

# Copyright or Wrong?

**Should anarchists, who oppose private property and the state, want copyright protection for their work? What if they get it whether they want it or not?**

Walker Lane (Peter Werbe)

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Most everyone knows that the small encircled, lower case letter “c” indicates that a piece of work is copyrighted, and that it designates legal protection of creative work and intellectual property. Perhaps the key word for this discussion is the last one in the sentence—property.

How copyrights are applied and the protection they provide for work that is intended as property within the commercial marketplace, on the face of it, wouldn't seem to need much elaboration. However, its definitions and applications are quite complex, but fortunately aren't what will be under discussion here. This article will center on how anti-statists can or should relate to state protection.

Over the decades there have been mini-debates on whether it is appropriate for anarchists to employ the political state as protector or guarantor of content, particularly that of publications, but also recorded music. The fear often was that there would be “prejudicial misuse by capitalist publishers,” as the *Fifth Estate* masthead stated in the early 1970s, so a limited copyright was invoked at that time.

The *FE* staff during that period weren't concerned if other publications that were part of the oppositional forces of the time (upwards of 500 regularly appearing alternative newspapers) reprinted our articles (in fact, it was encouraged), but we didn't want, the argument went, Random House, for instance, making a profit off of what was printed in our revolutionary rag.

## **Reprinting *Letters of Insurgents***

As it turned out, this wasn't a realistic fear since in almost half a century of publishing, no commercial misuse of *Fifth Estate* contents, even with decades of declaring “No copyright” on our current masthead, has occurred. The legal department of any capitalist publisher, then or now, would fear legal action if they reprinted material without permission or arrangement for compensation simply because a copyright symbol wasn't displayed. If commercial publishers thought alternative publications had a chance of returning something for their investment, they would have approached us directly for permission as several did about individual articles over the years. Each time, though, they made us give explicit reprint permission.

This point is well illustrated by an incident when a publisher approached Black & Red for permission to reprint Fredy Perlman's magnum opus, *Letters of Insurgents*, (see all of their titles at [blackandred.org](http://blackandred.org)). Perlman informed the concern that there was no copyright retained on the book and they were free to reprint it without his permission. They replied that they needed him to sign off on what would amount to permission; he refused, and the book did not get reprinted, so wary was the publisher.

U-2 is not going to rip off songs from a band that doesn't copyright its music, and an advertising agency isn't going to use poetry from a small chapbook for a shampoo ad simply because a copyright symbol isn't present. It's at once a conceit and naive.

## **No Mention of Copyright**

The University of Michigan's Labadie Collection, which archives many anarchist publications, informed us that copyright was not an issue for most of them, although some publications did carry the symbol. Most anti-authoritarian newspapers such as *Slingshot* or IWW's *Industrial Worker*, make no mention one way or another of copyright. Others, such as the *Earth First! Journal* reserves rights for its graphics, while *Anarchy* magazine allows "reprint for non-profit purposes."

Asking the state to protect one's property seems inconsistent with the values of anarchism. Particularly, as it states on the masthead of this magazine, "As opposed to professionals who publish to secure wages, or those who invest in the media information industry, we produce this magazine as an expression of our resistance to an unjust and destructive society."

Followed explicitly by, "No copyright. No paid staff. No ads." In addition, we now display the universal Kopimi symbol, and urge, "reprint freely."

We don't publish this statement as much for information as for presenting our stance on the subject. That is, we want it known that we explicitly reject the protection of the state, and we don't view the contents of this publication as property. It's essentially a statement to our readers, not capitalist publishers.

Although not explicitly anarchist in its early years, this publication, then a tabloid, carried no mention at all of copyright. However, in 1972, this text was placed on the masthead:

"Copyright protection is taken on the Fifth Estate for the sole purpose of protecting the work of brothers and sisters from prejudicial misuse of pirate capitalist publishers only, but will not be invoked against socialist, labor, or comrade publications." It's not clear what caused this sudden invocation of copyright.

The rather tortured prose, with some alteration, remained until 1975, when a group of former staffers, who had constituted themselves as the Eat the Rich Gang, seized the paper from the existing editors who were attempting to turn the publication into a prototype of the current crop of entertainment weeklies. With the exit of the old staff, so went the copyright protection.

However, the debate has been undercut entirely since in countries which are members of the international convention governing these matters, copyright is now automatic upon creation and neither registration nor display of the copyright symbol is necessary. So, for all of our radical pronouncements in these pages, the contents of this publication and all others are protected by the state whether we like it or not.

### **Theft of copyrighted material**

This essay is mostly a 20<sup>th</sup> century print media discussion since the real issues confronting copyright today mainly express themselves on the internet where maintenance of one's property rights is increasingly difficult. Theft of copyrighted material is usually designated as piracy and has been since even before the first copyright law, the Statute of Anne, was passed by the English parliament in 1710.

In that year, Daniel Defoe, summed up, in many ways, the way we feel when he described how his novel, *The True-Born Englishman*, had been reprinted without compensation: "Had I wrote it for the gain of the press, I should have been concerned at its being printed again and again by PIRATES..., but if they do justice, and print it true according to the copy, they are welcome to sell it for a penny..."

Copyright is supposedly ironclad protection, but attempts at alternatives such as Copyleft and Creative Commons, involve a reciprocity where the creator surrenders, some but not all rights.

These are more applicable to software and other on-line publishing, but photography as well.

As you can note from our Letters column, groups like QuestionCopyright.org "highlight the restrictive effects of distribution monopolies, and help creators and their allies realize the potential of freedom-based distribution."

Many countries, such as China, give no recognition to the whole range of copyrights, trademarks, service-marks, etc., so it probably makes sense to examine what has to be protected and on what basis.

Groups such as Piratbyran (the Pirate Bureau) and other anti-copyright groups advocate complete disregard for protected intellectual property. The former provides a whole range of pirated software on its website, and has run afoul of the law. It is they who designed the Kopimi symbol we display.

### **Type in "anarchy"**

So, none of this is meant to diminish the threat of what we called "pirate capitalist" concerns, that freed from the protection afforded intellectual property intended by the creator as an income source would soon find themselves without compensation while pirates benefited.

Even with the internet making copying extraordinarily easy and difficult to police, it's not a free ride as the Piratbyran people found out when its leaders were prosecuted by the Swedish police.

For instance, anyone—blogger, webmaster or print designer can go to Google images, type in a subject (try “anarchy”) and, boom, up come images suitable for online or print media (such as the ones on both of these pages). Who owns a particular image isn't even clear as it might have come from a site that took it from somewhere else.

Always looking for ways to make a buck, there are companies, such as Righthaven LLC, that files hundreds of lawsuits against sometimes hapless bloggers who had no idea they were appropriating copyrighted material and wound up being threatened with “willful infringement,” that could result in fines up to \$150,000. In one set of cases filed by Righthaven on behalf of *The Denver Post*, a photo of airport security went viral and has been reproduced at least 300 times.

The argument that content providers will not produce if they cannot be guaranteed payment applies mainly to those interested in protecting their work within the arena of capitalist exchange. To those whose motivation is outside that definition, such as this publication and others like it, copyright protection is of no concern.

So, be careful what you grab off the internet, realize that all of our creations are protected by the state whether we want them to be or not, and how you label your work says a lot about you.

# fifth Estate

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<https://www.fifthestate.org/archive/385-fall-2011/copyright-wrong>

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