

What Are Performers' Economic and Moral Rights Under Myanmar's Copyright Law?

Performers are granted the related rights, including "economic rights" and "moral rights" under Articles 37, 38, and 41 of [Myanmar's Copyright Law](#). These provisions cover a range of [protections for performances](#), whether unfixed or fixed, live or recorded, ensuring performers are adequately compensated for their work and have a say in how their performances are used, reflecting a balance between protecting creators' rights and allowing for the dissemination and enjoyment of cultural works. Importantly, these regulations provides a legal framework that respects performers' contributions to cultural and creative industries, ensuring their performances are protected against unauthorized use that could undermine their economic and moral value and infringe upon their rights. KENFOX would like to provide below analysis of the key aspects and protections these articles afford to performers.

1. Exclusive economic rights of performers (Article 37)

- **Scope of rights:** Under Article 37, a performer is entitled to enjoy 6 types of exclusive economic rights, including the rights to authorize or prohibit broadcasting, fixation, reproduction, distribution, rental, and making available of their performances to the public.
- **Protection of unfixed performances:** There's a particular focus on protecting unfixed performances against unauthorized broadcasting and communication to the public, recognizing the value of live performances.
- **Authorization requirement:** For certain uses of performances, including their fixation and broadcasting by the organization that initially broadcasted the performance, the performer's authorization is required, reinforcing the performer's control over their work.

2. Moral and economic rights duration (Article 38)

- **Moral rights:** Performers retain moral rights to claim authorship and to object to any derogatory treatment of their performances that could harm their reputation, even after transferring economic rights.
- **Duration of protection:** Economic rights are protected for 50 years following the year of performance fixation or the performance year if unfixed. Moral rights extend for the performer's lifetime and indefinitely after death.
- **Favorable contractual terms:** The article encourages contracts with terms more favorable to performers, allowing for negotiations that can exceed the statutory protections.

3. Limitations and exceptions to protection (Article 41)

- **Exceptions to copyright protections:** Specifies conditions under which the protections do not apply, such as using performances for reporting current events, scientific research, teaching, and inclusion in literary or artistic works, provided that these uses do not conflict with the normal exploitation of the work or harm the rights holder's legitimate interests.
- **Balancing act:** These exceptions strike a balance between protecting performers' rights and allowing for the use of performances in ways that contribute to public knowledge, education, and cultural development without unduly harming the performer's economic interests.

Final thoughts

Both the economic and moral interests in a performer's performances are recognized under Myanmar's Copyright Law 2019. Performers are granted significant control over how their performances are used, ensuring they have the opportunity to benefit financially from their work and protect it from unauthorized or derogatory use.

In the perspective of performers or entities wishing to use or exploit the performance, the following should be considered:

- (i) **Securing written agreements:** Ensure all transfers of rights and permissions are documented in writing to avoid legal uncertainties and disputes, thus providing a clear legal basis for the use and exploitation of performances;

(ii) Understanding rights duration: Be aware of how long rights last to maximize protection and exploitation opportunities. This knowledge ensures that performers and users of performances can plan effectively within the legal time frames established for economic and moral rights

(iii) Limitations and exceptions: Familiarity with the specific exceptions to copyright protection allows for the effective and legal use of performances under certain conditions, enabling creative and educational uses that respect the performer's rights while contributing to cultural and informational exchanges; and

(iv) Compliance with registration requirements: For any transfer of rights or amendments, comply with the requirements for recording these changes with the appropriate Registrar to ensure legal recognition.

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