and Recommendations

The new Jordanian Copyright Law has broadened the scope of work subject to protection. By adjusting them to the new technological developments, the said law has secured the authors the material rights stipulated in the Berne Convention. However, the law has not secured the moral rights of the author and the rights of the related rights and the neighboring rights. Substantially, since the law tried to strike a balance between the rights and interest of the author that create copyrighted language and the right and interest of the public, it has provided for many justifications and legal exceptions. Recommendation and Future Directions: To meet its international commitment and to support the process of economic development in Jordan, the said Copyright Law is required to be reviewed carefully with the aim of proposing amendments to it. The amendment has to secure the author all his/her moral rights in his/her works. Furthermore, the amendment has to secure all the rights of the related rights and neighboring rights.

Conclusion and Summary

The text of the Berne Convention is applicable through the 4 notification systems: inherent, alternative, mandatory, and optional systems. Jordan has enacted the minimum amount of protection for authors through the two notification systems: the inherent and the alternative. The Jordanian legislation contains several provisions of each one of the systems. Furthermore, it has omitted some major provisions of the Berne Convention. This would allow the amendment of the Jordanian legislation to comply with the requirements of the Berne Convention. It also regulates the time limits to protect literary works, which have been restricted to the lifetime of the author and fifty or seventy years after the author's death.

The convention aspires that it is not allowed to apply the requirements of formality to protect a work, as it was considered a conditioning of the protection. The Jordanian Copyright Protection Act has applied the requirements of formality to protect the literary work in a general application, as it has allowed three systems that require the legal deposit to protect a work, as it has enabled the official publication of the work. Furthermore, it has enabled the protection of those literary works according to the reciprocity treated by the Jordanian State. A more flexible system for the protection of the literary work has been enacted in the new Act. The requirements of formality have been relaxed while the actual system was retained in effect. Furthermore, it has abolished the definite reciprocity rule.

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