

Copyright Law Reform and Censorship in Iran: Whose Morality?

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Iran is not a member to the Berne Convention or any other international copyright agreement. The Iranian copyright law is currently under review and the proposed copyright bill is drafted to mainly comply with the requirements of the Berne Convention in order to pave the way for Iran's participation in the international copyright regime. An often quoted incentive for the reform is better protection of authors' rights, as well as attracting foreign rightholders with the prospect of stronger copyright protection for them to make their works available in Iran. A notable departure from existing legislation is the new section 5(8) of the copyright bill that states "those parts of literary and artistic works that, according to the relevant laws, are against modesty (morality) and general ethics will not be protected by copyright."

This paper argues that the introduction of section 5(8) is of significance and calls for further analysis. Currently, copyright protection in Iran is automatic. However, publication, distribution, and communication to the public of many copyright works, especially literary and artistic works, require official approval obtained through certain processes and certifications. This paper focuses on a number of questions that the inclusion of section 5(8) in the copyright bill raises. These questions include the consequences of excluding certain works from copyright protection rather than limiting the exclusive rights of authors of such works as is currently the case; the legality of section 5(8) under the Berne Convention and other international copyright instruments; the criteria for measuring the legitimacy and scope of morality and public order for the proposed limitation of authors' rights; the potential challenges in defining concepts such as morality, general ethics, and public in a large and diverse country such as Iran with multiple ethnicities, religions, and cultural and societal norms; and finally, the interaction of copyright law and other local legislation with regards to morality of copyright works vis-à-vis authors' international human rights e.g. under art 15(1)(c) of the ICESCR to which Iran is a member.