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# MORAL RIGHTS IN THE INTERNATIONAL REGIME

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## ABSTRACT

There is no simple way to judge the Agreement. Evidently, it is a watershed moment in the history of copyright legislation, accomplishing what the Berne Convention failed to do: establish globally accepted baselines for copyright protection. Therefore, the TRIPS system may be seen as a fruitful attempt to standardize worldwide copyright laws. However, "harmonisation" is a misleading phrase since it overstates the effect of international copyright regulations. Harmony suggests agreement, however the TRIPS Agreement is an example of standardisation accomplished without widespread consensus. An alternative way of looking about TRIPs is as a powerful force promoting "internationalisation" in this field of law, rather than as a means of harmonising laws.

However, the system's strengths-its ability to compel and its expansive, all-encompassing scope-are also its shortcomings. Ironically, by the time it was adopted in 1994, the Agreement, which was born out of the frustration of industrialised countries regarding the ability of copyright norms to keep pace with technological innovation, had practically become obsolete. WIPO issued its two Internet treaties in 1996 to fill this void, and in doing so, it rebranded itself as the preeminent global forum on digital copyright problems. The World Intellectual Property, Organization's Internet Treaties have become the gold standard for protecting intellectual property online. Instead of TRIPs, these Treaties define copyright in the digital age. Rather,

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TRIPS's significance resides in the way it transforms IP rights into commercial standards globally.

## AN OVERVIEW:

When it comes to copy right legislation, international pressures have a tendency to trump moral rights. Weirdly, they find themselves in this predicament. Moral rights are defined in a worldwide context by the system for copyright protection, but the outcomes are remarkably confusing. Moral rights are caught in the middle of the tangled web of international copyright agreements Copyright policy sees their status as partial rights within the international system as both an advantage to be utilized and a disadvantage to be overcome.

In a twist of irony, international treaties have primarily been responsible for the development of current copyright law. The irony is palpable when one considers the illustrious history of copyright being lauded as "purely statutory law in the common law world. The genesis of copyright may be traced back to national legislatures the rights that fall under copyright are based on copyright statutes passed at the state level, and copyright's scope is limited to the territory of individual countries. The ongoing supremacy of domestic legislation and their authority over domestic concerns in the realm of copyright is far from guaranteed if international agreements have become a key source of copyright regulations.

An extreme dispute may arise. As copyright-protected content crosses international boundaries with increasing ease, it is evident that there is a need for worldwide standards and practices respecting copyright. The basic concept of copy right protection becomes useless without steps to handle the transnational mobility of works.

Copyright in a technology context has undeniable far-reaching societal effects. Copyright law is an increasingly vital component of national policy, particularly in light of its pervasive and perilous impact on the arts and economy. Sometimes it appears like cultural sovereignty, which is something that most nations would say should not be given to the international community, and hence should not be in charge of copyright legislation. Unique characteristics of the tinder

are fueling the fire. In themselves, international copyright agreements are nothing new-the *Berne Convention for the Protection of Literary and Artistic Works*[2] dates from 1886 but the power that they have acquired over the past decade is unprecedented. Furthermore, the agreements original intent has shifted. However imperfect and unsatisfactory it may have been in the past, a system that was formerly based on "consen-sus" has now moved explicitly towards "coercion."

An obvious indicator of this shift in priorities is the transfer of international copyright law from the domain of public law to that of "private" international law.[3] To see the shift in international copyright law, compare the old and current main papers. The economic law of international trade has evolved from a "soft" rule based on consensus and not implemented by any real mechanism of coercion to a law that is enforced by the threat of severe trade sanctions against violators

In the realm of public international law, the Berne Convention stands as a classic instrument. It was managed by the United Nations and represented a negotiated approach to international copyright laws, which was more or less effective depending on the situation.[4] All member nations are expected to adhere to the minimal requirements set forth in the Berne Convention on the Protection of Literary and Artistic Works. The extent to which they are successful, however, is dependent on the status of copyright in the various jurisdictions where they are used. The Convention makes it abundantly apparent that its members may take whatever steps are necessary for the domestic legalisation of the Berne principles and for the facilitation of their practical interpretation and execution in conformity with their own national approaches. Perhaps it would have been unfriendly to discuss the "enforceability" of the Berne regulations. Without a doubt, tensions and disputes were commonplace in the Berne Union. However, at least ostensibly, the system was founded on agreement.

However, reaching a consensus may be a time-consuming and frustrating process, despite how desirable it may be. One pragmatic motivation for the formation of a new intellectual property

[2] Berne Convention for the Protection of Literary and Artistic Works (adopted Sept 9, 1886)
[3] Graeme B. Dinwoodie. Developing a Private Intemational Intellectual Property Law: The Demise of Territoriality? The Boundaries of Intellectual Property Symposium Crousing Boundaries, 51 WM & MART L Rav 711-716-65 (2010)
[4] Elena Katselli Proukaku The Problem Of Enforcement In International Law Countermeasures The Non-Injured State And The Idea Of International Community (Routledge Reach in International Law Series Routledge 2009.

system by the mid-1980s was the capacity of developing nations to oppose modifications to the Berne Convention through the United Nations system of bloc-voting. As could be expected, the project originated in nations with superior technology, with the United States taking the lead. The worldwide copyright regime underwent a sea change with the advent of the World Trade Organization. As one of its founding agreements, the WTO adopted an Agreement on Trade Related Aspects of Intellectual Property Rights, known as TRIPS,[5] and made disputes on intellectual property matters subjects to the general dispute-settlement mechanism of the WTO. Do not underestimate the ingenuity of the TRIPs idea, Instead of trying to create whole new copyright rules, negotiators opted to keep the copyright principles established in Berne, which represented the experience of over a century, TRIPS was able to do this by simply absorbing the Berne Convention into itself.

The real innovation in TRIPS was in how it took the Berne Convention's rules and applied them in the real world Through TRIPS, international treaties often condemned for being "unenforceable," were given the power of law. What's more, the terms of TRIPS might be enforced in a unique manner, with the potent deterrent of economic penalties, making them) genuinely "hard" 10 Countries who wanted to join the World Trade Organization (WTO) were required to implement the intellectual property protection measures outlined in the Trade Related Intellectual Property Agreement (TRIPS) When this doesn't happen, the dispute settlement tribunal hearing the case may impose trade penalties to other economic measures. In the last decade, the WTO's "enforcement" mechanism has shown to be robust, successful and much sought for by its member nationsDespite the TRIPS Agreement's coercive nature, which is off-putting to many at first, it is impossible to completely reject it. Even while developing nations have valid grievances with TRIP's, they have opted to join the system and push for reform within its existing framework, with mixed results.

There is no simple way to judge the Agreement. Evidently, it is a watershed moment in the history of copyright legislation, accomplishing what the Berne Convention failed to do: establish

[5] Agreement on Trade-Related Aspects of Intellectual Property Rights. Apr. 15, 1994 Annex IC to the Marrakesh Agreement Establishing the World Trade Organization, 1869 UNTS 299, 33 ILM 1197 (1994).

globallyaccepted baselines for copyright protection. Therefore, the TRIPS system may be seen as afruitful attempt to standardize worldwide copyright laws. However, "harmonisation" is a misleading phrase since it overstates the effect of international copyright regulations. Harmony suggests agreement, however the TRIPS Agreement is an example of standardisation accomplished without widespread consensus[6]. An alternative way of looking about TRIPs is as a powerful force promoting "internationalisation" in this field of law, rather than as a means of harmonising laws.[7]

However, the system's strengths-its ability to compel and its expansive, all-encompassing scope-are also its shortcomings. Ironically, by the time it was adopted in 1994, the Agreement, which was born out of the frustration of industrialised countries regarding the ability of copyright norms to keep pace with technological innovation, had practically become obsolete. WIPO issued its two Internet treaties in 1996 to fill this void, and in doing so, it rebranded itself as the preeminent global forum on digital copyright problems.[8] The World Intellectual Property, Organization's Internet Treaties have become the gold standard for protecting intellectual property online. Instead of TRIPs, these Treaties define copyright in the digital age. Rather, TRIPS's significance resides in the way it transforms IP rights into commercial standards globally

Given their standing as a standard, the WIPO Treaties viewpoint on digital concerns is contentious When it comes to copyright law, WIPO is a staunch supporter of the current, pre digital structure, The World Intellectual Property Organization Copyright Treaty is the more important of the two, and its defenders have called for copyright to be expanded to encompass all of the novel means of getting and exploiting copyright works in a digital setting that have been discovered so far. However subtly worded, the goals of the WIPO Treaties are radical to privatiseand limit access to what was formerly freely available under the umbrella of current copyright law.

[6] Mira T. Sundara Rajan, Copyright and Creative Freedom, 173,83 (Routledge 2006).
[7] ibid
[8] WIPO Copyright Treaty (adopted Dec. 20, 1956, entered into force Mar 6, 2002) (1997), 36 ILM 65 (WCT)

# THE BERNE CONVENTION: AN UNEASY COMPROMISE

The Berne Convention, created during the Rome revision conference in 1928, is the first international document to recognise moral rights.[9] At the Berne Convention's Brussels revision conference in 1948 and the Stockholm Conference in 1967, the text was revised for the first and only time. No major changes to the provisions were added by the modifications, suggesting that their scope was reduced if for no other reason. Instead, they concentrated on clarifying the bounds of moral rights that earlier negotiators may have simply assumed were inherent to the system

# THE AGE OF AUTHORSHIP: THE ORIGINAL TEXT OF 1928

The 1928 provisions on moral rights in the Berne Convention stated as follows:

> *"Independently of the author's copyright, and even after transfer of the said copyright, the author shall have the right to claim authorship of the work, as well as she right to object to any distortion mutilation or other modification of the said work which would be prejudicial to his hour or reputation".*[10]

The clause from 1928 envisioned the protection of just two of the many conceivable moral rightsbut both were unanimously recognised in the countries of Continental Europe at the time.[11] The first is the author's right to be properly credited for his or her work, sometimes known as the integrity right, and the second is the author's right to have that work kept safe from harm. When discussing matters of honesty, attention was paid to situations in which dishonouring the work might cause harm to the author's honour or reputation. Although the idea of honour may have had a definite meaning in nineteenth-century Europe, it is not a phrase on which current claims often depend. This is only one of the many difficulties presented by this formula. The term "right of paternity, which refers to the right of attribution, has fallen out of favour. Reflecting the

[9] Supra note 1
[10] Rome Act, 1928.
[11] Elizabeth Adenty, *The Moral Rights Of Authors And Performers An International And Comparative Analysis: New Edition*, para 6.30(Oxford Univ. Press 2006)

constraints of Berne terminology, the right of integrity is recognised as a "right of reputation" incertain jurisdictions.[12] It was a huge win to have moral rights included in the Berne Convention The United Kingdom and its colonial territories had settled on a middle ground with the civil law countries of Continental Europe. But the compromise did not signify unanimity. Rather, the acceptance of the moral rights clause at Berne indicated the incorporation of civil law concepts into the Convention, which was acceptable to the common law countries.

Some of the classic commentators on French copyright law even go as far as to say that moral rights constitute the raison d'etre of copyright itself, which is contrary to the view held by the civilian tradition, which holds that moral rights are an integral aspect of the author's copyright. Since at least 1774, when the landmark case of Donaldson v. Beckett effectively eliminated the prospect that moral rights might be an element of English copyright protection, this stance has been diametrically opposed to English law.[13] A history of skepticism and even antagonism toward moral rights may be traced bock through common law countries. Common law scholars question the significance of the moral right of the author since it is thought to have been imported from the French *droit moral*, a legal notion founded on cultural sensibilities.[14]

The Donaldson case, on the other hand, requires caution when interpreting The verdict was a reaction to a different sort of claim than the moral rights concept, namely the allegation that British publishers at the Anne were entitled to rights beyond those granted by the Statute of Anneof 1710 The publishers' monopoly on printing in the realm before the Statute was passed mode it easy for the monarch to use his or her censorship authority. The new Statute aimed to reduce the influence of the monarchy on press freedom by ending the publishers' monopoly. The possibility of rights, for the Stationers beyond those included in the Statute, was frightening. The Statute of Anne was a response to worries about freedom of expression stated by writers ranging from John Milton to, John Locke If the courts had sided with this argument, the Statute's protections against censorship through the abuse of exclusive printing rights would have been

[12] Supra note 5 at 173-79
[13] Donaldson v. Beckett (17741 Brown's Park, Cases 129, 1 Eng. Rep 837
[14] Statute of Anne Anne 19 The text of the Statute of Anne is available at http://www.copyrighthistory.com/anne.html

nullified Authors' moral rights, which may have been drawn from a common law copyright reflecting natural rights ideas, were lost in the process, a casualty among bystanders. However, one's convictions are potent, and the present emphasis on copyright as commercial law in thecommon law nations, especially the United Kingdom and the United States, is a good fit with the belief that moral rights are an alien import to copyright law The incorporation of moral rights into international copyright policy appears odd in light of these facts Considerations of the contribution of authors to the establishment of an internationalcopyright framework and the historical context in which it was made, and the specific legal basis on which common law countries accepted the protection of moral rights, provide insight into thereasons for their success.

## LEGAL LANGUAGE

It is illuminating and disturbing to think about the legal foundations on which moral rights were finally established in the Berne Convention Consider the history of Article this of the Berne Convention, beginning with its adoption in 1928, continuing through its clarification in Brussels in 1948, and concluding with its final modifications Stockholm at the crucial revision conference of 1967, and you'll begin to get a sense of the convention's significance

As can be seen from the communiqués sued in the wake of the 1928 talks, the common law nations may have been convinced to accept moral rights on the grounds that they were not committing to anything new. The UK and Australia delegations at the Rome conference reportedly saw the rights as a codification of rights previously held by their authors, perhaps through the common law of tort and statutory laws outude copyright law that addressed comparable concerns Because the Berne Convention relies on the national treatment, it benefited common-law nations to adopt moral rights. Common-law authors would be protected overseas, while common-law nations need simply respect the Berne Convention's minimal criteria at home" The Canadian delegation's silence on the matter is mentioned by Elizabeth Adeney She attributes it to Canadians reluctance to spark controversy, which rings true, but her claim that the country has a more nuanced sense of moral rights because to the influence of French law in

Canadian legal system raises more questions than it answers In response to these assertions David Vaver writes 'folklore'.[15]

Perhaps a less optimistic truth is at hand Although Canada's moral nights legislation didn't come into effect until 1931, it had wide and even comprehensive waiver options. The vast majority of Canadian authors and artists, who have little negotiating strength, would be unable to enforce their moral rights if waivers become part of standard form copyright contracts in Canada. The famous, colourful, and very brief verdict on Michael Snow's sculpture of Canada geese is the only clear triumph for moral rights in the history of Canadian law.[16] Canadian courts will likely be extremely careful in recognising and enforcing moral rights concepts, as shown by the Supreme Court's recent statements on the topic. The French influence appears to have caused a rift between justices of the common law and civil law traditions on Canada's highest court, rather than fostering a broader awareness of moral rights in Canada's English-law population

## THE TRIPS AGREEMENT

The TRIPS Agreement was a precursor to the United States participation in the Beme Convention. The policy shift if addressed was the United States intention to assume a new position of worldwide leadership in the area of copyright and the decision it resulted in was a response to that move. The legitimacy of its leadership relied on the public's acceptance of theBerne framework.

Unavoidably, the United States choice to join Herne sparked heated debate on the topic of protecting moral rights. In particular, what the United States should do to put its copyright law in line with the worldwide norm set in Berne was a topic of much debate. Unexpected after twenty years, there was still no reply. A look back at the congressional discussions of 1956 reveals that the United States was confident in the robustness of its fort safeguards while being wary of the extension of copyright law. Similarly contentious debates arose when Britain initially evaluated

[15] Visual Artists Rights Act of 1990, Pub. L. No. 101-650, 104 Stat. 5128, 17 USC 106A [VARA].
[16] Snow v. The Eaton Centre (1982) 70 CPR (24) 105.

its conformance with Berne. The American stance, on the other hand, appears more compelling. maybe because of the novel and adaptable nature of American case law in comparison to its British analogue.[17]

Interestingly, "the 1948 case of Shostakovich had seen an American judge searching in US Common law to find a basis for moral rights protection in that country.[18] The case eventually failed-not because of any special antipathy to the moral rights concept in the United States, but instead, due to the practical difficulties of providing proper evidence for a moral rights claim.[19] Political concerns may also have played a role Shostakovich raised the issue of the rights of Soviet composers to protest the use of their music in an anti-Soviet film. It was brought by the Soviet government on behalf of the composers, highly questionable legal approach to rights that are supposed to be inalienable.[20] Recognizing moral rights on these facts may simply have been too risky.

What is astonishing is the tenacity with which the United States has persisted in its view. To date, the only significant legislation on moral rights remains the Visual Artists Rights Act of 1990. As David Nimmer comments:

> *"The Visual Artists Rights Act of 1990 is of limited scope. It does not apply across the board to copyrightable works; rather, it applies only to works of art, namely photographs, sculptures, paintings, and what in the United States would traditionally be called 'fine art it is further limited to fine art that is either the original signed by the artist, or issued in a limited edition of 200 or fewer, and only those limited editions that are signed and numbered by the artist. By contrast, moral rights, as they are envisioned in the Berne Convention, apply across the spectrum of copyrightable compositions Moral*

[17] Copyright, Designs and Patents Act 1988, sec 81.
[18] Supra note 5
[19] ibid
[20] Supra note 5

*rights apply to novels, plays, movies and songs two artworks to, indeed, but certainly not only artworks, as in the US law that took effect June 1, 1991."*[21]

## THE WIPO TREATIES

The WIPO Internet Treaties were the first attempt to reform copyright with digital issues in mind at the international level. Regardless of TRIPS, this recognition should go to WIPO. The TRIPS Agreement was already becoming outmoded by the time it was adopted, which is a reflection of the WTO system's massive reach that was beginning to crumble under its own weight. SinceTRIPS was part of the World Trade Organization (WTO), and since each of its provisions was achieved after tough negotiation, revising it would be a time-consuming and difficult procedure.

The TRIPS Agreement stands in stark contrast to the fast-paced world of technology. To solve this problem, the WIPO Internet Treaties were written. There are two treaties, the more general WIPO Performances and Phonograms Treaty (WPPT) and the more ground-breaking WIPO Copyright Treaty (WCT)[22] The Treaties were the product of a land mark exercise in treaty making Concise and to the point, they focus directly, and purely, on digital issues.

## THE WCT: A DIGITAL RIGHT OF DISCLOSURE

The single major innovation in the WCT is its creation of a right of "making available." "It brings every Internet transaction involving a copyright work within the ambit of copyright restrictions. It confirms that Internet privacy is an illusion once we accept the WCT concept of infringement, there is no inviolable privacy of Internet use.[23] Data on Internet use must be collected to furnish the necessary evidence of copyright infringement. This issue has been uneasily avoided by Canadian courts in the BMG v John Doe litigation, and the European Court

[21] David Nimmer (Nattier vest critique inher aspects of the Viscal Rights Act as a tool for Beme implementation)
[22] WIPO Copyright Treaty
[23] BMG Canada Inc. John Doc. 2005 ECA 193 (200514 R.CE 81)

of Justice has collided with it in the *Promusicae* case. As Fanny Coudert and Evi Werkers succinctly conclude:

> *"The ECI decided that it cannot be derived from European legislation that Member States are obliged to install a duty to provide personal data in the con text of a civil procedure to ensure the effective protection of copyright. It did not however provide guidelines on how the balance should be made. In sum, the "hot potato was passed on to the Member States".*[24]

It's not easy to tell what role moral rights play in the WIPO Copyright Treaty It is clear that moralrights are not included in the Treaty. The underlying potential for moral liberties, however, mustnot be overlooked The notion of moral interests appears to emerge from the text as a by-productof some of its other purposes, as is often the case when moral rights evolve in a digital setting. This significant as it serves as a reminder of an essential feature of moral rights, theirnebulous nature. They are of course, legal protections, but they have their roots in the samenaturalistic notions of rights and artistic expression as do human rights. The emotive force of the WCT's language is what makes it relevant to moral rights. Due to the WCT's possible role in establishing the groundwork for a future accommodation of moral rights at the international level, these language references should not be disregarded. The WCT uses wording that is distinct from existing copyright agreements, which hints to two novel ideas. First, it appears that the Treaty is shifting the conceptual orientation of copyright law by emphasizing technological considerations According to the WCTS copyright law model, economic rights and what may be considered authorship interests should be combined. The second piece of evidence supporting this assertion is the Treaty's clear emphasis on authorship rather than ownership "the tremendous influence of the growth and convergence of information and communication technologies on the creation and use of literary and creative works as stated in the WCT's Preamble, inspired the treaty's drafting In this respect, its most novel aspect is the introduction of a new "right of communication to the public which does not exist in any previous international copyright

[24] Fanny Craden & Evi Werkers, In the Altermath of the Promisine Case How to Strike the Balance 18/11intl 11 Info Tech 50, 51 (2010)

instrument. Defined in Article 8, it introduces the concept of "making (a work) available," specifying that

> *"authors of literary and artistic works shall enjoy the exclusive right of authorizing any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them".*[25]

## THE EUROPEAN UNION

To evaluate moral rights within the international copyright system, the European experience must be taken into account. Despite being a regional system, the EU Copyright Directives have made significant strides toward copyright harmonisation. When it comes to copyright, the European Union stands out from other international organisations due to its extraordinary push toward harmonisation inside its boundaries. Considering the WTO and WIPO both aim to protect intellectual property, it's clear that they have divergent international perspectives. To contrast, when it comes to copyright policy, the EU is extremely cohesive. It is an understatement to suggest that all member nations, especially the newest ones, consider strengthening copyright tobe a crucial business and, maybe, cultural objective The EU has also won a more subtle success,

making it the subject of intense scrutiny from nations and regions as far away as Canada and India Finding workable middle ground between the copyright systems of continental Europe and the UK, as well as between nations of varying economic development.Even in the contentious issue of the *droit de suite*, or artist's resale right, which the British government feared would undermine the health of the London art market, progress has been made. Accordingly, the European Union serves as an illustrative case for greater difficulties of harmonisation with

[25] WIPO Copyright Treaty adepted Dec 20, 1994, entered into force Mar 6, 2002)1997 36 LLM 65 [WCT)

international accords. The European Union's process of copyright harmonisation has far more potential for fostering a Europe-wide appreciation of moral rights for authors and performers than either the WTO or the World Intellectual Property Organization. France and Germany, two of the EU's most influential members, are also fertile ground for the study of moral rights. Due to American opposition at the WTO, the TRIP's Agreement only gives moral rights a cursory examination. However, the United Kingdom has been more prepared to adapt to a changing copyright landscape, at least in principle, by adopting legal protections for moral night. Although the 1988 UK Copyright, Designs, and Patents Act leaves much to be desired in its handling of moral rights, the mere inclusion of such rights in British copyright law for the first time in UK history is a significant milestone.[26]

## BILATERAL AGREEMENTS: A DECEPTIVE WAY FORWARD

The role of bilateral agreements in an examination of moral rights in the international copyright arena is essential International arrangements increasingly include agreements between governments to address copyright concerns of mutual interest.Concerning, their I copyrights imply a return to the days before Berne, when bilateral agreements were the sole means by which copyright could be recognised across national borders. Bilateral agreements from the nineteenth century, before the Berne Convention, eventually devolved into anarchy. There was a lot of confusion among authors about where their rights were legally.[27] The lack of legal certainty inthis case proved disastrous for authors' careers. The experience of the past implies that we should exercise prudence when faced with the temptation of resuming bilateral agreements in the present.

US discussions with jurisdictions seen as crucial for American interests have resulted in most bilateral agreements, they include countries like Brazil and Thailand, where copyright infringement is a major issue.[28] The Agreements are reflective of a global scenario that may

[26] Copyright Act RSC 1985, Section 28.2(1)
[27] David Vaver, Moral Rights Yesterday, Today and Tomorrow, 763) INTL TECH & L 270,275-76 (1999)
[28] US Copyright Office. International Copynght Relations of the United States, Circular 38a, available at https://www.copyright.gov/circs/cire38a.pdf"

continue to be seen as unresponsive by US, copyright interests No major developments have occurred in international copyright since the WIPO Internet Treaties entered into force in 2002, even the new directives originating from the EU are mainly devices to assist the application of the WIPO Treaties in the European Union and its member states The United States employs at number of anti-piracy strategies, including public information campaigns at American embassies and consulates and the Special 301 Watch List and reports of the US Trade Representative's office, which identify and attempt to exert pressure upon countries where copyright piracy is common.

New legislative forces in the international copyright arena can be seen in bilateral agreements. For the stated purpose of strengthening copyright protection between like-minded nations, Berne allows for supplementary agreements between member states of the Berne Union.[29] To this end, bilateral agreements may be utilised to advance the definition of moral rights in the context of the digital realm Even if the United States and Canada were to reach an agreement on moral rights, it would only benefit authors in those two nations. There is now a global dimension to issues of morality because of technological advancements. Even if bilateral agreements might be useful for getting things moving on this problem internationally, they will likely need to be followed up by multilateral negotiations

When it comes to copyright protection on a global scale, moral rights are firmly entrenched Since the Berne Convention of 1928, when it was first incorporated in international accords, moral rightshave been afforded some degree of protection. Their influence in the world has expanded since then.

It has accomplished this in two ways. The TRIPS Agreement, for one, has a seeming contradiction. While the approval of TRIPS represented a strong new commitment to the copyright standards outlined in the Berne Convention, the Agreement's exclusion of moral rights from the practical potential of enforcement through the trade-based dispate-settlement process at the WTO was controversial. It would appear that the second force has triumphed over the first. A

[29] Berne Convention for the Protection of Literary and Artistic Works (adopted Sept. 9, 1886) available at https://www.wipo.int/treaties/en/in/berne/

record number of jurisdictions, including a large share of common law nations, have adopted and upgraded protections for moral nights.

Second, the WIPO Internet Treaties have begun to address the specific subject of how moral nights should adjust to new technologies. With the addition of a new moral right for performers the Treaties aim to establish digital moral rights. They also make progress toward the unspoken merging of the moral and economic dimensions of copyright in a new right of "communication to the public which is very similar to the "moral" idea of disclosure.

# CONCLUSION

Since moral rights are unique and extremely important, they need to be treated as such to ensure that justice is served. As a result of legal differences across nations, the protection afforded to Moral Rights is not uniform worldwide. It's also worth noting that the Berne Convention hasn't been very effective in getting countries to enact the necessary legislation to protect moral rights. WIPO should conduct in-depth studies and strive to discover solutions to reinforce the rights of creators in light of the above-mentioned problems to protecting artists' moral rights. As a conclusion, the author asserts that, in order to safeguard the growth of the human mind and spirit, Moral Rights must be given a prominent position and protection accorded to such rights should be uniform around the globe.

Looking at the many legal systems across the world, we find a solid notion of moral rights. While moral rights are technically protected by copyright law, their circumstances provide an interesting contrast to the economic implications of copyright. There has been a significant pushback against the copyright notion as a result of the fight to protect copyright restrictions and the commercial image that they provide for business and industry Despite the best efforts of legislators and business leaders, copyright changes have been met with scepticism and resistance in many nations. At present copyright is perhaps one of the least well-liked aspects of law. In addition, this is a contentious area of the law. Cooperative reasoning and shared goals have essentially vanished from the copyright arena.

The expansion of copyright legislation in tandem with the rise of new technologies is one possible answer to this dilemma. However, its growth has a distinct backstory. The influence of these sectors' lobbying efforts has contributed to the expansion and strengthening of copyright. The drive to maintain profitable business practises in these sectors has contributed to the growth of copy right legislation. At the same time, the World Trade Organization and the WIPO Internet Treaties form a new worldwide infrastructure for copyright law that facilitates the extension of copyright concepts into the digital sphere You can see the difference between the two systems by looking at how copyright is enforced the WTO system uses international trade dispute settlement, whereas the WIPO Treaties are enforced informally. However, this does not mean that the WIPO system is toothless; rather, it is driven by other types of enforcement mechanisms, such as the pressure the United States exerts on nations who fail to observe the WIPO rules on a bilateral basis through its Special 301 Report.

It's likely that there's more to the story than what can be gleaned from surface analysis of these patterns. As the novelty of re-mix culture wears off people are realizing that culture is fragile and must be safeguarded. This instinct may shed light on why the concept of moral rights has persisted, and why it will likely gain traction in the public consciousness as the re-mix culture develops.

Article 6bis of the Berne Convention specifies that the "Right of Paternity" and the "Right of Integrity" are the moral nights that must be preserved. These protections are mostly a product of the civil law countries, like France and Germany that place a higher value on writers' rights.

The interest of the author in preserving their standing and reputation is safeguarded by the protections afforded by moral rights, which are described here. While the India statute on copyright is restrictive in this regard, the courts are favouring a broader interpretation of theserights, and the statutes themselves designate only integrity right and paternity right as moral rightsso far as India is concerned.[30]

[30]Moral Rights of an Author, available at http://www.lawctopus.com/academike/moral-nights-author/

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