

## Letter To The Editor: Copyrights and Islam

Following is part of a letter that Ar-Raya received regarding Copy Rights issue.

Assalamu Alaykum

To: IDC

I have several questions about Copyrights:

1. I am aware of the fact that copyrights are un-Islamic and the capitalistic backgrounds for copyrighting, and their exploitative nature. However, I am in need of more specific information concerning their Haram nature, for few reasons:

a. I am currently publishing two books which I wrote and I am considering having one of them published by a Muslim publisher. I, therefore, need specific information regarding copyrights - a detailed fatwa. It is not enough to say that they are Haram and give only vague references (which I can understand - such as the response about copyright in a previous issue of Ar-Raya - I understand this explanation but others will demand more of me). My understanding of copyrights can be easily dismissed as I am not a Mujtahid and therefore not knowledgeable. So please answer this soon and send me the Daleel.

A Sister from New York

April 4, 1993.

### ANSWER

Due to the application of any system, specific problems will emerge. However, those specific problems will not emerge when another system is implemented. Insurance companies, stock corporations are two examples that have emerged in the free market system due to its implementation of Capitalism. Those problems did not rise in the Islamic society which applied Islam.

The state which applies the capitalist system does not guarantee the satisfaction of needs of each of its citizens. In this system, it is up to the market and price mechanism to distribute services and commodities on individuals, without any interference from the state. This can be seen when merchants in Britain started losing money due to some incidents or catastrophes, they had to create a mechanism to substitute their loss. That is because the state would not take any responsibility to cover their loss.

However, in Islam the state is the caretaker. It is responsible to guarantee the satisfaction of the basic needs for each individual and to work toward satisfying luxuries once it is assured that basic needs are well satisfied for each individual. The Islamic State has to do its utmost to reimburse the merchants, farmers, home owners for their loss if anything happens. Therefore, there is no need in the Islamic State to have insurance companies.

Regarding copyrights, it is very normal to have it in a capitalist society since capitalism allows monopoly and does not guarantee the needs of each individual. Therefore, everybody has to take care of his/herself without depending on anyone. Consequently, copyrights emerged and any fees paid or royalty in the process of registering the publication or having patent for the product, have to be added to the cost. This means that the consumer has to pay for something without being useful to him/her, rather he/she would pay to protect the benefit of others. Therefore, it is important to make

it clear that just because copyright is allowed by the Western law, it does not make it lawful Islamically. For any person to say it is allowed, a proof (Daleel) from the Quran or Sunna or Consensus of the companions (Ijma'a as-Sahaba) or Qiyas has to be provided. By the same token, if anyone says it is prohibited, a Daleel from the above mentioned Islamic sources must be given. As for the Daleel of prohibition, it is as follows:

The Messenger of Allah (saaws) says, "The best you could get paid for is the book of Allah," meaning teaching it. All the more reason, then getting paid for teaching other than the book of Allah. Writing, however, is simply recording knowledge. Because giving knowledge that is recorded is just as giving it verbally and it is allowed to get paid for it. The Messenger of Allah made teaching ten Muslim children as a ransom for the prisoners of Badr. This is a proof that it is allowed to hire people for giving knowledge.

Once knowledge is given to anybody, verbally or written, then that knowledge the person took becomes his/her own. Thus, he/she has the right to give it to others, verbally or in writing and he/she has the right to get paid for it. So for those who learned reading and writing from Badr war prisoners, they had the right to teach others what they learned without the permission of those who had taught them without paying royalty fees to their teachers, since they were paid for in the agreement with Prophet (saaws).

Moreover, knowledge in general is allowed (mubah). Being allowed means, it is allowed for all people to acquire it, get paid for teaching it (whoever teaches it and not the original teacher only). Knowledge is the ownership of whoever possesses it and not the ownership of the one who taught it only. Thus, as long as a person has the knowledge, it is his/her property, but once it is revealed to others, by any means, it becomes allowed for everyone to use it with or without the permission of the original owner.

Therefore, no one has the right to copyright because whatever is written in that book, for example, is knowledge. As long as that person possesses that knowledge, it is his/hers, but once he/she gives it to people verbally, in writing, or in any means, it becomes allowed for all people. After that, teaching that knowledge, by those people who paid for the knowledge they acquired, to anybody is also allowed. Then, making copyrights on any kind of knowledge whether it is verbal or recorded is a prohibition to what is already allowed by Allah. Making copyrights is making teaching knowledge, acquiring knowledge Haram and it means monopolizing knowledge and having writing books as a business which would effect the whole society and the intellectual level of it. Therefore, it is not allowed for anyone to have copyrights. This, however, should not give the impression that one can buy a book or a computer program, for example, and claim that he/she is the author of that material. Claiming such thing is considered a lie in Islam and it is Haram.

In addition, if a book or a program acquired through legal means, it becomes the property of that person. Then just as any owned property, it is allowed to be sold, rented, destroyed,...etc. So for somebody to say you own the book or the program but you can not sell it or copy it or destroy it or give it as a gift (what Islam allows the owner to do with his/her property) is to make something that Islam made Halal into Haram. Claiming that copyrights protect the author and therefore it is a must, is invalid. Because the state is responsible for protecting both: the author and the buyer. Furthermore the state by encouraging scholars and writers the same way the Khilafah did in part by offering any authors and scholars scholarships or their compensation would eliminate the need for copyrights.