

COPYRIGHT PROTECTION OF
FOREIGN WORKS IN MALAYSIA

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CHAPTER I

I. COPYRIGHT LAW IN MALAYSIA

Malaysia did not have a comprehensive legislation on copyright until 1969¹. The legislation relating to the copyright in the Malay states² comprised the Federated Malay States Copyright Enactment 1935³. The United Kingdom Copyright Act 1911⁴ applied as extended to the Straits Settlements⁵ and the United Kingdom Copyright Act 1956⁶ as extended, to the states of Sabah and Sarawak. While in the former Unfederated Malay States, there was no copyright law in operation⁷.

The committee responsible for preparing the Copyright Bill 1969 (as it was then called) based its work mainly on several laws, taking as its model the Nigerian Copyright Bill which was specially drawn up for a developing country. The committee also made use of materials, study papers and working papers that were presented at the Asian Seminar On Copyright held in New Delhi in January, 1967 and the protocol for developing countries introduced at the Revision Conference of the Berne Convention held in Stockholm in June 1967⁸.

The Malaysian law in respect of copoyright underwent revision and consolidation⁹ which provide a uniform copyright law for the whole of Malaysia¹⁰. The Copyright Bill 1969 as it was then called, was also intended to be an improvement on the proposed Copyright Bill of 1967 which was published in the goverment gazette of June 1967¹¹. Copyright now subsists by virtue of this Act only¹².

Tan Sri Dr. Lim Swee Aun in his submission¹³ said that the prime purpose of copyright law is to protect creative and intellectual works so that authors, composers and artists may, during the continuance of copyright protection, control the uses to which their works are put and obtain commensurate financial return for the exploitation of their works. Without copyright protection,

there will be no incentive for authors and artists to create and hence contribute to the intellectual and cultural enrichment of the country, but also there will be no encouragement for the establishment of recording and publishing industries.

The Copyright Act 1969 also seeks to provide all basic fundamentals and the provisions couched in simple terms are directed towards national interests with the main emphasis on providing protection on works produced by Malaysian citizens or those originating from this country. The government also considered establishing the international relations with any foreign country or countries as may be found desirable under provision of section 20 of the Act.

In common with most countries, and particularly advantageous to a developing country like Malaysia for its cultural, educational and scientific advancement, provisions are included in the Act to protection of copyright works when used in research and education, for right of translation into National Language and for encouragement on the growth of local publishing and recording industries.

The Copyright Act gives due regard to technological development in the fields of sound recordings and radio and television broadcasts for which adequate protections have been provided. The Copyright Act will not only serve a long felt need of Malaysian writers, composers and artists to provide adequate protection for their works but would also serve to curb any tendency in piracy of books and other publications produced by Malaysian authors and publishers.

ENDNOTES

1. H. Jayaram, "THE MALAYSIAN COPYRIGHT LAW : The scope of law and the government's attitude and policies towards the granting of copyright protection for the works of non - Malaysian."
2. Johore, Kedah, Kelantan, Negeri Sembilan, Pahang, Perak, Perlis, Selangor and Trengganu.
3. Revised Laws 1935 (Cap. 73) and The Copyright (Extended Application) Ordinance 1953.
4. By section 25 of the Imperial Copyright Act, 1911, the application of the Act was extended to the British dominions.
5. Penang and Malacca.
6. Copyright (Sarawak) Order 1959 (S.I. 2215).
7. Supra.
8. Parl. Deb.: Dewan Rakyat Yang Kedua, Penggal Kelima (Penyata Rasmi) 9hb. Januari 1969. Page 6129 and 6127.
9. Supra.
10. Id. 6114.
11. Id. 6115.
12. Copyright Act, 1969 section 3.
13. Id. 6114, 6115 and 6116.