

An advocacy of genuine authorship, copyright, and moral rights

Wer keinen Geist hat,
glaubt auch nicht an Geister,
und damit auch nicht an geistiges Eigentum.
(Johann Wolfgang von Goethe, 1824)

Abstract:

The philosophical foundations of the development of the right of authorship or copyright as a basic freedom according to the first amendment of the European Human Rights Convention date back in the history to the fifteenth century, when Martin Luther realised that it took a high effort, hard work and diligence to genuinely generate new ideas and publish them as an oeuvre; intellectually as well as economically. The existence of the authors was a fragile one, because they did wholly depend on the benevolence of the aristocratic or confessional leaders; and everybody could copy and publish their oeuvres in order to make money. The genuine authors were not protected and they had no rights in order to be able to protect their oeuvres from misuse. Against this background the request for a protection of the authors of intellectual oeuvres accelerated. Philosophers started to provide arguments in favour of the protection of the authors. According to Kant, Fichte, Goethe and authors of the French Revolution it is the human spirit or mind that generates from his own spirit intellectual oeuvres, and therefore, their oeuvres are part of the person of the author. In this sense it is a violation of the person that generated an oeuvre, when it became copied and republished by somebody else without the permission of the genuine author or even without mentioning the author. This violates especially the moral rights of the author – *Urheberpersönlichkeitsrechte* – that are the bedrock of a genuine author and a politically open society.

Different to this intellectually based arguments, John Locke took in the line of Luther simply diligence and the effort of work into account, and nothing else. There exist also some positions in between. For example, the arguments the Austrian *Urheberrecht* is based on circles somehow around both foundations – moral rights and hard work – by emphasizing the feature of a mental connection between an oeuvre or intellectual work and the author of such an intellectual work.

The aim of my lecture is, *firstly*, to present the intellectual and historical background of the

basic freedom of copyright or genuine authorship, in order to show, *secondly*, based on empirical cases that a giving up of the protection of the genuine authorship by neglecting copyright and the moral rights in favour of an implementation of autocratic institutional administrative or management structures by law within the contemporary processes of an economisation of universities, institutions of higher education, and of all societal spheres will result in a violation and an abolition of the genuine authors, and *thirdly*, to formulate a warning with regard to the consequences of these political tendencies to build up a politically robust reactionary society – grounded in *scientifically justified ideologies* – that caused the horror in the last century by the already widespread and well-known imperative claim: Common interest before self-interest! Therefore, genuine authors become again villainised and are said not to exist – in fact – or they are simply unethically self-interested.

Keywords: copyright, moral rights, authorship, scientifically justified ideologies, reactionary robustness, open societies, democratic societies