



## Protection of the Right of the Integrity of the Artwork of the Creator of Motion Picture: A Comparative Study in the legal System of the USA and Iran

Pedram Keshavarz<sup>1\*</sup> | Reza Daryai<sup>2</sup>

1. Master of Private Law, University of Guilan, Iran

2. Assistant Professor, University of Guilan, Iran

\* Corresponding Author Email: pedramkeshavarz1995@gmail.com

### Abstract

In addition to economic rights that protect his financial interests, the creator of a motion picture has another set of rights called moral rights that focuses on the relationship between him and the work. The economic rights of the work refer to the intellectual work and the moral rights refer to the creator. Among the most important moral rights is the right to integrity, according to which any change in the work is subject to the consent of its creator. The right to integrity consists of two positive and negative aspects. Its positive aspect means that only the creator of the work has the right to alter and modify his work, and its negative aspect means that no other person has the right to change or distort his work without the creator's permission. This right guarantees the artistic and economic interests of the author. From the artistic aspect, the work shows the creator's personality in a way, and any damage to the work is damage to his personality; Therefore, only the creator can make changes to his work or prevent any changes, distortions, or censorship. From the economic point of view, if any person has the authority to change the work, it will lead to irreparable damages; Because the people, who watch work with poor quality instead of the original work, do not buy the works of that creator and their cultural needs with other works. This article seeks to answer the question that to what extent the right to the integrity of the motion picture is protected in the two legal systems of Iran and the United States. Is this protection sufficient? To achieve this answer, it is necessary to identify the station of the integrity of the work, its importance in protecting the interests of the creator, and the methods of protection in these two legal systems. The present study, which was carried out in a descriptive-analytical method and using library tools, indicates that US law, following the "copyright" system, is based on the protection of the work. In this legal system, following utilitarian theories, the economic and financial aspects of the work are of fundamental importance, and moral rights are not generally accepted. For this reason, in the US legal system, moral rights, and especially the right to the integrity of the work, have been the source of many disputes. During the 1930s, Congress proposed at least seven separate bills on whether or not to join the Berne Convention, but none came to



fruition. In Hollywood, neither independent directors nor the Directors Guild of America were powerful enough to demand permanent artistic control over their works, so they hoped that the law would recognize an undeniable natural right to control their art. First, in 1988, after nearly a hundred years, the United States ratified the Berne Convention. In the same year, the National Film Preservation Act established the National Film Preservation Board and the National Film Registry, which authorized the board to select twenty-five films each year for inclusion in the National Film Registry to be protected from exhibition or distribution in altered form without a label indicating the alterations. Also in 1990, the Visual Artists Rights Act created limited moral rights in some works of art but expressly excluded films from the protected works category. This left the protection of the integrity of the work to other legal institutions, such as libel, invasion of privacy, and unfair competition; However, because these doctrines are not designed to protect moral rights, this has resulted in the fact that the right to the integrity of a motion picture, like other moral property rights, does not have adequate protection in the United States legal system. On the other hand, following the "author's right" system, Iranian law considers honoring the owners of ideas as a natural right, and in fact, it considers supporting these people as a reward for their creative and innovative efforts. This legal system, with its personality-oriented approach, has given special importance to the creator of the work, and in addition to economic rights, to protect the personality and credibility of the author of the work, it has considered another category of rights called moral rights. In the Law on Protection of the Rights of Authors, Writers, and Artists approved in 1348, the right to the integrity of the work is protected in the case of motion pictures. To enjoy this protection, the work must meet legal conditions, which include originality, expression, first publication of the work in Iran and not opposing public policy and morals. However, the detailed licensing system from the beginning of production to the end of the cinematographic screening has led to severe restrictions on the freedom of artistic expression and the right to the integrity of the creator. Also, regarding Iranian motion pictures that are broadcasted on national television, many cases have been observed that even after passing through numerous corrections and audits and obtaining permission to be shown in cinemas, the motion pictures have faced censorship again to be shown on television. The Foreign motion pictures are also always facing censorship. In these cases, if changes and deletions of scenes from the motion pictures are made without the consent of the author, it is a clear example of violating the integrity of the work and can be pursued legally. Therefore, despite legal protection, in practice, the issue of widespread censorship has caused the Iranian legal system to not provide adequate protection for the right to the integrity of the author's work.

**Keywords:** author's moral rights, the right of integrity, motion pictures, censorship, public policy.



## References

### Books

1. Hajeb, Zahra (2019). Photography and Cinema in Iranian and International Law, Bushehr: Helleh. [in Persian]
2. Decherney ,Peter (2012). Hollywood's copyright wars-from Edison to the Internet, New York: Columbia University Press.
3. Goldstein, Paul & and Hugenholtz, Bernt (2019). International Copyright-Principles, Law and Practice, London: Oxford University Press.
4. Leaffer, Marshall (2019). Understanding Copyright Law, Durham:Carolina Academic Press.
5. Sheikhi, Maryam (2015). Principles of Intellectual Property Rights, Tehran: Mizan. [in Persian]
6. Stamatoudi, Irini A (2003). Copyright and Multimedia Products A Comparative Analysis, London:Cambridge University Press.
7. Zarkalam, Sattar (2019). Literary and Artistic Property Rights, Tehran: Samt. [in Persian]

### Articles

8. Agah, Vahid (2022). moral, political and sociology-cultural censorship of cinematic works in the law and practical procedure of the Ministry of Culture and Guidance. Culture and Communication Studies, 23 (57), 197-220. [in Persian] Doi:20.1001.1.20088760.1401.23.57.8.8
9. Agah, Vahid (2019). The Blade and the Silk: Analysis of the Theoretical foundations of censorship in cinema. Legal Research, 19 (41), 173-200. [in Persian] Doi:10.48300/JLR.2020.109259
10. Akrami, Jamshid (1996). Sharp Scissors in Blind Hands; Film Censorship in Iran, from the Beginning to Today. Iran Nameh, 55(1), 457-476. [in Persian]
11. Alavipour, Mohsen (2018). Dawn of Cinema in Iran: Socio-political Challenges. Social Historical Research, 8(1),113-131. [in Persian] Doi:10.35465/shc.2018.20918.1760
12. Ansari, Bagher (2016). Conditions for a work that can be protected in the literary and artistic Property System (Copyright). Legal Research, 10(45), 97-151. [in Persian]
13. Bird,Robert & Ponte,Lucille(2006). Protecting Moral Rights In The United States And United Kingdom. *Boston University International Law Journal*, 24(1),213-282
14. Chávez, J. A (2018). COCOPYright and the value of moral rights. *Wipo Magazine*, 4 (1).1-5. Doi:10.34667/tind.32560

15. Jafarpour, Yasaman & Shakeri, Zahra (2024). Limiting the Author's Moral Rights by Applying the Doctrine of Fair Use in the American Legal System. *Contemporary Comparative Law Studies*, 14(33), 5-10. [in Persian] Doi:10.22034/LAW.2023.52920.3161
16. Gholamloo, Jamshid & Daryae, Reza (2022). Defamation Crimes: From Criminalization to Decriminalization and Civil Law Model. *Criminal Law Doctrines*, 19(23), 203-240. [in Persian] Doi: 10.22054/jplr.2020.41847.2208
17. Hardy, Sheldon (1993). The Protection of Moral Rights through Section 43(A) of the Lanham Act. *DePaul Journal of Art, Technology & Intellectual Property Law*, 4(1), 1-33.
18. Hayes, Benjamin (2006). Integrating Moral Rights into U.S. Law and the Problem of the Works for Hire Doctrine. *Ohio State Law Journal*, 61 (1),1013-1033.
19. Holland, Brandi (2006).Moral Rights Protection In The United States And The Effect Of The Family Entertainment And Copyright Act Of 2005 On U.S. International Obligations. *Vanderbilt Journal Of Transnational Law*, 39(1) ,217-252.
20. Lee, Brian (2011).Making Sense Of Moral Rights In Intellectual Property. *Temple Law Review*, 84 (1),71-118.
21. Mir Shamsi, Mohammad Hadi & Hamed, Milad (2019). Analysis of the practical procedure of the copyright system regarding intellectual property rights. *Private Law Research*, 9 (32), 155-188. [in Persian] Doi: 10.22054/jplr.2020.41847.2208
22. Pakar, Elnaz (2018). Film Censorship in the National Media. *Translator*, 27(65), 123-130. [in Persian]
23. Sadeghi, Mahmoud & Allameh, Sara (2015). Analysis of the relationship between copyright and the content of the work in the judicial decisions of the United States, Great Britain and Canada. *Comparative Law Studies*, 6(2), 651-676. [in Persian]
24. Salek, Reza (1999). Copyright of Cinematic Works in the World. *Cinema Review*, 19 (1),97-99. [in Persian]
25. Wm. & Mary (1977). Moral Rights for Artists under the Lanham Act: Gilliam V. American Broadcasting Cos, *Wm. & Mary L. Rev*, 18(3),595-611.

### Theses

26. Saeedi, Saman, The Relationship between Audit of the work and the Right to Integrity of the Work. Master's Thesis, Tarbiat Modares University, 2021. [in Persian].
27. Sayanjali, Hossein, Comparative Study of the Intellectual Property of Cinematic Products in Iranian, British and International Law, Master's Thesis, Imam Sadiq University, 2017. [in Persian]



28. Vandsazjoo, Amane, Investigating the Rights of Cinematic Works Creators in the Literary and Artistic Property System of Iran, Master's Thesis, Allameh Tabatabaee University, 2012. [in Persian]