

The unfortunate consequence of the above is that one cannot provide a common set of copyright rules applicable to all field linguists. A German linguist doing research in Kenya whose results are published by SOAS in London would potentially be subject to German, Kenyan, and British copyright law—and where would one find an expert on all three?—and if infringement occurred in the US, the resulting legal case would be covered by American law.⁶ However, in reality, the copyright laws in different countries are essentially the same. They are not identical, i.e. they do differ in details, but generally speaking they are similar enough and have a sufficiently common starting point such that the description of one can serve as a basis for all of the others.⁷ Thus, although my discussion of copyright issues draws primarily on US law, my intention is that it will serve the needs of scholars whatever their nationality and wherever they may be conducting their research.

19.2.9

p. 437

Copyright tends to be thought of first and foremost in terms of economic rights—a perception that is encouraged by the widespread use of the term ‘intellectual *property*’. However, there also exist significant non-commercial interests and concerns relating to the honor and reputation of the author or artist and the integrity ↴ of the work. These non-economic interests are referred to as ‘Moral Rights’ (see Berne Convention, Article 6bis). Unlike economic rights, which are freely transferable, moral rights are treated as an extension of the author's personality and are inalienable.

Although this chapter is grounded in US copyright law, which has only recently incorporated moral rights and only to a limited extent in the case of the visual arts (see 17 US Code 106A), there are two good reasons for including a treatment of moral rights here. The first is that this is a case where the US is out of step with the rest of the world. Most countries of the world treat moral rights as an integral part of their copyright laws—a perspective that has become part of the Berne Convention. Thus non-American scholars and American scholars working abroad need to understand what obligations moral rights entail. Second, from the point of view of professional ethics, the rights included under moral rights seem to be fundamental and to deserve adherence. Even if US copyright law does not require it, one could argue that field linguists and other scholars have an ethical duty to respect authors’ moral rights.

As with general copyright rights, the scope and specifics of moral rights vary from country to country, but generally speaking, moral rights contain two components. These are (1) the right of attribution (or paternity), and (2) the right of integrity.

The right of attribution essentially means that the creator of a work has a right to be acknowledged as its author. If, for example, a traditional poet dictates poems in his own language and the field linguist later publishes the poems or significant parts thereof in a scholarly paper on tone or rhyme or what have you, the poet has a moral right to be mentioned by name. A corollary of the right of attribution is the right not to have one's name attached to a work if one didn't actually create it, or if the work has been so changed by others owning the copyright (e.g. an editor or a translator) that association with the work would be detrimental to one's reputation and professional standing.

The right of integrity protects works from distortion, mutilation, or destruction. For example, abridgements or editorial cleansing (e.g. removing profanity or sexual references or religious criticism) that changed the essential character of a work would constitute distortions that moral rights are intended to prevent. Similarly, the right of integrity would prohibit an individual or company from shredding the only extant copy of a potentially competing dictionary even if the copyright holder had bought the copy itself at a fair price and had paid handsomely for the copyright.

In sum, in conducting linguistic fieldwork one should be vigilant in looking out for the moral rights of the people with whom one works and treat these rights as if there were required by copyright law. The simple