

Master of Arts (Translation Studies)

Translation Training

School of Translation Studies & Training
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COURSE INTRODUCTION

The Course, related to Translation Training, has four blocks. In the first block (The Copyright Act and Translation Rights), two Units, 'The Copyright Act: Structure and Significance' and 'The Role of Copyright Act in Translation and Adaptation', provide sufficient information on various aspects of copyright. In the second block (Professional Ethics and Code of Conduct), two units, 'Respecting the Rights of Copyright Holder' and 'Professional Ethics for Translating Copyright-Free Texts, bring out the professional integrity and etiquette for translation, publication, and presentation of other genres. In the third block (Translator and Linguistic Competence), three Units 'Source Language and Target Language: Lexical and Contextual Meaning', 'Terminology Idioms, Proverbs and Registers' and 'The Translator's Proficiency in Subject, Language and Culture' provide information on the subtleties of translation skills along with the linguistic competence of the translator. The subtleties of translation training have been discussed in the three units of the fourth block, (Instruments of Translation), namely 'The Importance of Translation Training', 'Language: Culture and Environment' and 'Text and Discourse of Language'.

Today, translation is considered useful, relevant, and important in every aspect of life, such as national, social, literary, professional, scientific, technological, etc. In the field of knowledge, Translation Studies has been accepted as an independent subject and, as a discipline, this subject is rapidly becoming popular and developing all over the world. Along with this, serious consideration has begun regarding Translation training. The scope of work of Translation training is very wide. It is connected with theoretical study related to translation as well as the application aspect. It is possible to include all activities related to translation in it. Along with teaching translation skills and imparting knowledge related to Translation theory, it also includes the practice of translation revision, translation evaluation, and review. With the help of these, the translator can learn the translation techniques relevant to various subject areas, and their issues and limitations too. This course illuminates various aspects regarding the above.

Block 1

The Copyright Act and Translation Rights

Unit 1

The Copyright Act : Structure and Significance

Unit 2

The Role of Copyright Act in Translation and Adaptation

INTRODUCTION TO BLOCK 1

In the two Units of this first block titled **The Copyright Act and Translation Rights**, **‘Copyright Act: Structure and Significance’** and **‘The Role of Copyright Act in Translation and Adaptation’**, sufficient information has been provided on various topics related to copyright. Copyright signifies respect for creativity. Every state and every society has a feeling of respect towards the creator of its time. To respect, honor, and recognize copyright means to encourage creativity. Copyright also protects capital investment in businesses like publishing, etc. Every society is proud of its poets, writers, musicians, painters, and artists, because culture flourishes due to creativity, and the identity of every nation is hidden in culture. Therefore, protection of creativity is necessary, and protection of copyright of the creator under the Intellectual Property Protection Act is appropriate in both legal and moral situations. In this block, the importance of copyright and many of its minute points have been discussed.



UNIT 1 THE COPYRIGHT ACT: STRUCTURE AND SIGNIFICANCE

Unit Structure

- 1.0 Objectives
- 1.1 Introduction
- 1.2 Meaning of Copyright
- 1.3 Bundle of Rights Under Copyright
- 1.4 Works to Which Copyright Applies
- 1.5 First Owner of Copyright
- 1.6 How is the Right Gained?
- 1.7 Assignment/Delegation of Copyright
- 1.8 Disputes Related to Assignment of Rights
- 1.9 Fair Use
- 1.10 Special Rights of the Author
- 1.11 Duration of Copyright
- 1.12 Copyright Infringement and Remedies
- 1.13 Contract with the Publisher for Translation
- 1.14 Summary
- 1.15 Questions for Practice
- 1.16 Suggested Readings

1.0 OBJECTIVES

This Unit pertains to the Copyright Act. By studying this Unit, students pursuing M.A. in Translation Studies will gain a concise understanding of the Copyright Act. After completing this Unit, you will be able to:

- Analyze the concept of copyright,
- Explain the methods of acquiring copyright and the assignment of copyright,
- Critically appreciate the concept and instances of copyright infringement and remedies, and
- Exemplify the application of copyright in various domains.

1.1 INTRODUCTION

Copyright is a tribute to creativity. Every state and society respect their creators of the time, thus granting them specific rights. Recognizing copyright signifies encouraging creation. It also provides copyright protection for business investments. A nation's identity is reflected through its culture. Every society takes pride in its poets, writers, musicians, painters, and artists. Creativity enhances cultural richness; hence, the protection of creativity is imperative.

The English term "copyright" has a historical background. Initially, when there were no printing machines, works were copied by hand. Following the invention of the printing press in Germany in 1436 CE, the circulation of books increased. In England, the government was wary of content that might oppose Christianity or the state, making it mandatory for printers to obtain royal permission to publish. The Oxford University Press was given monopoly to print the Bible. The first statutory recognition of an author's rights came in 1709 CE, when this right was termed "copyright" (the right to make copies). Today, this term also encompasses rights for presenters, broadcasters, photographers, painters, musicians, etc., thus expanding the scope of the term.

In essence, this is a form of prohibitive right. The creator has the authority to prevent anyone from making copies of their work without permission. The primary right to reproduce one's creation belongs to the creator. Therefore, it is referred to as "copyright."

1.2 MEANING OF COPYRIGHT

Here, we will consider the Copyright Act of 1957, applicable in India.

Though named as the Copyright Act, it encompasses other rights as well. Historically, copyright was limited to books and authors, but over time, it has included rights for performers, broadcasters, playwrights, musicians, singers, artists, filmmakers, sound recorders, and computer programmers.

In Europe, the rights of authors are referred to as primary rights, while those of others are called secondary or neighboring rights, also known as derivative rights.

Additionally, moral rights of authors are recognized. In India, all these are collectively termed 'copyright'. These moral rights are referred to as the special rights of the author, making our terminology simple and convenient.

In the context of books, copyright implies:

1. Production in Material Form: Including any literary, dramatic, or musical work in material form, which now includes electronic media.
2. Making Copies Available to the Public: Distribution of copies to the public.

3. Public Performance or Communication: Through media like radio or television.
4. Film or Sound Recording: Production of films or sound recordings of the work.
5. Translation: Translating the work.
6. Adaptation: Such as abridgment, conversion, or turning a story into a play.
7. Translation Rights: Translators are also creators; hence, they hold the same rights over their translations as authors do over their original works.

1.3 BUNDLE OF RIGHTS UNDER COPYRIGHT

According to the statute mentioned above, creators possess several rights, collectively known as copyright. These rights can be transferred entirely or divided into individual rights:

1. 'K' wrote a novel in English and gave all publication rights to publisher 'P'.
2. 'K' divided the rights geographically, selling publication rights for America to 'P', the UK to 'F', and India to 'V'. This division is valid.
3. 'K' retained Indian publication rights and sold the rest worldwide to 'P'.
4. 'K' sold the right to translate the novel into Hindi to 'C'.
5. 'K' gave the right to convert the novel into a play to 'C'.
6. 'K' granted film adaptation rights to 'X'.
7. 'K' sold TV series adaptation rights to 'G'.
8. 'K' gave the right to abridge the work to 'C'.
9. 'K' sold electronic publication rights to 'D'.

In these examples, 'K' has split his rights into segments and transferred each part to different individuals, with each transfer being legally valid.

1.4 WORKS TO WHICH COPYRIGHT APPLIES

Copyright applies to three categories of works:

1. Original Literary, Dramatic, Musical, and Artistic Works
2. Cinematograph Films
3. Sound Recordings

The first category includes four subcategories:

1. Literary
2. Dramatic
3. Musical
4. Artistic Works

It is important to note that the application of copyright to all four types of works under discussion hinges on the concept of *originality*. That is, each work must be *original* in nature. In legal terms, however, the meaning of *original* differs from its everyday usage. In the context of copyright law, originality does not imply the presence of novel or groundbreaking ideas. Rather, it simply means that the author has created the work independently, and it is not a copy of someone else's work. There is no requirement that the work should contain any minimum level of creativity or innovation. The essential condition is that it must not be a duplication or reproduction of an existing work. Originality, in this legal sense, does not necessitate that the work addresses an entirely unexplored subject or domain. A single idea, theme, or narrative can give rise to countless works. There is no copyright protection over ideas, theories, concepts, or events themselves—copyright protects the *expression* of those ideas, not the ideas per se. Thus, no one holds a monopoly over a thought, plotline, or real-life incident.

To illustrate, works based on the *Rāmakathā* (the story of Lord Rāma), films following the common protagonist-antagonist-heroine structure, or photographs of the Taj Mahal—all originate from the same foundational ideas or subjects. Yet, such reuse is entirely permissible under copyright law.

In this context, the term *literary* also warrants examination. The law does not assess or pass judgment on the *literary merit* of a work. A work may be considered of no literary value by literary critics or connoisseurs, and yet still receive full protection under copyright law. Certain types of compilations or works that are generally not considered *literary* in everyday language, such as multiplication tables, railway timetables, diaries, or directories, are nevertheless classified as *literary works* in the eyes of the law. Therefore, within this legal framework, the term *literary work* is detached from its traditional association with the field of literature.

In general, the law associates a literary work with three primary characteristics. First, it may convey information; second, it may provide instruction or education; and third, it may offer pleasure or entertainment. A literary work need not fulfil all three conditions simultaneously—even fulfilling one is sufficient for legal recognition.

Copyright law aims to protect the creations that result from an individual's labor, skill, and investment. Such protection ensures that others cannot exploit these works for personal gain without authorization. In essence, the

law acknowledges the intellectual and creative contribution of the individual by granting exclusive rights to control the use and dissemination of their original works.

Examples of Literary Works:

1. A ready reckoner for tax calculation prepared by 'K', which helps taxpayers determine their tax liability easily.
2. An arithmetic textbook written by 'K'.
3. Question papers for an MA in Political Science prepared by 'K' for a university.
4. A compiled textbook for 10th graders containing stories, excerpts from novels, essays, and poems, which, 'K' did not create but compiled and obtained permissions for the works.
5. A collection of STD codes for major Indian cities compiled and published by 'K'.

The first example, from the perspective of copyright law, is considered as a literary work. The second, third, and fifth examples are also literary works. While in common usage, an examination paper is not typically referred to as a literary work, the law deems it otherwise. The purpose of the law is to grant each individual the right to prevent their work from being copied. This legal interpretation expands the definition of literary works. In the fourth example, the compilation that has been created is also regarded as a literary work, and from a legal standpoint, the compiler is considered the creator.

In these examples, the creator has invested labor, utilized his knowledge, and possibly capital in creating the work. The law will protect the creator to ensure that no other person can exploit his work.

Some Further Examples:

1. Slogans or phrases written by 'K' do not receive copyright protection as they are too brief and their protection would hinder public expression.
2. A word coined by 'K' also does not receive copyright.
3. 'K' cannot claim copyright over his surname or family name.
4. K's translation of Surdas's verses into English is an original literary work because the original works by Surdas are in the public domain, but the translation is K's creation.
5. K's commentary on a section of the Ramcharitmanas by Tulsidas is a literary work.
6. Letters written by 'K' to a friend 'X' reviewing new literary works.

In the first example mentioned, slogans do not have copyright protection. Granting monopolies on short, effective phrases would harm public interest. Language is a public asset, a medium of expression for everyone, and this public right cannot be restricted.

The same principle applies to the second example. In the third example, there is no difference; surnames are not considered anyone's property. Anyone can adopt any surname, caste name, or nickname.

In the fourth example, Surdas's compositions are in the public domain because more than sixty years have passed since his death. Therefore, his works are free from the constraints of the Copyright Act. Anyone can publish their verses. However, the translation of these verses by 'K' is an original literary work and thus protected under the law as an original creation. The fifth example, where a commentary on a section of the Ramcharitmanas is made by 'K', follows the same legal logic as the fourth example; it is considered K's literary work.

In the sixth example, there are two dimensions to K's letters. The expression within the letter is K's original work, and 'X' cannot publish it. However, the physical letter (the paper and the text on it) belongs to 'X', who has the right to keep it and show it to others if necessary.

Similarly, there is no copyright on book titles. Multiple books can share the same title.

1.5 FIRST OWNER OF COPYRIGHT

So far, we have examined what copyright is and which types of works are protected by copyright. Now, we will consider who the owner of the copyright is.

The basic rule under the Copyright Act is that the creator of the work is its first owner. However, in some circumstances, it's not clear who the creator is. Under the law, there can also be two or more joint creators.

The Act defines the creator as follows:

- About a literary or dramatic work, the author of that work.
- About a musical work, the composer.
- About an artistic work other than a photograph, the artist.
- About a photograph, the person who took the photograph.
- About a cinematograph film or sound recording, the producer, and
- About a literary, dramatic, musical, or artistic work that is computer-generated, the person who causes the work to be created.

This is the general definition of authorship in common circumstances. Moving forward, we will delve deeper into this, focusing particularly on literary works.

1. 'K' was appointed as an assistant editor for a monthly magazine. 'K' was assigned the task of writing a monthly commentary on the previous month's national politics, which would be published in the magazine. Here, the copyright for the article prepared by 'K' will belong to the magazine's proprietor (owner).
2. 'K' and 'L' were commissioned by their employer to study seven temples of Kartikeya Swami in Tamil Nadu and write a book on their history, religious significance, architecture, etc. 'K' and 'L' wrote the book. The copyright for this book would belong to the employer because the book was written under a contract of employment.
3. 'K' is a mathematics teacher at a school. 'K' wrote a book for mathematics students. The copyright for this book would belong to 'K', not to the employer, because K's employment is for teaching in class, not for writing books.

1.6 HOW IS THE RIGHT GAINED?

A question often asked is, "How does one obtain copyright?" The answer is quite simple. Every civilized nation recognizes certain human rights inherent to all individuals. These rights are bestowed from birth until death, and merely being a human is sufficient to claim them. Similarly, the moment an individual creates a work, the copyright for that work is automatically vested in the creator. No further action is required to claim it. As soon as a poet writes a poem or a writer composes a story, they become the first owner of the copyright.

In some circumstances, when there is a dispute over ownership, the person claiming to be the owner must prove their ownership. If they have registered their copyright, proving it becomes easier and more convenient. They can show the certificate issued by the registrar, which serves as *prima facie* evidence.

The creator, owner, publisher, or any person with an interest in the work can apply for copyright registration with the Copyright Registrar. The application must be in the prescribed format, with specific details filled in, and the requisite fee must be paid. The registrar, after any investigation deemed necessary, will enter the details in the register and issue a certificate. The application form is specified in the rules, and currently, the fee for each application is five hundred rupees (Source: copyright.gov.in). Generally, registration is completed within ninety days.

If there are errors in the registration, like names, addresses, etc., the registrar can correct them. If someone believes an entry has been made erroneously or contains an error, they can apply to the Copyright Board for rectification, which will make the necessary corrections.

1.7 ASSIGNMENT/DELEGATION OF COPYRIGHT

Creating a work is not enough on its own. Every creator aspires for their work to reach as many people as possible; only then can they achieve fame and financial gain. However, creators often lack the means for publication and marketing, as well as the experience in these areas. Therefore, they must forge a relationship with a publisher. The publisher invests in the printing and publication of the book and possesses a distribution network through which they can advertise and distribute the work to a broader audience. This is all done with an expectation of profit. It is through the synergy of the publisher and author that a work reaches its readers. However, if the publisher does not have a copyright, why would they invest their resources?

This brings us to the answer, i.e. how copyright can be acquired- through assignment. The first owner of the copyright can assign their rights. As previously mentioned, copyright is a bundle of rights. These rights can be assigned for a specific geographical area, for a particular language, for a specific edition, or for any other division as deemed appropriate.

The publisher may compensate the author with a lump sum payment, a per-page rate, or a percentage of the book's price. Alternatively, they may agree upon any other mutually decided compensation model. The percentage-based remuneration is generally not calculated on the printed price but rather on the net or realized price. For instance, if the printed price of a book is one hundred rupees, but it is sold to a distributor for sixty rupees, the author's royalty will be calculated based on the sixty-rupee price.

For a grant of rights (assignment) to be valid, the following conditions must be met:

1. It must be in writing.
2. It must bear the signature of the author or their authorized agent.
3. The work must be clearly identified.
4. The duration of the assignment must be specified (e.g., ten years, fifteen years, or for the entire term of copyright).
5. The specific rights being assigned must be clearly stated.
6. The geographical scope of the rights must be defined.
7. If a royalty is to be paid, its amount must be specified.

It is important to note that:

1. If the duration is not specified, it will be presumed to be five years.
2. If the geographical scope is not mentioned, it will be assumed to be limited to India.

1.8 DISPUTES RELATED TO ASSIGNMENT OF RIGHTS

Jurisdiction over disputes concerning the assignment of rights lies with the Copyright Board. The process is straightforward and efficient. If a dispute arises regarding an assignment, the aggrieved party may file a complaint with the Board. After conducting an inquiry, if necessary, the Board issues an appropriate order. The Board may also direct the payment of royalties or revoke the assignment if deemed necessary.

If the assignee (the entity to whom the copyright has been assigned) does not make sufficient use of the assigned rights, and there is no fault on the part of the assignor, the Board has the authority to revoke the assignment.

For example, if an author (A) assigns the printing rights of their book to a publisher (P), but 'P' fails to publish the book for five years, 'A' may file a complaint with the Board. In such a case, the Board may revoke the assignment, as the assignee has not exercised their rights within the legally stipulated period.

1.9 FAIR USE

Copyright grants a form of monopoly. However, the law imposes certain limitations on it. While the author holds exclusive rights, the general public is also entitled to make fair use of a copyrighted work.

For such use, prior permission is not required. The law explicitly outlines the types of activities that qualify as permissible and constitute fair use.

The following examples help clarify this principle:

1. 'A' reviewed a novel and included necessary excerpts from the novel in the review. This constitutes fair use.
2. 'A' quoted passages from six different books for research purposes. This constitutes fair use.
3. 'A' copied some poems for personal entertainment and reference. This constitutes fair use.
4. 'A' wrote 25 songs. 'B' organized an event where they performed A's songs before an audience. This does not constitute fair use.

5. A teacher recited a poet's work while teaching students. This constitutes fair use.
6. A question paper included excerpts from poems. This constitutes fair use. Similarly, citing poetry in answers to exam questions is also considered fair use.
7. The Government of India published a notification in the Gazette. 'B' printed and distributed copies of it. This constitutes fair use.
8. 'A' published a court ruling. This constitutes fair use.
9. 'A' translated B's collection of all poems from Hindi to Tamil and published it. This does not constitute fair use.

1.10 SPECIAL RIGHTS OF THE AUTHOR

The rights referred to as the special rights of the author under the Copyright Act are known as moral rights in countries such as the United Kingdom and the United States.

Two rights remain with the author even after assigning their copyright. While the author may no longer have economic control over their work, these rights continue to exist. They are:

1. The right to claim authorship of the work.
2. The right to prevent distortion, mutilation, or modification of their work, especially if such changes adversely affect their reputation or honor. In such cases, the author also has the right to seek damages.

Example:

'A' assigns the publishing rights of their novel to a publisher; 'B' must attribute the novel to 'A' as the author and cannot credit anyone else.

In this scenario, if 'B' believes that altering certain dialogues and changing the novel's ending to a tragic one would make it more popular, 'A' has the right to prevent such modifications.

These rights are broadly classified as:

1. The right of attribution (the right to be recognized as the author).
2. The right of integrity (the right to prevent distortion of the work).

Example:

'A' writes a novel and grants 'B' the rights to adapt it into a film. After the film is produced, 'A' discovers that significant alterations have been made, negatively impacting their reputation. In this case, 'A' can take legal action to halt the film's release and may also claim damages.

1.11 DURATION OF COPYRIGHT

Since copyright grants exclusive rights, it is generally accepted that it should have a time limit. For literary works, the duration of copyright extends for sixty years beyond the lifetime of the author.

This means that copyright remains in effect throughout the author's lifetime and continues for sixty years after their death. After this period, the work enters the public domain, making it freely available for use by anyone. For example, the works of Bhāratendu Harishchandra, Rabindranath Tagore, Prem Chanda, Jaishankar Prasad, and Subhadra Kumari Chauhan are now in the public domain, and any publisher may publish them.

The sixty-year period is counted from the 1st January following the year of the author's death, ensuring that the copyright always expires on December 31st of the final year.

For works published under a pseudonym or those published posthumously, the sixty-year period is counted from the year of publication.

In the case of works created by multiple authors, the copyright duration is calculated from the death of the last surviving author.

1.12 COPYRIGHT INFRINGEMENT AND REMEDIES

A copyright infringement occurs when an individual, without the permission of the copyright owner or in violation of the terms of a license, performs any unauthorized act, such as:

- Selling, distributing, displaying, or importing an infringing work.

There are two types of legal remedies available for copyright infringement:

1. Civil Remedies:

- Injunctions (to prevent unauthorized reproduction, sale, or distribution).
- Damages (monetary compensation for losses).
- Accounting of profits (requiring the infringer to disclose and surrender profits made from infringement).
- The infringing copies may also be seized and become the property of the copyright owner.

2. Criminal Remedies:

- Imprisonment for the infringer.
- Fines as a penalty for infringement.

1.13 CONTRACT WITH THE PUBLISHER FOR TRANSLATION

If a translation is done purely for personal satisfaction and there is no intent to publish it, then permission from the author (if deceased) is not required. If the original work has entered the public domain (i.e., sixty years have passed since the author's death), translation and publication can be done without obtaining permission. However, if the copyright term has not expired and the translation is intended for publication, obtaining the original author's consent is mandatory.

When a publisher assigns a book for translation, the translator should ensure that the contract includes the following provisions to avoid future disputes. Many individuals later claim that they signed the contract without reading it, which is an imprudent approach. In such cases, the law will not provide protection.

The translator should carefully consider the following key points:

1. **Verification of Rights:** Ensure that the publisher has the legal right to commission the translation.
2. **Translator's Credit:** Confirm that the translator's name will appear on the book's cover.
3. **Use of Standard Terminology:** If the book belongs to fields such as science, humanities, or law, ensure that standard terminology (as prescribed by the Government of India) is used. This applies to Hindi translations.
4. **Timeline for the First Draft:** Determine the deadline for submitting the first draft of the manuscript.
5. **Publisher's Review Period:** Confirm the time frame within which the publisher will review the first draft.
6. **Final Manuscript Submission:** Establish the deadline for the translator to submit the final manuscript.
7. **Remuneration and Expenses:** Specify the translator's fee and the rate for calculating expenses such as typing costs.
8. **Complimentary and Discounted Copies:** Determine the number of complimentary copies the translator will receive and the discount available on additional copies.
9. **Copyright Ownership:** Clarify whether the copyright of the translated work will belong to the publisher or the translator.
10. **Pricing:** Establish that the publisher will determine the price of the translated work.
11. **Dispute Resolution:** Agree that any disputes will be resolved through arbitration.

1.14 SUMMARY

Copyright is a recognition of creativity. Creativity contributes to the cultural and intellectual growth of any society, making its protection essential. In essence, copyright is an exclusive right, allowing the creator to prevent others from reproducing their work without permission. The creator holds the first right to make copies of their own work, which is why it is termed copyright. This right is governed by a legislation known as the Copyright Act, which encompasses various other rights as well.

Historically, copyright was limited to books and authors. However, over time, its scope has expanded to include performers, broadcasters, playwrights, musicians, singers, artists, filmmakers, audio recorders, and computer programmers. In the context of books, copyright refers to the right to produce physical copies, make them available to the public, publicly present them through media like radio or television, and translate or adapt them (such as abridging, modifying, or converting a story into a play). According to copyright law, translators are also considered authors, and they possess the same rights as the original creator.

Under the Copyright Act, the creator of a work is its first owner. Every creator aspires for their work to reach a wider audience, as this leads to recognition and financial gain. However, authors often lack the means and experience for publication and marketing. Therefore, they need to collaborate with publishers, who invest in printing, publication, and distribution. Publishers have established networks for book distribution, enabling widespread dissemination through advertising and sales, primarily for profit. It is through this collaboration between publishers and authors that works reach readers.

To facilitate this, the first copyright owner (the author) grants certain rights to the publisher. This grant (license) can be restricted by geography, language, edition, or other conditions. In return, the publisher compensates the author either with a lump sum, a per-page payment, a percentage of the book's price, or any other agreed-upon arrangement. The licensing agreement must be in writing.

Since copyright is an exclusive right, it is recognized that it should have a time limit. For literary works, the copyright term lasts for the creator's lifetime plus sixty years. Copyright infringement occurs when someone violates the terms of a license. Remedies for such infringement include civil actions, such as injunctions to prevent distribution or sale, claims for damages, and seizure of infringing copies. Criminal penalties may also apply, including imprisonment and fines.

A translation done solely for personal use does not require permission. However, if the translation is to be published and the original work is still under copyright protection, the translator must obtain the original author's consent. When a publisher assigns a translation project, the translator must

ensure that a formal contract is prepared. Signing a contract without reading it is not a prudent decision, and in such cases, the law will not offer protection.

In conclusion, translators must safeguard their interests by carefully reviewing and signing contracts with due diligence.

1.15 QUESTIONS FOR PRACTICE

1. What do you understand by copyright? Explain in detail.
2. When and where did printing originate? When, where, and for what purpose was the Copyright Act implemented?
3. What is the Copyright Act? In what circumstances does it apply? What is it called in Europe? Analyze it critically. Based on your textbook, explain the meaning of copyright in the context of books.
4. What does the statement "Copyright is a bundle of rights" mean? Explain in simple terms.
5. To which types of works does copyright apply? Explain with examples.
6. What is meant by the first owner of copyright? Clarify with explanations.
7. How and why is copyright obtained?
8. Why and how is copyright assigned?
9. Under what circumstances do disputes arise regarding copyright assignments? How are such disputes resolved?
10. What are the special rights of the creator? What is the duration of copyright?
11. Review copyright infringement and the legal remedies available.
12. Provide a structured commentary on contractual agreements with publishers for translation.

1.16 SUGGESTED READINGS

- Bhandari, M.K., *Intellectual Property Rights*, Allahabad, Central Law Publication.
- Commission for Scientific and Technical Terminology *Glossary of legal terms*.
- The Copyright Act, 1957

UNIT 2 THE ROLE OF COPYRIGHT ACT IN TRANSLATION AND ADAPTATION

Unit Structure

- 2.0 Objectives
- 2.1 Introduction
- 2.2 Copyright in Translation and Adaptation (Section 13)
- 2.3 Permission for Translation
- 2.4 Works Created During Employment
- 2.5 Computer Programs and Translation
- 2.6 License for Translation (Sections 30 & 32)
- 2.7 Mandatory License for Translation
- 2.8 License from the Copyright Board
- 2.9 Conditions for Granting a License
- 2.10 Procedure for Issuing a License by the Copyright Board
- 2.11 Application Process for Obtaining a License
- 2.12 Broadcasting Authority and Translation Licenses
- 2.13 Meaning of Adaptation
- 2.14 Copyright Infringement and Penalties
- 2.15 Summary
- 2.16 Questions for Practice
- 2.17 Answers to Practice Questions
- 2.18 Suggested Readings

2.0 OBJECTIVES

This Unit focuses on the role of the Copyright Act in translation and adaptation. It is designed to provide students pursuing M.A. in Translation Studies with a concise understanding of copyright laws related to translation and adaptation. After studying this Unit, learners will be able to:

- Identify which works are protected under copyright,
- Determine the copyright holder in the context of translation and adaptation,

- Recognize and evaluate the instances of copyright infringement, and
- Explain in detail and exemplify the process to obtain a license for translation and publication.

2.1 INTRODUCTION

In the previous Unit, you learned about the Copyright Act of 1957. This section explores the role of copyright law in translation and adaptation. The Copyright Act of 1957 includes provisions related to copyright in translated and adapted works.

Today, copyright is commonly referred to as Intellectual Property Rights (IPR). The foundation of copyright law is to ensure that no individual benefits from the skill, labor, time, and investment of another person without permission. The creator of a work retains exclusive rights over it. The objective of copyright law is to protect these rights and impose penalties and fines for any infringement.

With increasing linguistic exchange across the world, new provisions have been introduced in copyright law regarding translation and adaptation. No work may now be translated or adapted without the author's explicit permission or a license from the Copyright Board.

2.2 COPYRIGHT IN TRANSLATION AND ADAPTATION (SECTION 13)

Copyright in any work is generally vested in its creator. First, it is essential to understand what constitutes a “work” for which permission must be obtained from either the creator or the Copyright Board prior to translation. Since a translation in itself is a literary work requiring copyright protection, the following categories of works are subject to copyright for purposes of translation or publication throughout India:

- Original literary, dramatic, musical, and artistic works
- Cinematic films
- Sound recordings
- Computer programs

If a cinematic film is produced in violation of the copyright of another work, it will not be granted copyright protection. This is because the producer, by using the underlying work without authorization, has already infringed the Copyright Act. For example, if a film based on translation of a work is made without obtaining permission for the translation, the producer will not acquire copyright over that film. Similarly, if a sound recording is prepared in such a way that it infringes upon the copyright of a literary, dramatic, or musical work, then the sound recording will likewise not be eligible for copyright

protection. In other words, a producer who creates a film or sound recording based on an existing work without permission will not be deemed its copyright owner. Consequently, if any individual uses such a film or sound recording without the producer's consent, no legal action can be taken against that individual.

Therefore, before seeking permission for the translation or adaptation of any work, it is crucial to determine who holds the copyright in the original work.

For literary and dramatic works, the creator is regarded as the author. In the case of musical compositions, the composer is considered the creator. For cinematic films, the film producer is recognized as the creator, and for sound recordings, the sound recording producer (or sound engineer) is deemed the creator. In other words, the film producer or the producer of the sound recording is acknowledged as the author of that work. For artistic works, the creator is the artist. Regarding computer-generated literary, dramatic, musical, or artistic works, the creator is the individual who develops the computer program.

2.3 PERMISSION FOR TRANSLATION

Before translating or adapting any given work, it is imperative first to determine who the creator of that work is. Equally important is ascertaining who holds the copyright in the work. This step is necessary in cases where the author has either authorized another person to exercise their copyright, assigned their copyright to someone else, or where the author or producer is unknown or has passed away. Consequently, whenever a work is to be translated or adapted, proper legal permission must be obtained in advance. Translating or adapting a work without obtaining the necessary permission will be considered a violation of the Copyright Act, 1957, and legal action may be initiated against the infringer.

2.4 WORKS CREATED DURING EMPLOYMENT

If a literary, dramatic, or artistic work is written or translated for publication in a newspaper, magazine, or similar medium, and the work is produced during the course of employment with the owner of that publication, then the copyright in the work (whether a translation or adaptation) is deemed to belong to the employer. It is important to note that this assignment of copyright to the employer applies only if there is an explicit agreement or assignment made during the course of employment; otherwise, the copyright remains with the creator. Furthermore, the employer's copyright is limited solely to the publication within that particular newspaper, magazine, or medium.

For government works or works produced by any other organization, the copyright is vested in the government or the respective organization. However, if an agreement exists regarding the ownership of copyright in such

cases, then the copyright will be allocated to the creator in accordance with the terms of that agreement.

In instances where a playwright writes or translates a play for a society or institution without any clear contractual agreement, the copyright will reside with the playwright or the translator, as applicable.

Similarly, if a translator performs a translation at their workplace during working hours, then, as the work is produced in the course of employment, the copyright in that translation belongs to the employer. The work produced by the translator, considering the labor, skill, and time invested, is regarded as a literary work.

If a person acquires the copyright for a translation of a literary, dramatic, or musical work, the translator is thereby granted the following rights with respect to the translated work:

1. **Reproduction and Electronic Storage:** The right to reproduce the translated work or store it in any electronic medium.
2. **Public Distribution:** The right to distribute the translated work to the public.
3. **Public Performance and Communication:** The right to publicly perform or communicate the translated work.
4. **Derivative Works (Film and Sound Recording):** The right to create a film or a sound recording based on the translated work.
5. **Further Translation:** The right to translate the translated work.
6. **Adaptation:** The right to adapt the translated work.

2.5 COMPUTER PROGRAMS AND TRANSLATION

Copyright in the Context of Translating Computer Programs

In the era of the information revolution, the significance of computer programs has increased tremendously. A computer program is essentially a set of instructions expressed through words, symbols, or other means. The software associated with a computer includes manuals, documents, and related materials.

Software developed for operating computers falls under the category of literary works. The data stored on punched cards is also considered a literary work. Similarly, information stored on magnetic tapes, disks, and floppy disks is classified as a literary work. If any of this software is to be translated, permission must be obtained from the copyright owner, their authorized representative, or through an application to the Copyright Board for a translation license.

An individual who obtains the license or permission to translate and publish a software-related work is granted the following rights:

1. The right to translate the computer program, publish it, or store it in any electronic medium.
2. The right to publicly distribute the translated work.
3. The right to publicly perform or broadcast the translated work.
4. The right to create a film adaptation or sound recording based on the translated work.
5. The right to retranslate the translated work.
6. The right to adapt the translated work.
7. The right to rent the translated work.
8. The right to sell the translated work.
9. The right to commercially lease or sell the work.

This demonstrates that a copyright owner is not granted a single right over the work but rather a bundle of rights. Even when some of these rights are assigned or transferred, the remaining rights still belong to the original copyright owner.

2.6 LICENSE FOR TRANSLATION (SECTIONS 30 AND 32)

A literary work, whether Indian or foreign, can be translated into any language. The author of a work holds exclusive rights over its translation for a period of seven years from the date of its first publication. During this period, the author alone can decide whether or not to translate the work or authorize its translation.

If another person wishes to translate the work within these seven years, they must first obtain permission from the author. Even for purposes of education and research, a license is required to translate a copyrighted work. These aspects will be discussed in greater detail in the following sections.

2.7 MANDATORY LICENSE FOR TRANSLATION

There are two types of licenses available for the translation of a literary work. The first is a voluntary license, wherein an author or copyright owner voluntarily grants permission to any individual for the reproduction, translation, publication, or adaptation of the work. The second is a mandatory license, which may be obtained by applying to the Copyright Board under specific circumstances. This section will first discuss the voluntary license.

The copyright owner of a published or yet-to-be-published literary or dramatic work may transfer the translation rights of the work to another individual. However, this right will only become effective in the case of an unpublished work when the work is completed and published.

The procedure for granting a translation license requires that the author or their authorized representative must issue the license in written form. The license must bear the signature of the author or their authorized representative. It is important to note that the original copyright in a literary or dramatic work belongs to the author, who has the discretion to grant translation rights to another individual.

Notably, for Indian works, the author retains exclusive rights over the translation for seven years from the date of first publication. Any other individual seeking a license for translation from the Copyright Board may apply only after the expiration of this period. If an author grants a translation license within the seven-year period but passes away before the publication of the work, the legal heirs of the author will receive the benefits of the license, including royalties generated from the translation and publication of the work.

2.8 LICENSE FROM THE COPYRIGHT BOARD

If, within seven years of the first publication of a literary or dramatic work, a translation in the requested language has not been published, another individual may apply to the Copyright Board for a license to translate the work even within the seven-year period.

Additionally, if a translation of the work has been published in a particular language within the seven-year period, but all copies have been exhausted, an application can still be made to the Copyright Board for a license to translate and publish the work in that language.

2.9 CONDITIONS FOR GRANTING A LICENSE

The process for applying for a license from the Copyright Board for the translation and publication of an original literary or dramatic work follows a prescribed procedure. The applicant must submit an application in duly filled Form-2, while complying with certain conditions.

If an individual wishes to obtain a license for the translation of a work within seven years of its first publication, they must provide evidence before the Copyright Board that they had previously approached the author or copyright owner for permission to translate and publish the work, but their request was denied.

If the translator has made reasonable efforts to locate the copyright owner but was unsuccessful, they must have sent a registered letter to the publisher (whose name appears on the work) requesting authorization to translate and

publish the work. If, even after a period of two months, the publisher fails to respond or grant permission, the applicant may present this as evidence before the Copyright Board, which may then issue a license in accordance with regulations.

License for Translation for Educational or Research Purposes (Section 32)

If a foreign literary or dramatic work is to be translated and published for the purposes of education, knowledge dissemination, or research, an application for a license may be submitted to the Copyright Board. Such an application may be made three years after the first publication of the foreign work. However, if the translation and publication are to be carried out in a language that is not commonly used in a developed country, the application may be made one year after the first publication of the work.

Applicants seeking a license for the translation and publication of a foreign work for educational, knowledge dissemination, or research purposes must comply with certain conditions:

- The applicant must pay the copyright owner a royalty, calculated on each copy of the translated work sold. The amount of royalty shall be determined by the Copyright Board in accordance with established guidelines.
- The translated foreign work shall not be exported. Each copy of the translated work must carry a statement specifying that it is "for distribution within India only." However, if the translation is not English, French, or German language, the translated work may be exported by the government or an authorized agency to Indians residing abroad or their allied communities, provided it is strictly for educational and research purposes. The work may not be exported for commercial purposes. Additionally, prior approval must be obtained from the government of the importing country before exporting the translated work.
- If, within three years (or one year, as applicable) of the first publication of a work, the copyright owner has not published a translation, or if a translation was published but copies have since been exhausted, an individual may apply to the Copyright Board for a license to translate and publish the work.
- The applicant must provide evidence before the Copyright Board that they had requested authorization from the copyright owner to translate and publish the work, but the request was denied. Alternatively, if the applicant made reasonable efforts to locate the copyright owner but was unsuccessful, they must present proof of their attempt.
- In cases where the applicant could not locate the copyright owner, they must have sent a registered airmail letter to the publisher (whose name appears on the work), requesting authorization to translate and publish the

work. If, after six months (or nine months, in the case of a work with existing copyright ownership), there is no response, or if, within the respective timeframes, the copyright owner or their authorized representative has not published a translation in the requested language, the Copyright Board may issue a license for the translation and publication of the work. If the author has withdrawn all copies of the work from circulation, this may also serve as grounds for granting the license.

Notice of Application Filing

When the Copyright Board receives an application for the translation and publication of a copyrighted work, it shall promptly issue a notice of the application in the Official Gazette. Additionally, if deemed appropriate, the notice may also be published in one or more newspapers. Furthermore, if possible, a notification shall be sent to the copyright owner.

This notice shall include the following details:

- Date of the application
- Name, address, and nationality of the applicant
- Details of the work to be translated
- Date and country of the first publication of the work
- Name, address, and nationality of the copyright owner as mentioned in the application
- The language into which the work is to be translated
- Registered copyright number (if available) as recorded in the Copyright Register

The Copyright Board shall not consider the application before 120 days from the date of publication of this notice in the Official Gazette.

2.10 PROCEDURE FOR ISSUING A LICENSE BY THE COPYRIGHT BOARD

Before granting a license, the Copyright Board shall ensure the following:

- The applicant is competent to accurately translate and publish the work. Additionally, the applicant must have the necessary means to pay royalties to the copyright owner. Before issuing the license, if possible, the copyright owner shall be given an opportunity for a hearing.
- Upon receiving the license, the applicant must ensure that every published copy of the translated work clearly displays the author's name and the original title of the book.

- It is important to note that translations of works for research purposes do not include industrial research. Furthermore, such translations do not extend to corporate entities (excluding government-owned or government-controlled corporate bodies) or commercial organizations engaged in research.
- The purpose of education, knowledge, and research includes academic institutions such as schools, colleges, and universities, where teaching is conducted at all levels.

2.11 APPLICATION PROCESS FOR OBTAINING A LICENSE

To apply for a license from the Copyright Board for the translation and publication of a foreign work intended for educational and research purposes, the applicant must follow the procedure outlined below:

- The application form must be duly filled out in Form-2 and submitted.
- The application must be submitted in triplicate (three copies).
- The application must be for the translation of only one work into a single language.
- The prescribed license fee must be deposited along with the application.
- The application must be accompanied by the necessary supporting documents.

Compulsory License for Translation of Unpublished Indian Works (Section 31)

If an author has created a work using their intellectual skill, time, and resources but dies before its publication, or if the author cannot be traced, such a work should still reach the public. In case of the author's demise, if the family members publish or translate the unpublished work, then its knowledge and intellectual value can benefit society. However, if the family members fail to publish or translate the work, as is often the case, the government holds the authority to direct the family to publish or translate the work within a specified period, if it deems the publication or translation to be in the national interest.

If the legal heirs or representatives of the deceased author fail to publish or translate the work within the stipulated period, the Copyright Board, upon receiving an application and after hearing both parties, may issue a license for the translation and publication of the work.

Before applying for a license for the translation and publication of such an Indian work, the applicant must publish a notice in a widely circulated

English-language daily newspaper as well as in a newspaper of the language into which the translation is intended. The purpose of such advertisement is to provide an opportunity for the author or copyright owner (if unknown) to come forward and claim their rights. The applicant must also submit copies of these newspaper advertisements along with the application and deposit the prescribed license fee with the Copyright Registrar.

Compulsory License for Translation of Indian Works (Section 31)

If the author or copyright owner of a work refuses to allow its re-publication or translation, it is considered withheld from the public. However, the fundamental purpose of any creative work is to be accessible to the public. In some cases, the author may not explicitly refuse but may impose unreasonable demands, which shall also be considered a denial.

If an Indian literary, dramatic, or musical work (where "Indian work" refers to a work created by an Indian citizen or one first published in India) has already been published or publicly performed, but the copyright owner refuses to allow its re-publication or further public performance, thereby making the work inaccessible to the public, the Copyright Board may grant a compulsory license. Similarly, if a copyright owner unreasonably refuses to allow the broadcasting or sound recording of a work despite reasonable requests, the Copyright Board has the authority to grant a compulsory license for such purposes.

Application Review Process

When the Copyright Board receives an application in Form-2, along with the prescribed license fee in triplicate, requesting a license for the translation and publication of an unpublished work, it begins its review process.

- First, the Copyright Board sends a copy of the application to the copyright owner via registered post. If the copyright owner is unknown or cannot be located, a public notice is published in the Official Gazette to invite any potential claimants to assert their rights over the work. After hearing the applicant and obtaining relevant evidence, the Board makes an appropriate decision. The applicant must deposit the royalty amount in a public account designated by the Indian government for a specified period.
- If, during this period, the author or copyright owner (or their legal heirs or representatives) come forward, they may claim the royalty.
- The Copyright Board may impose additional conditions before granting the license. Finally, the Copyright Registrar issues the license to the applicant in accordance with the Board's directives.

Determination of Conditions

While issuing such a license, the following conditions shall be determined:

- The duration for which the work may be published.
- The rate of royalty payable to the copyright owner for each copy of the work sold.
- The language in which the work shall be translated and published.
- The name(s) of the person(s) to whom the royalty shall be paid.

The issuance of such a license shall be notified in the Official Gazette as soon as possible, and a copy of the license shall be sent to the other party (Rule 11A).

License for the Translation of Works for Educational Purposes

If, after the prescribed period following the first publication of a literary, scientific, or artistic work, the copyright owner or their authorized representative fails to make copies of the work available in India, or if, even after six months, the work is not available for sale to the general public or for educational purposes, or if copies are not made available in India at a price comparable to other works of the same subject and level, then any individual may apply to the Copyright Board for a license to reproduce and publish the work. If such an individual is granted a license, they must sell the publication at a price equal to or lower than the standard price at which similar educational materials are sold.

Language of Translation

If the copyright owner or their authorized representative has already translated the work into a language not commonly used in India, no license shall be granted for its translation. For example, if a German work has been translated into French, no license will be issued in India for the reproduction and publication of that work, as French is not a widely used language in India. However, if the same German work has been translated into English but its copies are not available in India, a license for its reproduction and publication may be issued, as English is widely used in India.

Prescribed Period for Reproduction

- In the case of fiction, poetry, drama, music, and artistic works, a license for reproduction and publication may be obtained seven years after the first publication of the work.
- For works related to natural sciences, physical sciences, mathematics, or technology, the period is three years.
- For other types of works, the period is five years.

This license shall not be exclusive, and the applicant must pay royalties for each copy sold. The royalty rate shall be determined by the Copyright Board, and the work shall not be exported outside India.

Conditions Before Issuing a License:

- The Copyright Board must ensure that the applicant is capable of accurately translating and publishing the work and that they have the means to pay the required royalties to the copyright owner.
- The applicant must sell the work at the price set by the Copyright Board.
- If possible, the copyright owner shall be given an opportunity to be heard before the license is issued.

2.12 BROADCASTING AUTHORITIES AND TRANSLATION LICENSES

In modern times, broadcasting authorities are emerging on a large scale, and they require literary and translated works for educational and research purposes. Since they frequently broadcast through audiovisual media, they are granted the right to obtain licenses from the Copyright Board for translating foreign works for educational purposes.

Such translations will be used for teaching and disseminating specialized, technical, or scientific research findings in specific fields. Broadcasting authorities must apply for a translation license in the prescribed format and submit the required fees along with the application.

Export of Translated Works

A translated and published work, originally in a language other than English, French, or Spanish, may be exported by the government or an authorized authority. However, such an export will only be made to Indian citizens or entities abroad and must be used solely for educational and research purposes, not for commercial gain. Moreover, prior approval from the recipient country's government will be required for the export.

Application for a License

If the copyright owner has not translated and published their work within three years of its first publication into the language specified in the application, or if the translation was published but is out of print, the broadcasting authority may apply to the Copyright Board for a license to translate and publish the work.

In such cases, the applicant—acting on behalf of a broadcasting authority—must satisfy the Copyright Board that a request was made to the copyright owner seeking authorization to translate and publish the work, but either the copyright owner refused to grant such authorization or, despite due diligence,

the applicant was unable to ascertain the identity or whereabouts of the copyright owner.

In instances where the broadcasting authority could not locate the copyright owner, it must demonstrate that a formal request was sent via registered mail to the publisher, whose name appears on the published version of the work, seeking permission to translate and publish the work. If a period of six months, or, as applicable, nine months has elapsed since the dispatch of the request, and the copyright owner or an authorized representative has not undertaken translation of the work into the language specified in the application, the Copyright Board may grant the broadcasting authority a license to translate and publish the work, subject to the fulfillment of the following conditions:

- The translation must be made from a lawfully obtained copy of the work.
- The broadcast shall be conducted through an audio or audiovisual recording.
- The recording shall be made solely for the purpose of broadcasting within the territory of India.
- The translation and broadcast must not be carried out for any commercial purpose.

2.13 MEANING OF ADAPTATION

The adaptation of a literary work is legally recognized as the creation of a new literary work. The individual who adapts the work is considered its author, and the adapted work is subject to copyright protection. Like other authors, the creator of an adaptation retains copyright over the work throughout their lifetime. Furthermore, this copyright extends for sixty years after their death, with the sixty-year period being calculated from the beginning of the calendar year following the year of the author's death.

If the adaptation is published after the death of the author, copyright protection will remain in effect for sixty years from the calendar year following the publication.

In cases where a literary, dramatic, or musical work is publicly performed after adaptation or where a sound recording of the adapted work is sold to the public, this act is considered equivalent to publication. The copyright duration for such adaptations is determined based on the date of the public performance or sale of the sound recording.

Definition of Adaptation under the Copyright Act, 1957

According to the Copyright Act, 1957, adaptation refers to the following:

- Transforming a dramatic work into a non-dramatic literary work.

- Converting a literary or artistic work into a dramatic performance and presenting it publicly.
- Summarizing a literary or dramatic work or condensing its storyline primarily through visual representations that can be published in book form, newspapers, magazines, or similar media.
- Transcribing or modifying a musical composition.

An adapted work is considered a derivative literary work. Consequently, the author of the adaptation retains copyright over it, similar to the original author's copyright over their work. Therefore, permission from the copyright owner or a license from the Copyright Board is required for reproduction and publication of the adapted work.

Revocation or Cancellation of a Translation License (Section 32B)

The Copyright Board not only grants licenses for the translation, printing, or reproduction of a foreign literary or dramatic work in any commonly used language in India after three years from its first publication, but it also holds the authority to revoke such licenses. The following conditions determine when and under what circumstances a license may be revoked:

If, after the issuance of a translation license, the copyright owner or their authorized representative makes the translated and published version of the work available in India in the same language at a price comparable to similar works in the same field, the previously issued translation license will be revoked.

However, this revocation will take effect only after the copyright owner notifies the license holder using the prescribed format. A three-month period must elapse from the date of receiving this notice before the license is deemed revoked.

Even after revocation, the license holder may continue to sell or distribute the copies of the translated and published work until all copies are exhausted.

Other Grounds for License Revocation

The Copyright Board holds the authority to revoke a license issued to a licensee on various grounds. In any license granted by the Copyright Board for the translation and publication of a work, a specific timeframe is stipulated within which the licensee must complete the translation and publication of the licensed work. If the licensee fails to fulfill these obligations within the prescribed period, the license may be subject to cancellation. The licensee may, however, submit an application to the Copyright Board requesting an extension of the license period. Upon receiving such a request, the Board considers the application and, where feasible, issues a notice to the copyright owner of the licensed work. If the licensee is unable to complete the translation and publication within the stipulated timeframe due to unavoidable circumstances, the period may be

extended upon submission of a valid justification. However, if the licensee still fails to fulfill the obligations within the extended period, the Copyright Board reserves the right to revoke the license.

Moreover, if it is discovered that the license was obtained through fraudulent means or by misrepresenting any material fact, the license is liable to be cancelled.

Additionally, if the licensee violates any terms or conditions of the license, the Copyright Board, after providing the licensee an opportunity to be heard, may revoke the license.

2.14 COPYRIGHT INFRINGEMENT AND PENALTIES

It is well established that the translation of a literary, dramatic, or musical work constitutes an independent literary creation. The process of translation demands substantial skill, effort, and time from the translator. Consequently, the translated work is recognized as a literary work in its own right, and the translator holds copyright over it. No individual or entity may translate or publish such a translated work in any language without obtaining explicit consent from the translator (the copyright holder). If a translation or publication is carried out without permission from the copyright holder or without obtaining a license from the Copyright Board, it constitutes a violation of copyright law. Additionally, any breach of the terms of a granted license is also considered a copyright infringement.

Definition of Copyright Infringement

Upon translation, a copyright is automatically established for the translator over the translated work. This copyright protection remains in effect until sixty years after the translator's death, calculated from the beginning of the calendar year following their demise. Only after this period does the translated work enter the public domain. However, if the translated work is to be further translated into another language, a seven-year copyright period applies. After this seven-year period, further translation of the work requires a license from the Copyright Board.

Penalties for Copyright Infringement

If an individual willfully infringes upon copyright law or encourages others to do so, they may face:

- Imprisonment ranging from six months to three years, and
- A fine between ₹50,000 and ₹200,000.

A court may impose a lesser sentence or fine (below six months of imprisonment or ₹50,000 in fines), but only if sufficient and exceptional reasons are provided in the court's ruling.

In the event that a company commits copyright infringement, legal action may be taken against the individuals responsible for managing and operating the company. Cases related to copyright infringement cannot be filed in any lower court and must be tried before a Metropolitan Magistrate or a First-Class Magistrate.

Decisions rendered by such courts may be appealed within thirty days of the verdict. Upon filing an appeal, the appellate court may suspend the implementation of the original judgment until the appeal is heard and resolved. Furthermore, both the Copyright Registrar and the Copyright Board are vested with powers equivalent to those of a civil court.

2.15 SUMMARY

According to the Copyright Act, no individual is permitted to benefit from a work created through the skill, labor, time, and investment of another without appropriate authorization. The person who has created a work using their intellectual and creative effort holds the exclusive rights to that work. In legal terms, the author of a work is deemed the copyright holder. Accordingly, the copyright law is designed to protect such rights and also prescribes penalties for their infringement.

With the growing exchange of content across global languages, copyright law has incorporated several new provisions specifically addressing translation and adaptation. Under these provisions, no one is allowed to translate or adapt a work without obtaining prior permission from the author or, alternatively, a license from the Copyright Board. In India, copyright protection extends to original literary, dramatic, musical, and artistic works, cinematographic films, sound recordings, and computer programs. Anyone intending to translate or adapt a work must first determine the identity of the original author and the current copyright holder. This is especially necessary when the author has transferred their copyright to another individual, either through authorization or formal assignment, or in cases where the author is unknown or deceased.

Thus, for any translation or adaptation to be legally valid, prior permission is mandatory. Unauthorized translation or adaptation constitutes an infringement of the provisions under the Copyright Act of 1957, and violators may be subjected to legal action.

In the case of works produced during the course of employment, the copyright belongs to the employer. However, a translation that involves significant intellectual effort, skill, and time is recognized as a literary work in itself. When a literary, dramatic, or musical work is translated, the rights to reproduce, store it electronically, perform it publicly, adapt it, or convert it into a computer program lie with the translator.

After the expiration of seven years from the first publication of a work, another individual may seek permission from the author or apply to the

Copyright Board for a license—subject to prescribed conditions—to translate the work. Once a work has been translated, no further translation or publication into another language is permissible without the consent of the original translator. Unauthorized translation or publication without a license from the Copyright Board is considered an infringement of copyright. Even the violation of any term specified in a license constitutes a breach of copyright.

A translated work becomes free from copyright protection only after sixty years have passed from the beginning of the calendar year, following the death of the translator. However, if a new translation is to be made from that translated work into another language, it will be subject to a copyright term of seven years. Once this period lapses, a license must be obtained from the Copyright Board to undertake such a translation.

Anyone who knowingly infringes copyright, or abets such infringement, may face imprisonment for a term ranging from six months to three years and a fine ranging from fifty thousand to two hundred thousand rupees.

2.16 QUESTIONS FOR PRACTICE

1. In which types of works does copyright apply to translation and adaptation?
2. From whom must permission be obtained to translate a work?
3. Who holds the copyright for a work translated during employment?
4. Who holds the copyright for a work translated without the author's permission?
5. If a translator employed for English-to-Hindi translation translates a Japanese speech into English during working hours, who holds the copyright for that translation?
6. Why is copyright referred to as a "bundle of rights"?
7. What is meant by a voluntary license for translation?
8. For which works is a license required for translation for educational or research purposes?
9. After how many years can permission for translation be sought from the author?
10. For whom can a foreign-translated work be exported?
11. Is the permission of the government of the importing country necessary for export?
12. If the copyright owner cannot be identified, to whom should the request letter be sent?

13. When can a license be obtained for translating an unpublished Indian work?
14. Who issues compulsory licenses?
15. Why does the government grant permission for the translation and publication of a work?
16. Who is entitled to royalties in case of the author's death?
17. Who determines the royalty amount?
18. When can a compulsory license be issued for the republication of a translated Indian literary work?
19. What is meant by "Indian works"?
20. Can a compulsory license be issued if the copyright owner imposes "unreasonable demands" for publication?
21. If multiple applications are received, how does the copyright board decide whom to grant the license?
22. What is the stipulated time period for translation licenses for literary works?
23. What is the stipulated time period for translation licenses for physical sciences?
24. When can an application be submitted for a license to reproduce foreign works for educational purposes?
25. For which works can a broadcasting authority obtain a translation license? What are the intended purposes of such broadcasts?
26. When can a broadcasting authority export reproduced works?
27. When can a broadcasting authority apply for a translation license?
28. Who holds the copyright for an adapted work?
29. What is the copyright duration for adapted works?
30. What types of works can be adapted?
31. From whom must a license for adaptation be obtained?
32. When can a license be terminated?
33. What are the effects of license termination?
34. Can the duration of a license be extended?
35. Can a fraudulently obtained license be revoked?

36. When does copyright infringement occur in the context of translation?
37. What are the legal consequences if copyright infringement is proven?
38. When can an appeal be filed against a court decision?

2.17 ANSWERS TO PRACTICE QUESTIONS

1. Copyright applies to literary, dramatic, musical, artistic works, cinematographic films, sound recordings, and computer programs.
2. Permission for translation must be obtained from the author of the work or the copyright board.
3. If there is no prior contractual agreement, the translator retains copyright for works translated during employment.
4. If a work is translated without the author's permission, no one holds copyright over the translation.
5. If a translator employed for English-to-Hindi translation translates a Japanese speech into English during working hours, the translator holds the copyright, as translating from Japanese was not part of the employment agreement.
6. Copyright is referred to as a "bundle of rights" because it grants the copyright holder multiple rights, including translation, publication, public presentation, transmission, and sale. These rights can be assigned in whole or in part.
7. A voluntary license refers to the scenario where an author or creator grants permission for the translation of their work.
8. A license is required for the translation of literary and dramatic works for educational or research purposes.
9. Permission for translation can be sought from the author within seven years of the work's publication.
10. A foreign-translated work can be exported for Indian citizens or their institutions residing abroad.
11. Yes, government permission from the importing country is required for export.
12. If the copyright owner cannot be identified, a request letter should be sent to the publisher of the work.
13. A license can be obtained for translating an unpublished Indian work if the author is deceased or unidentified.
14. The copyright board issues compulsory licenses.

15. The government grants permission for translation and publication in the national interest.
16. In case of the author's death, the legal heir of the author is entitled to royalties.
17. The copyright board determines the amount of royalty.
18. If a copyright owner has published a translated version of a literary work and refuses to allow republication, a compulsory license may be granted to prevent the work from being withheld from public access.
19. "Indian works" refer to literary, dramatic, musical, artistic, cinematographic, and sound recording works created by Indian authors or first published in India.
20. If a copyright owner imposes "unreasonable demands" that prevent public access to the work, the copyright board may issue a compulsory license to a suitable applicant.
21. If multiple applications are received, the copyright board will issue the license to the applicant whose use of the license is deemed to be in the public interest.
22. The stipulated period for obtaining a translation license for literary works is seven years.
23. The stipulated period for obtaining a translation license for physical sciences is five years.
24. A license for reproducing foreign works for educational purposes can be applied for if such works have been unavailable in India for six months.
25. A broadcasting authority can obtain a license for translating foreign literary and dramatic works for educational, informational, and research purposes.
26. If the language of the target country is neither English, French, nor Spanish, the broadcasting authority may export reproduced works.
27. A broadcasting authority may apply for a translation license three years after the first publication of a work.
28. The copyright for an adapted work belongs to the person who adapted the work.
29. The copyright duration for adapted works extends for sixty years after the lifetime of the creator.
30. Literary, dramatic, and musical works can be adapted.
31. A license for adaptation must be obtained from the author or the copyright board.

32. A license can be terminated if the copyright owner publishes and sells a translation of the work themselves.
33. After license termination, the remaining copies of the licensed work may still be sold.
34. If the licensed work has not been published within the specified period, the copyright board may extend the license duration, provided the applicant submits a valid justification.
35. A fraudulently obtained license can be revoked.
36. Copyright infringement occurs if a work is translated without the author's permission or without obtaining a license from the copyright board.
37. If copyright infringement is proven, the penalty may include imprisonment for six months to three years and a fine ranging from ₹50,000 to ₹200,000. The court may impose a lesser punishment only by providing sufficient and special reasons in its judgment.
38. An appeal against a court decision can be filed within thirty days of the judgment. If an appeal is filed, the appellate court may suspend the enforcement of the decision until the appeal is resolved.

2.18 SUGGESTED READINGS

- Bhandari, M.K., *Intellectual Property Rights*, Allahabad, Central Law Publications
- The Copyright Act, 1957

Form 2

Application for License to Translate a Work

(To be submitted in triplicate)

(Refer to Rule 6)

To,
The Registrar of Copyrights,
Secretary, Copyright Board,
Copyright Office, New Delhi

Subject: Application for License to Translate a Work under Section 32A of
the Copyright Act, 1957 (Act 14 of 1957)

Respected Sir/Madam,

1. I hereby apply to the Copyright Board for a license to translate a work as per the details provided in the enclosed statement.
2. If granted the license, I undertake to comply with all its terms and conditions.

Yours sincerely,

(Signature)

Place:

Date:

Details

1. Full name of the applicant:
2. Address:
3. Telegraphic address (if any):
4. Details of the Work:

(a) Nature of the work: Literary, Dramatic, Musical, Artistic,
Cinematographic film, or Sound Recording?

- (b) Title of the work:
- (c) Full name, address, and nationality of the author. If the author is deceased, mention the date of death:
- (d) Language of the work:
- (e) Name, address, and nationality of the publisher:
- (f) Year of first publication:
- (g) Country where the work was first published:
- (h) Price per copy of the work:
- (i) If the work is registered under Section 45, provide the registration number:

If the work has been published serially in a journal or magazine, provide the name, volume, issue, date, and page number:

- 5. Language into which the translation is proposed:
- 6. Full name, address, and qualifications of the translator:
- 7. Qualifications of the applicant for translating and publishing the work:
- 8. Purpose of obtaining the license:
- 9. Number of copies proposed to be published under the license:
- 10. Estimated cost of publication:
- 11. Selling price per copy:
- 12. Royalty rate proposed to be paid to the copyright owner:
- 13. Means available to the applicant for paying the royalty:
- 14. Has the prescribed application fee been paid?

If yes, provide details (Postal Order/Bank Draft/Treasury Challan No.):

- (a) Details of the person authorized to grant the license:

Name, address, and nationality of the authorized person:

- (b) Has the applicant made efforts to locate the copyright owner but failed?
- (c) Has the applicant requested the copyright owner for translation rights, but been denied authorization?
- (d) If the applicant could not locate the copyright owner, was a copy of the request sent via registered post to the publisher? If yes, provide the date (attach copies of correspondence, if available).

15. Has the author withdrawn copies of the work from circulation?
16. Details of previous translations (if any):
 - (a) Has the work already been translated into the proposed language?
 - (b) Are copies of the previous translation unavailable?
 - (c) Name, address, and nationality of the previous translator. If deceased, mention the date of death.
 - (d) Title of the previous translation:
 - (e) Name, address, and nationality of the previous publisher:
 - (f) Year of publication:
 - (g) Price per copy of the previous translation:
 - (h) If registered under Section 45, provide the registration number:
 - (i) Royalty paid to the copyright owner for the previous translation and the royalty rate:
17. (a) As mentioned in no. 5, has the translation been undertaken into other languages?
 - (b) Name, address, and nationality of the translator. If deceased, mention the date of death.
 - (c) Title of the translation:
 - (d) Language of the translation:
 - (e) Name, address, and nationality of the publisher:
 - (f) Year of publication:
 - (g) Price per copy:
 - (h) If registered under Section 15, provide the registration number:
 - (i) Royalty paid to the copyright owner and the royalty rate:
18. Remarks (if any):
19. List of enclosures:

Signature

Place:

Date:

Notice for Cancellation of License

Form 2B

(Refer to Rule 11)

The Role of Copyright
Act in Translation and
Adaptation

To,

[Recipient's Name & Address]

Subject: Notice for Cancellation of License under Section 32B of the Copyright Act, 1957 (Act 14 of 1957)

Respected Sir/Madam,

As per the proviso to Subsection (1) or the first proviso to Subsection (2) of Section 32B of the Copyright Act, 1957, I hereby notify that I (or the authorized person acting on my behalf) have published the translation of the following work in the specified language.

Yours sincerely,

(Signature)

Place:

Date:

Details of the Work

1. Title of the work:
2. Name and address of the copyright owner:
3. Year and country of first publication, along with the name, address, and nationality of the publisher:
4. Name and address of the translator:
5. Name and address of the publisher, and the year of publication of the translation in India:
6. Name and address of the publisher, and the year of reproduction of the work in India:
7. Price of the published work:

