

Rights and obligations of the parties to the film production contract in the Iraqi law and the European

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Abstract:

Due to its dual nature of artistic creativity and economic investment, the contract for film production is one of the most complex and sensitive contracts in the field of intellectual property. This research dealt with the rights and obligations of the parties to this contract in three legal systems: Iraq, Iran, and Europe (with a focus on French and English law). The main problem in the research is the lack of contractual balance between the author and the producer in most systems, especially in Iraqi law, which lacks a special regulation of film production contracts, which subjects them to the general rules of civil law and copyright. The results of the research showed that in the French and Iranian systems, the moral rights of the author are non-assignable or limitational, and any condition to the contrary is considered invalid, while English law adopts a pragmatic approach that permits the assignment of these rights by written agreement. With regard to financial rights, French law assumes that they are legally transferred to the producer with a guarantee of proportionate remuneration for the author, while in Iraqi and Iranian law their transfer remains subject to the express provision of the contract and cannot be interpreted broadly in favour of the producer. The research also concluded that all the systems studied do not recognize the producer with independent moral rights, but rather his non-financial powers are based on the contract or on the general rules of civil liability. The research concluded that there is a clear legislative gap in Iraqi law with regard to regulating film production contracts, which leads to an imbalance between the two parties, the neglect of modern means of exploitation, and the weakening of the legal status of the author. Accordingly, the research recommended the enactment of legislation for film production contracts in Iraq, inspired by the French model, and includes a precise definition of the scope of the transfer of financial rights, a strict commitment to respect moral rights, the obligation of the producer to register the contract with the competent authority, and the prohibition of the inclusion of arbitrary conditions. It also recommended that the Iraqi judiciary be directed towards a protective interpretation of copyright and the promotion of legal awareness among those working in the film industry, in order to ensure a fair balance between capital and creativity.

Keywords: Film Production Contract, Copyright, Moral Rights, Film Producer, Comparative Law (Iraq, Iran, Europe)

Introduction:

A film production contract is a contract of a special nature that is based on a complex interaction between artistic creation and economic and regulatory considerations, which is directly reflected in the determination of the rights and obligations of its parties. The contractual relationship that arises between the author and the producer of a film cannot be fully governed by the general rules of contract, because of its peculiarity related to the nature of the film as a collective intellectual work and at the same time as an investment venture aimed at achieving a financial return.

The importance of this chapter is highlighted by the fact that it is the central link in which the effects of the film production contract are embodied in practice, as the general rules and theoretical concepts move to the level of application, by defining the scope of the rights granted to each party and the obligations it bears vis-à-vis the other party. The protection of a film work is not achieved by merely the recognition of intellectual property rights, but rather requires a careful regulation of the contractual relationship that balances the author's interest in preserving his creative work and the producer's interest in investing and exploiting the work economically.

In this context, legislative approaches differ between Iraqi, Iranian and European laws in regulating the rights and obligations of the parties to the film production contract. Some systems tend to rely on the general rules of contract law and copyright law, leaving ample space for the will of the parties, while others tend to intervene in legislation to restrict this will to protect the weaker party in the contractual relationship, in particular the author of the film. This disparity leads to a fundamental difference in the status of legal parties and the extent to which they are protected.

The peculiarity of this contract is also reflected in the multiplicity of obligations of both the author and the producer, which are not limited to financial aspects, but also extend to technical, legal and ethical obligations. The author is not only obligated to submit the creative work, but also assumes obligations related to the originality of the work and respect for legal and cultural norms, while the producer is obligated to provide funding, supervise the implementation and ensure that the work is exploited within the legally and contractually agreed limits.

This chapter also highlights the issue of contractual balance as a central focus in regulating the rights and obligations of the parties. In the absence of adequate legislative controls, economic inequality between the author and the producer may lead to the imposition of contractual clauses that affect the essence of the author's rights, especially the moral rights associated with his personality. Hence, it is important to study how comparative laws deal with this problem, and the extent to which they succeed in achieving a balance between freedom of contract and the protection of intellectual rights.

From an analytical point of view, this chapter forms the basis for the study of the subsequent provisions of the film production contract, in particular with regard to the possibility and duration of the transfer of rights. An understanding of the rights and obligations of the parties is a prerequisite for analysing the legality and legal limits of the disposition of these rights. Identifying the differences and similarities between the legal systems under comparison contributes to drawing accurate scientific conclusions, which can be useful in the development of national legislation and enhance the protection of the film industry.

Problem Statement

The central problem that this research addresses is the clear legislative and practical disparity in regulating the rights and obligations of the parties to the film production contract between the three legal systems under study: Iraqi law, Iranian law, and European law (in its

French and English variations), and the consequent legal and practical effects of this discrepancy that affect the balance of the contractual relationship between the author and the producer.

In Iraqi law, there is no regulation of film production contracts, which makes them subject to the general rules of the Copyright Law (No. 100 of 1971 as amended) and the Civil Code, without taking into account the technical and economic specificity of the film industry. This legislative vacuum leads to:

- Ambiguity in defining the scope of the financial rights of the author and producer, and lack of clarity regarding modern means of exploitation (such as digital platforms).
- Weak protection of the author's legal status, especially with regard to his moral rights, which may be violated under the pressure of the product's commercial interests.
- Lack of accurate definition of the producer's obligations towards the moral rights of authors, and regulatory procedures such as contract registration, which weakens the legal authority of the contract and increases the risk of disputes.

In Iranian law, there is a strict protectionist stance towards copyright morality, with an emphasis on the need for explicit provision in the transfer of financial rights, which restricts the product's margin for contractual maneuver and creates a kind of tension between investment requirements and the protection of creativity.

In European systems, another discrepancy emerges: French law establishes a legal transfer of financial rights to the producer with strong guarantees for the author, while English law grants ample space to contractual freedom, even at the expense of moral rights.

First Topic: Rights and Obligations of the Cinematographer

First Requirement: Rights of Cinematic Filmmakers

Section One: Material Rights and Their Sections

The material rights of the author of a film are the main economic pillar for the protection of audiovisual creativity, as they represent the means by which the author can invest his intellectual effort and achieve a financial return in exchange for the exploitation of his work. These rights are of particular importance in the field of cinema, due to the multiplicity of forms of exploitation and the complexity of its channels, and their close overlap with the interests of producers, distributors and exploiters¹.

In Iraqi law, the copyright law recognizes financial rights that entitle the author alone or his delegate to exploit the work in any legitimate form of exploitation, such as the right of copying, the right to publicly display, the right to broadcast, and the right to translate or adapt. However, the Iraqi legislature has not established a special regulation of material rights in cinematic works, which leads to these rights being subject to general rules and considered to be subject to assignment or licensing under the film production contract, as agreed upon by the parties². In practice, this has the effect of expanding the range of rights that may be transferred to the producer, in the absence of precise legislative restrictions that define the means or duration of exploitation.

It should be noted that material rights in Iraqi law are of a temporary nature, as they are linked to a specific period of protection after which the works expire and the works are transferred to the public domain, which is consistent with the economic nature of these rights, unlike literary rights. The author may also dispose of these rights in whole or in part, and grant exclusive or non-exclusive licenses, provided that the object of the action is clear, but in practice the author's position vis-à-vis the film producer is weak, due to the lack of protective rules for contracts production³.

¹ André Lucas & Henri Jacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 342.

² Iraqi Copyright Law No. 3 of 1971, as amended, Articles 8-10, p. 19.

³ Abd al-Razzaq al-Sanhouri, *The Mediator in the Explanation of Civil Law*, vol. 1, Dar al-Nahda al-Arabiya, 2004, p. 119.

In Iranian law, the material rights of the author of the film are recognized as financial rights that can be transferred or licensed, but the Iranian legislator, influenced by jurisprudential considerations, tends to interpret these rights in a way that balances the author's interest with the requirements of exploitation. The principle is that the author alone has the right to invest in his work, and these rights may only be transferred to the extent required by doctrinal necessity, and in a way that does not lead to unfair exploitation of his creative⁴ effort. It should be noted that the Iranian judiciary and jurisprudence emphasize the need to define the means of exploitation precisely, and not to assume a comprehensive transfer of material rights unless it is expressly stipulated⁵.

In contrast, European regulation, particularly in French law, is characterized by a clearer and more precise division of the material rights of the filmmaker. It includes the right to reproduction, the right to distribution, and the right to make available to the public through audiovisual and digital means, with each means of exploitation as independent of the others. The French legislature has explicitly stipulated that each method of exploitation be provided for in the production contract, and that the general or ambiguous waiver of material rights is prohibited, in order to protect the author from losing control of his work⁶.

French law also assumes that the material rights necessary for the exploitation of the audiovisual work are transferred to the producer, but this presumption does not extend to what is not expressly agreed upon, and does not deprive the author of his right to a remuneration commensurate with the actual proceeds of the exploitation. This regulation is one of the most prominent manifestations of the balance between the economic dimension of the film industry and the financial rights of the author⁷.

English law, on the other hand, is based on a purely contractual philosophy, where the material rights of the author of the film are widely assignable or licenseable, and the determination of their scope, means of exploitation, and the duration of their transfer is left to the will of the parties. The legislator does not impose detailed legislative restrictions on the assignment of these rights, which gives the producer great flexibility, but on the other hand, it may lead to an almost complete transfer of material rights from the author to the producer, especially in light of the economic inequality between the two parties⁸.

Section Two: Moral Rights and their Sections

The moral rights of the author of a film are the clearest legal expression of the personal connection between the author and his work, as they aim to protect the literary and intellectual aspect of the creative work, regardless of its economic value or the transfer of financial rights related to it. These rights in the field of cinema are doubly important, given the collective nature of the audiovisual work, and the consequent risk of dissolving the author's personality within the production structure dominated by the⁹ producer.

In Iraqi law, the legislature recognizes the moral rights of the author as rights related to the personality, mainly represented in the right to attribute the work to its author, and the right to object to any distortion, distortion or modification that would harm his reputation or moral standing. The copyright law has confirmed that these rights are non-assignable or limitational, which means that the author will continue to enjoy them even after the financial rights are transferred to the producer within the framework of the film's¹⁰ production contract. However, the absence of specific texts for cinematic works makes the exercise of these rights subject to general

⁴ Hassan Safaei, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 104.

⁵ Nasser Katouzian, *Civil Law: General Rules of Contracts*, Vol. 2, Entesher Company, Tehran, 2015, p. 211.

⁶ Code de la propriété intellectuelle (France), Articles L.1313, L.13224, Dalloz, 2020, p. 426.

⁷ Pierre Sirinelli, *La rémunération proportionnelle des auteurs*, LGDJ, 2015, p. 81.

⁸ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 267.

⁹ André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 361.

¹⁰ Iraqi Copyright Law No. 3 of 1971, as amended, Articles 5-7, p. 14.

rules, which raises practical problems when they conflict with the requirements of editing or artistic modification required by the commercial exploitation of the film¹¹.

In Iranian law, the moral rights of the author of the film are given more protection, based on the philosophical and jurisprudential basis that views the work as an extension of the author's personality. The right to attribute the work and the right to preserve its integrity are absolute rights that may not be waived or restricted by agreement, even within the framework of the contractual relationship with the producer. Some aspects of Iranian jurisprudence argue that any material modification of a film work without the author's consent is considered an infringement on his moral right, even if such modification is justified by considerations Technical or commercial¹².

In French law, moral rights are the cornerstone of the author's protection system, as the legislator has enshrined them as permanent rights that cannot be assigned or seized, and include the right to attribute the work, the right to respect its integrity, the right to decide on its publication, and the right to withdraw it from circulation. Although the law assumes the transfer of the financial rights necessary for the exploitation of the audiovisual work to the producer, this in no way affects the moral rights of the author, which remain existing and can be invoked against the producer and third parties alike The¹³ French judiciary has shown clear rigor in protecting these rights, even when this restricts some forms of commercial exploitation of the film.

In contrast, English law adopts a more flexible concept of moral rights, recognizing them in principle, in particular the right to attribution of the work and the right to object to degrading treatment, but allowing the author to expressly waive them by written agreement. This approach is a reflection of the pragmatic philosophy that governs the copyright system in England, which values contractual stability and the demands of the film industry, albeit at the expense of reducing the scope of the author's moral protection¹⁴.

It follows that the moral rights of the filmmaker represent a clear area of disparity between the legal systems in question. While the French and Iranian regimes are characterized by strict protections based on non-waiver and the permanent nature of moral rights, English law relies on contractual flexibility, while Iraqi law recognizes these rights in principle, but lacks a special regulation that precisely balances the protection of the author's personality with the requirements of film production, highlighting the need for legislative intervention that takes into account the specificity of the genre of the works¹⁵.

Second Requirement: Obligations of the Filmmaker

Section One: Commitment to Making a Literary and Artistic Impact

The commitment of the filmmaker to create a literary and artistic work is the essence of his obligations arising from the production contract, as it represents the main consideration for the financial rights or agreed remuneration. This obligation is directed to the completion of the agreed creative work, whether it is in the form of scriptwriting, dialogue or dramatic treatment, in accordance with the technical and time conditions specified in the contract, and in order to achieve the intended cinematic goal¹⁶.

In Iraqi law, in the absence of a special regulation for the contract for the production of films, the obligation of the author to produce the literary and artistic work is subject to the general rules of contracts, in particular the provisions of the contract of contracting or the contract of mental work, depending on the nature of the contractual relationship. This obligation is considered an obligation to achieve the result, which is to deliver the agreed work fit for cinematic use, and not

¹¹ Mohamed Hussein Mansour, *Intellectual Property*, New University Press, 2012, p. 187.

¹² Hassan Safaci, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 118.

¹³ Code de la propriété intellectuelle (France), Articles L.1211, L.1212, Dalloz, 2020, p. 402.

¹⁴ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 285.

¹⁵ Paul Goldstein, *International Copyright*, Oxford University Press, 2014, p. 146.

¹⁶ André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 389.

merely to take care of it, as long as the author has undertaken to submit a completed creative work that meets the basic requirements of production¹⁷. This entails the author's liability for non-completion, unjustified delay or delivery of a technically or legally defective work.

In Iranian law, the author's obligation to complete the work is seen as an obligation of a special personal nature, due to its direct connection to the author's personality and creative faculties. Iranian jurisprudence emphasizes that this obligation may not be performed by third parties, unless the contract expressly stipulates otherwise, and the producer may not impose material modifications to the work without the author's consent, if they would compromise the essence of the literary or artistic¹⁸ work. The author's breach of this obligation is considered a reason for contractual liability, taking into account the specificity of the creative work and the technical or intellectual difficulties it may encounter.

In French law, the obligation of the author of the film to produce the literary and artistic work is a fundamental obligation in the audiovisual production contract, and is subject to the principle of good faith in the execution of contracts. The legislature requires the author to complete his work in accordance with the professional standards recognized in the film industry, while respecting the general guidelines agreed upon with the producer, without prejudice to his creative freedom. The French judiciary has established that the author has a margin of artistic discretion, but that he has exceeded what was contractually agreed upon constitutes a breach that justifies accountability or a request for modification of the work¹⁹.

In English law, however, this obligation is purely contractual in nature, as its scope and content are precisely defined in the production contract. The author's obligation to create the literary and artistic work is seen as an obligation to carry out what is stated in the contract, leaving less space for personal or artistic considerations than in the French and Iranian systems.²⁰

The comparison shows that the filmmaker's obligation to create a literary and artistic work is a central obligation in which creative and legal considerations intersect. While protectionist laws, such as French and Iranian laws, tend to uphold the artistic freedom of the author, English law relies on precise contractual wording, while Iraqi law remains a prisoner of general rules, which requires legislative intervention that establishes a special framework that balances the requirements of film production with the protection of the author's literary and artistic creation²¹.

Section Two: Obligation not to infringe on other rights by the literary and artistic effect

The obligation of the author of the film not to infringe on the rights of others by the literary and artistic work he presents is one of the essential obligations accompanying his obligation to complete the work, as it aims to ensure the integrity of the work from a legal point of view, and to protect the producer from the risks resulting from the exploitation of a work tainted by an infringement of prior rights. This obligation refers to the necessity that the script, dialogue or dramatic treatment be an original work, which does not involve illegal quotation, plagiarism, or infringement of literary, artistic or other property rights are legally protected rights²².

In Iraqi law, with reference to the general rules of contractual liability, the author is asked if the work he has submitted infringes on the rights of another author or the personal rights of others, such as the right of name, image or reputation. This obligation is an obligation to achieve a result, based on the delivery of a work that is free from legal defects, so that the producer can exploit it without being subject to legal claims. The author's breach of this obligation entails his liability for compensation, as well as the right of the producer to terminate the contract if the infringement is material. It prevents the exploitation of the film²³.

¹⁷ Abd al-Razzaq al-Sanhouri, *The Mediator in the Explanation of Civil Law*, vol. 1, Dar al-Nahda al-Arabiya, 2004, p. 463.

¹⁸ Nasser Katouzian, *Civil Law: General Rules of Contracts*, Vol. 2, Entesher Company, Tehran, 2015, p. 256.

¹⁹ Code civil français & Jurisprudence relative aux contrats audiovisuels, Dalloz, 2020, p. 512.

²⁰ Hugh Laddie, *The Modern Law of Copyright*, Butterworths, 2011, p. 501.

²¹ Paul Goldstein, *International Copyright*, Oxford University Press, 2014, p. 154.

²² André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 401.

²³ Abd al-Razzaq al-Sanhouri, *The Mediator in the Explanation of Civil Law*, vol. 1, Dar al-Nahda al-Arabiya, 2004, p. 678.

In Iranian law, jurisprudence emphasizes that respect for the rights of others is part of the requirements of legality, which must be present in the literary and artistic work that is the subject of the contract. The author asks for any unlawful quotation or unauthorized use of previous works, even if it is done in good faith, as long as the infringement exists objectively. This obligation also extends to non-infringement of legally protected values or the personal rights of individuals, which reflects its protective nature Iranian legal regulation in this area²⁴.

In French law, the obligation of the author to ensure that the work is free from infringement of the rights of third parties is an inalienable obligation in audiovisual production contracts, often included in the form of a legal guarantee clause in favour of the producer. This guarantee includes respect for prior literary and artistic property rights, industrial property rights where appropriate, as well as personal rights such as the right to privacy and the right to the image. The French judiciary has settled on holding the author accountable if his breach of this obligation results in the disruption of the film's exploitation or the imposition of compensation to third parties²⁵.

In English law, this obligation is viewed from a purely contractual perspective, as it is part of the warranties provided by the author to the product. The author is responsible for any breach of these warranties, whether it is a matter of copyright infringement, defamation or infringement of other protected rights. This system is characterized by a clear allocation of risk, as the author is often obliged to compensate the producer for any losses arising from claims brought by third parties due to the content of the work²⁶.

Second Topic: Rights and Obligations of Film Producers

First Requirement: Rights Granted to the Product

Section One: Material Rights

The material rights granted to the producer of a film are one of the main pillars of the production contract, as they represent the legal tool that enables him to exploit the audiovisual work economically, recover his investments, as well as make a profit. These rights extend to the authorities for the financial exploitation of the film in its various forms, such as cinematic screening, television broadcasting, reproduction, distribution, and public access through digital media, to the extent permitted by law or regulated by the contract²⁷.

In Iraqi law, there is no explicit provision that defines the material rights of the producer of the film as an independent party to the copyright system, which leads to the subjection of these rights to the general rules of copyright law and civil law. It is understood that the producer acquires material rights over the film only through a contract he concludes with the authors of the literary and artistic work, whether in the form of a waiver or a license to exploit. Its exploitation remains hostage to contractual drafting, with the accompanying legal instability in the event that the contract is ambiguous or silent about some forms of exploitation²⁸.

In Iranian law, the regulation of material rights is more conservative towards the producer, as priority is given to financial copyrights, and their transfer to the producer is presumed only in an explicit and clear text. Iranian jurisprudence emphasizes that material rights are transferable or licensable, but such transfer must be specific in terms of scope, duration, and means of exploitation, and may not be interpreted broadly in favor of the producer. This narrows the scope of the material rights enjoyed by the producer in comparison to regulations that recognize Legal or implied transfer of those rights²⁹.

²⁴ Hassan Safaei, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 136.

²⁵ Code de la propriété intellectuelle & Jurisprudence audiovisuelle, Dalloz, 2020, p. 529.

²⁶ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 312.

²⁷ Paul Goldstein, *International Copyright*, Oxford University Press, 2014, p. 181.

²⁸ Abd al-Razzaq al-Sanhouri, *The Mediator in the Explanation of Civil Law*, vol. 1, Dar al-Nahda al-Arabiya, 2004, p. 742.

²⁹ Hassan Safaei, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 201.

In French law, the producer occupies a distinct legal position with regard to material rights over audiovisual works. The French legislature has established the principle of the transfer of the financial rights necessary for the exploitation of the film to the producer, with a legal presumption in his favour, provided that the moral rights of the authors are respected and that they are remunerated in proportion to the proceeds of exploitation. The material rights of the producer in this context include all forms of exploitation known at the time of the conclusion of the contract, with the obligation not to extend them to new forms except by special agreement. Models strike a balance between protecting film investment and guaranteeing the rights of creators³⁰.

In English law, the material rights of a producer are determined on the basis of the principle of the authority of will, where there are no extended legal presumptions in his favour, but rather his acquisition of these rights depends on what is provided for in the contract. In practice, however, the producer often obtains broad and comprehensive material rights, extending to all present and future forms of exploitation, as a result of his bargaining power. These rights are seen as fully disposable economic property rights, including their transfer or licensing. This is not contractually restricted³¹.

Section Two: Moral Rights

Talking about the moral rights of the producer of a film raises a delicate jurisprudential and legislative problem, due to the personal nature of these rights and their close connection to the person of the creator, as opposed to the organizational and economic role played by the producer. The origin of the theory of literary and artistic property rights is that moral rights are established only for the author, as an expression of his intellectual personality and as an extension of himself, but the specificity of the audiovisual work, as a collective work, has led some legal systems to question the possibility of establishing limited moral rights for the producer, or at least he should be recognized by some powers of a non-financial nature³².

In Iraqi law, legislation does not explicitly recognize any moral rights of the producer of a film, as these rights are limited to the author of the literary or artistic work. This means that the producer does not have the right to attribute the work to him, nor the right to respect its integrity, nor the right to decide on its publication, but his powers are limited to the financial or organizational rights stipulated in the contract. This approach is in line with the traditional concept of moral rights, but raises practical problems related to the protection of the producer's professional reputation in the If a film is defamed or presented in a way that is offensive to its trade name, it does not find a clear remedy under copyright, but may be dealt with through the rules of civil liability or trade name protection³³.

In Iranian law, however, the position is more stringent in limiting moral rights to the author, as these rights are not transferable or transferable, and may not be assigned to anyone other than the owner of the intellectual creation. According to this conception, the producer does not have any independent moral right, even if his role is central to the composition of the film. Iranian jurisprudence emphasizes that the recognition of the moral rights of the producer would empty these rights of their personal content and turn them into a mere extension of financial rights, which contradicts With the philosophy of moral protection in copyright law³⁴.

In French law, despite the wide recognition of the role of the producer in the exploitation of the audiovisual work, the legislature has remained committed to the principle of limiting moral rights to authors. However, French jurisprudence and jurisprudence have recognized the producer with certain powers of an indirect literary nature, such as the right to object to any material modification of the film that would impair its artistic unity or impair the agreed purpose, not as

³⁰ André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 468.

³¹ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 356.

³² André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 512.

³³ Abd al-Razzaq al-Sanhouri, *The Mediator in the Explanation of Civil Law*, vol. 1, Dar al-Nahda al-Arabiya, 2004, p. 768.

³⁴ Hassan Safaei, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 214.

the owner of a moral right, but as a party to a contract aimed at the production of the work to the public in an integrated manner. For example, product protection in this context is based on the contractual bond and not on an independent moral right³⁵.

In English law, the regulation of moral rights is predominantly functional in nature, as these rights do not enjoy the same sanctity as is known in the Latin systems. The legislator has made it possible to assign moral rights in writing, which in practice limits their scope. As for the producer, he does not have independent moral rights, but the practical control he enjoys over the work, as a result of his extensive financial rights, enables him to impose his artistic and organizational vision, including control over the final version of the film and the way it is displayed. Without the need to attribute this to moral rights in the strict sense³⁶.

Second Requirement: Legal Obligations of the Product

Section I: Respect for the Moral Rights of Authors

The obligation of the producer of a film to respect the moral rights of the authors is one of the most important legal obligations of the filmmaker, due to the special nature of these rights that distinguish them from material rights, as they are directly related to the personality of the author and reflect his intellectual and emotional relationship with the work. This personal nature entails that moral rights remain protected even in cases where material rights are transferred to the producer, whether under the contract or by the text of the law, which makes their respect a permanent obligation that does not expire at the end of the Contractual Relationship³⁷.

In Iraqi law, copyright legislation recognizes the principle of the protection of the author's moral rights in an absolute way, and gives them clear priority over economic considerations. This entails the obligation of the producer not to make any modification, deletion or addition to the cinematic work that would prejudice the honor or reputation of the author or distort his basic idea, except to the extent permitted by the contract and in a way that does not deprive the moral right of its content. The producer is also obliged to prove the name of the author on the film when it is shown or exploited, as such It is a manifestation of the right to attribute the work to its owner. This obligation is considered an independent legal obligation, which may not be agreed to violate, otherwise the condition will be considered invalid because it violates public order³⁸.

In Iranian law, the protection of moral rights is more stringent, as these rights are not subject to assignment, transfer, or limitation. This entails the obligation of the producer to strictly respect the artistic will of the author, and not to prejudice the unity or essential idea of the work, even if market or distribution considerations require modifications to the film. Iranian jurisprudence emphasizes that any breach by the producer of this obligation is a direct attack on the author's personality, and justifies his civil and even criminal liability in some cases Cases. This trend reflects a clear influence on continental philosophy, which elevates the moral dimension of artistic creation³⁹.

In French law, moral rights are the cornerstone of the author's protection system, and the legislature has enshrined them as eternal and inalienable rights. The producer has a strict legal obligation to respect these rights, in particular the copyright to the work, the right to the integrity of the work, and the right to object to any distortion or distortion that may be inflicted on the cinematic work. However, given the collective nature of the film, the French judiciary has allowed a degree of practical flexibility, allowing the producer to make artistic modifications or A technique imposed by the necessities of production or display, provided that it does not affect the creative

³⁵ Code de la propriété intellectuelle, Dalloz, 2020, p. 627.

³⁶ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 379.

³⁷ Paul Goldstein, *International Copyright*, Oxford University Press, 2014, p. 203.

³⁸ Muhammad Jalil Al-Attiah, *Explanation of the Copyright Law*, Dar Al-Thaqafa, Amman, 2010, p. 155.

³⁹ Hassan Safaei, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 227.

essence of the work or harm the reputation of the author. This is based on the idea of reconciling the moral right with the requirements of legitimate exploitation⁴⁰.

In English law, however, the situation is fundamentally different, as moral rights do not have the same status as in Latin systems. The legislator expressly allows the author to waive his moral rights in writing, which in practice reduces the producer's obligations in this area. It is more based on the contract than on *jus cogens*, reflecting the primacy of economic considerations and freedom of contract⁴¹.

Section Two: Registration of the Contract in the Competent Department

The obligation of the producer of the film to register the production contract with the competent authority is one of the legal and regulatory obligations that acquire special importance in the framework of the protection of literary and artistic rights, and to ensure the stability of transactions related to the exploitation of the cinematic work. Registration is not limited to being a formal procedure, but also performs a basic legal function of proving the existence of the contract, identifying its parties, and stating the scope of the rights and obligations arising from it, especially with regard to the transfer of financial rights and the limits of the exploitation of the work⁴².

In Iraqi law, there is no explicit provision that compulsory registration of a film production contract is mandatory, but the general rules of the Copyright Law, as well as the administrative instructions issued by the competent authorities, state the importance of filing or registering contracts that entail the transfer or licensing of financial rights. This entails, in practice, the obligation of the producer to register the contract or deposit it with the competent authority in order to protect his legal status and enable him to invoke the rights arising from it against third parties. This obligation is of a protective nature, as it limits disputes related to the ownership or primacy of rights exploitation, especially in light of the multiplicity of intervenors in the film production process⁴³.

In Iranian law, the registration of contracts relating to copyright is of clearer importance, as it is seen as a means of establishing rights and regulating their circulation, although in no case it is a condition for the conclusion of the contract. The producer is obliged to register the production contract or the contracts attached thereto with the competent authorities, especially when the contract includes a waiver of financial rights or a license to exploit the work. The product is exposed to legal risks related to conflict of rights or⁴⁴ pre-exploitation claims.

In French law, the registration or filing of film production contracts is a procedure of particular importance, given the strict regulation of the film and audiovisual industry. The producer has a legal obligation to document the contracts of exploitation and transfer of rights, either by registering in the competent registers or by filing with the relevant professional bodies. The reason for holding the product civil liability, which may result in depriving him of some legal or professional privileges⁴⁵.

In English law, however, the position is more flexible, as the contract of production is not originally required to be registered for its conclusion or to be enforceable between the parties. However, registration or filing is an important means of proof, especially in contracts involving the transfer of broad or long-term rights. This obligation is viewed from a purely practical perspective, aimed at protecting the product from future disputes, rather than from the point of view of being a peremptory legal obligation. It is noted that the primary reliance in this system is on drafting Precise nodule, considering registration as a supporting tool and not a prerequisite⁴⁶.

⁴⁰ André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 534.

⁴¹ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 402.

⁴² Paul Goldstein, *International Copyright*, Oxford University Press, 2014, p. 211.

⁴³ Muhammad Jalil Al-Attayah, *Explanation of the Copyright and Related Rights Law*, Dar Al-Thaqafa, Amman, 2012, p. 183.

⁴⁴ Hassan Safaei, *Intellectual Property Rights*, Mizan Publishing, Tehran, 2018, p. 241.

⁴⁵ André Lucas & HenriJacques Lucas, *Traité de la propriété littéraire et artistique*, LexisNexis, 2017, p. 552.

⁴⁶ Lionel Bently & Brad Sherman, *Intellectual Property Law*, Oxford University Press, 2018, p. 419.

The comparison shows that the obligation of the producer to register a film production contract varies in nature and intensity from one legal system to another, but it remains a very important obligation in all cases, because of the legal stability it achieves and the protection of literary and artistic rights. In this context, there is a need in Iraqi law to regulate the issue of registration of film production contracts, in line with the development of the film industry, and to ensure a balance between the protection of authors and the ability of the producer to exploit the work legally and safely⁴⁷.

Conclusion

Results

First: Regarding the rights of the author of the film

The degree to which the material rights of the author is protected varies among the legal systems studied: French and Iranian laws impose clear restrictions on the scope of the transfer of these rights, while English law relies on contractual freedom, and Iraqi law still needs a special regulation that takes into account the multiplicity of forms of cinematic exploitation.

Iraqi, Iranian, and French laws agree that moral rights are non-waiver or limitational, with varying degrees of practical protection, while English law permits their waiver in writing, weakening their protection in favor of economic considerations.

In Iraqi law, the author suffers from a weak contractual position vis-à-vis the producer, as a result of the absence of provisions for film production contracts, which makes him vulnerable to arbitrary conditions that may affect the essence of his literary and artistic rights.

Second: With regard to the rights and obligations of the film producer

Iraqi law does not recognize independent moral rights of the producer, but rather his powers are limited to the financial rights contained in the contract, which raises problems related to the protection of his professional reputation in the event that the film is defamed or presented in an abusive manner.

The scope of material rights granted to a producer varies according to the legal system: French law establishes a legal transfer in favor of the producer with guarantees for authors, while Iraqi, Iranian, and English systems rely on contractual formulation, with varying degrees of flexibility.

Recommendations

First: At the Legislative Level in Iraq

Issuance of legislation on film production contracts, which includes a precise regulation of the rights and obligations of both the author and the producer, similar to the French model, and in a way that takes into account the specificity of the film industry and the multiplicity of means of its exploitation.

Explicitly stipulate that the author's moral rights are non-assignable or limitational, and that any condition to the contrary is void, while specifying practical mechanisms to ensure that the producer respects these rights for the duration of the exploitation.

Approval of the principle of the transfer of the financial rights necessary for the exploitation of the film to the producer, provided that such transfer be limited in terms of scope, duration and means of exploitation, and in a way that does not deprive the author of his right to a remuneration commensurate with the actual revenues.

Obliging the producer to register the production contract or deposit it with the competent authority, as a condition for the contract to protect against third parties, and determine the legal consequences of non-registration, in order to ensure transparency and legal stability.

⁴⁷ Code de la propriété intellectuelle, Dalloz, 2020, p. 658.

Establishing controls to prevent the inclusion of arbitrary conditions in production contracts, while approving effective control mechanisms to ensure the contractual balance between the author and the producer, especially in light of the economic inequality between them.

Second: At the Judicial and Jurisprudential Level

Encourage the Iraqi judiciary to adopt a protective interpretation of film production contracts, giving priority to the protection of copyrights in the event of ambiguity in the contractual text, in application of the principle of protecting the weak party in the contractual relationship.

Enriching Iraqi jurisprudence with in-depth studies on film production contracts, benefiting from comparative experiences, and contributing to the development of clear legal foundations for determining the rights and obligations of the parties.

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