# Does Copyright Matter?

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Do I, as an author, have the right to prevent people copying my books for free? Should I have it? Does it matter?

*Bob Adelman/Magnum Photos*
*Raymond Carver signing books, New York City, 1988*

"They have taken away my right to own a slave," wrote Max Stirner, the opening words of the chapter on human rights in his great book, *The Ego and its Own* (1844). One paradoxical sentence to remind us that what we call rights are no more than what the law concedes to one party or another in any given conflict of interest. There are no rights in nature, only in a society with a legal system and a police force. Rights can be different in different countries, they may be notional or enforced.

Copyright then is part of a mass of legislation that governs the relationship between individual and collective, for the most part defending the former against the latter. You will only have copyright in a society that places a very high value on the individual, the individual intellect, the products of individual intellect. In fact, the introduction of a law of copyright is one of the signs of a passage from a hierarchical and holistic vision of society, to one based on the hopes and aspirations of the individual. Not surprisingly, the first legal moves toward creating the concept of copyright come in late seventeenth-century Britain.

Officially the idea is that the writer, artist, or musician should be allowed to reap the just rewards for his effort. This is quaint. There is very little justice in the returns artists receive. Works of equal value and quality produce quite different incomes or no income at all. Somebody becomes a millionaire overnight and someone else cannot even publish. It is perfectly possible that the quality of work of these two writers is very similar. The same book may have a quite different fate in different countries. Any notion of justice in the incomes of artists is naive.

What we are talking about, more brutally, is preventing other people from making money from my work without paying me a tribute, because my work belongs to me. It's mine. What we are talking about is ownership and control. The law, as it now stands, concedes that I own what I write and hence have the right to keep track of every copy of the book I have published and to demand a percentage of the sale price. This right is the same whether I sell two hundred copies of the book at a local newsstand over some years, or twenty million over five continents in eighteen months.

And I can pass this ownership on to my children or heirs when I die; they inherit the right to collect royalties on every copy of my work made and sold, as if they had inherited a company or a property I was renting out. But only for seventy years. Having conceded so much to the individual, and then to his or her family, society finally denies that intellectual property is the same as physical property. My heirs can own my house forever, but at a certain point the product of my mind will be turned over to the public domain. The official rationale here is that I have made enough, and society, in order to build up and enjoy a shared culture, encouraging the accumulation of collective wisdom, needs to have free access to the products of my intellect, in much the same way as it has gained access to many of the great art collections and country estates of the rich men of the past.

We all sense that there is more instinct than logic at work here. We simply feel that it would be bizarre to be taking royalties from the work of an ancestor who lived four hundred years ago. It would be bizarre not to be able to quote Shakespeare without paying something to his descendants, if there are any. At the same time we do not feel that if we owned a painting an ancestor made and left to the family we should not have the right to keep it or to sell it for any price the market will offer.

In the recent past the duration of copyright after an author's death was extended from 50 to 70 years. We sense at once that a decision like this is arbitrary and could easily change again. Was it really necessary that James Joyce's grandson could charge more or less what he liked for quotations of the author's work, even in academic books up to sixty-nine years after his death? Does it make sense that to quote three or four lines from *The Four Quartets* in a book about meditation I have to pay T.S. Eliot's estate £200? One feels the authors themselves might have rebelled, which gives us an insight into the real reason why works are allowed to go out of copyright protection. Because the author would have wished it thus. Once the immediate family has been protected, availability and celebrity is more important to an author than a revenue stream for descendents he has never met. The lapse of copyright is a concession to the author's dreams of immortality at the expense of the family.

Copyright has always been contested and hard to police, suggesting that there has never been a profound consensus about its ethical rectitude. Dickens, Lawrence, Joyce, and hosts of lesser authors all fought against pirated editions of their work. In the twentieth century, the opening of an international market for books and the progress in copying technology has exacerbated the problem. Can one really expect all countries to defend the rights of foreign authors, when the majority of international bestsellers come from half a dozen countries and overwhelmingly from the United States? Nor has copyright crime generally been "felt" in the same way as straightforward theft or burglary; I have never heard of copyright pirates afflicted by feelings of guilt and remorse. To make the situation more unstable, the combined innovations of the internet and the e-book have vastly increased the possibility for copying and distributing pirated books. There is a growing sense that this law could collapse.

To see how copyright law may survive, we have to ask, beyond the pieties and legal niceties, what its real social function is and whether there is at least a large constituency in favor of that function continuing. Copyright gives the writer a considerable financial incentive and locks his work into the world of money; each book becomes a lottery ticket. Huge sales will mean a huge income. Copyright thus encourages a novelist to direct his work not to his immediate peer group, those whose approval he most craves, but to the widest possible audience in possession of the price of a paperback.

On the one hand, then, by conceding copyright society declares that it holds individual creativity in high respect—every member of society can dream of one day benefiting from copyright, of transforming genius into money—but by the same token it draws the author into a bourgeois mentality where writing is a job with an income; the writer now has an investment in stable markets and attentive policing. In short, copyright keeps the writer in the polis, and indeed it is remarkable how little creative writing today is truly revolutionary, in the sense of seeking a profoundly different model of a society. There is a subversive writerly attitude, of course, liberal, anti-authoritarian, which has paradoxically become almost a convention; dissatisfaction with society is expected of an author. All the same with a royalty check whose arrival relies on international agreements, electronic funds transfer, and a willingness to prosecute copyright piracy, he or she is more a creature of the status quo than its enemy. Perhaps this is a good thing. Perhaps it is limiting. Perhaps good things are inevitably limiting.

Imagine copyright were phased out or became impossible to enforce in any meaningful way; you can't expect an advance from a publisher, you can't even sell your work directly to readers online. So, creative writing is no longer a "job." You won't be able to turn it into a living unless you become a big-time celebrity, in which case no doubt there would be lucrative spin offs; but celebrity is always a long shot and how will it be achieved if the ordinary commercial channels disappear? Isn't today's celebrity mostly constructed on sales, which are largely generated by hype, and which would evaporate if a publisher no longer had an exclusive right to publish a given book—or if a publisher could no longer charge the prices necessary to support the publicity required to get a book to its intended public? It's true that a certain buzz can now be created around a book simply by making it freely available on the net, as was the case with *Fifty Shades of Gray*; but that would be of little help if at the end of the day there were no prospect of turning that excitement into publishing support and money.

How would this situation change the way a writer works? Would it make sense now to write the thriller, literary or otherwise, that was once packaged and sold to entertain and to earn? Would I really want to write all those pages, if there wasn't even the chance of an income? Maybe yes. There is fan fiction after all. But many writers would not. "No man but a blockhead ever wrote, except for money," Samuel Johnson once remarked. I'm not with him a hundred percent, but I know where he's coming from. One sees here the difference from the music industry: unable to police

their copyright on CDs, musicians nevertheless go on writing songs and can enjoy the feedback and hopefully some income from performing them to an appreciative public; if the songs happen to catch on through the internet then the musicians can enjoy notoriety and expect bigger concerts, if not a huge income from selling albums. But there is no such performative context for the prose thriller, or even the great American novel. Without the prospect of money, the author would have to think very hard what it is he really wants to write and how he plans to engage with an eventual community of readers whose appreciation, if not cash, must suffice to give him the gratification and encouragement he seeks. In short, you wouldn't launch blindly into a major novel, as so many young writers do, simply because novels are the form that command attention and promise an income.

As soon as we put it like this, as soon as we imagine, or try to imagine, the extraordinary confusion, creative and otherwise, that might occur, the many and fragmented ways people might enjoy and share and despair of putting together reflections and entertainments in words for each other, you can see that it is not going to happen; there is still an enormous demand for the long traditional novel, for works that reinforce the idea of individual identity projected through time and achieving some kind of wisdom or happiness through many vicissitudes. There is simply no form of escapism, mental immersion, or sustained illusion quite like the thousand-page fantasy narrative, whether it be the endless Harry Potters or the Millennium trilogy; if to have that experience we have to guarantee a substantial income to its creator then society will continue to find a way to do that, in the same way European soccer clubs still find ways to pay exorbitant salaries to their star players. Copyright, we see, is not essentially driven by notions of justice or theories of ownership, but by a certain culture's attachment to a certain literary form. If people only read poetry, which you can never stop poets producing even when you pay them nothing at all, then the law of copyright would disappear in a trice.

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