

**Copyright, Education & Libraries:  
Armenian Law and the  
International Experience**



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**Thank You**

**EIFL**  
**American University of Armenia**

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**Why Libraries?**

- **Why Copyright and Libraries?**
  - **Mission of Libraries:**
    - **To Preserve and Provide Access to Information Resources**
  - **Mission of Copyright:**
    - **To Encourage the Creation of New Works**
    - **To Encourage their Public Dissemination**
    - **To Serve Private Interests of Ownership and Public Interests of Access and Creativity**

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## A Copyright Interlude



- **Scope of Works**
  - Nearly Unlimited
- **Automatic Copyright Protection**
- **Long Duration**
  - Life of the Author, plus 50 Years or More
- **Broad Scope of Rights**
  - Reproduction, Distribution, and More
- **Risks and Penalties**
- **Subject to Limitations and Exceptions**

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## Why Libraries?

- **Why Politics?**
  - Libraries are Information
  - Information can be Challenging
- **Politics and Economics**
  - Copyright as **Border** between Libraries and Publishers: *“Rights vs. Limitations”*
  - Libraries build **Resources**
  - Libraries offer **Public Access**
  - Libraries make and share **Copies**

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## Why Libraries?

- **The Activities of Libraries**
  - Preservation and Replacement
  - Copies for Research and Study
    - “Making Available” on Dedicated Terminals
  - Interlibrary “Loans”
  - Lending and “Public Lending”
  - Needs of Persons with Disabilities
  - Mass Digitization
  - Dealing with “Orphan Works”

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## Role of WIPO

- **World Intellectual Property Organization**
  - Agency of the United Nations
  - Administration of Multiple IP Treaties
    - Berne Convention
    - WIPO Copyright Treaty
    - WIPO Performances Treaty
    - Marrakesh Treaty
  - Member States: 191
  - Exceptions beginning 2005




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## The Studies: 2008 to 2017

SCCR 30, June 2015

Available: <http://bit.ly/1GjpcGr>

SCCR 17, November 2008

Available: <http://bit.ly/1tB8ryb>

SCCR 29, December 2014

Available: <http://bit.ly/1A9ImgV>

*Watch for a 2017 Study on the WIPO website.*

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## The 2015 (2017) Study

- **WIPO: 188 Member Countries**
  - Now 191
- **Found: Statutes from all 188 Countries**
  - All 191 Countries Today
- **No Library Exception: 32 Countries**
  - Today: 28 Countries
- **General Exception Only: 31 Countries**
  - Today: 21 Countries

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### General Library Exception

#### From the Tunis Model Act:

“the reproduction, by **photographic** or similar process, by **public libraries**, non-commercial documentation centers, scientific institutions and educational establishments, of literary, artistic or scientific **works which have already been lawfully made available to the public**, provided that such reproduction and the number of copies made are **limited** to the needs of their activities, do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author...”

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### Scope of Exceptions

- **Preservation and Replacement**
- **Private Study and Research**
  - Making Available on the Premises
- **Copy Machines in the Library**
- **Limitations on Remedies**
- **Technological Protection Measures**
  - “Anticircumvention”
  - Exemptions for Libraries

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### Berne: Three-Step Test

Article 9(2): “It shall be a matter for legislation in the countries of the Union to **permit the reproduction** of such works in **certain special cases**, provided that such reproduction does **not conflict with a normal exploitation** of the work and does **not unreasonably prejudice the legitimate interests of the author.**”

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### TRIPs

Article 13: "Members **shall confine limitations or exceptions** to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate **interests of the right holder.**"

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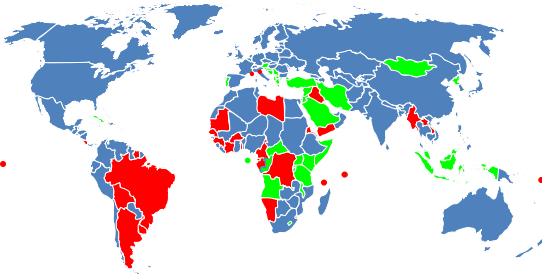
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**Red:** No Library Exception  
**Green:** General Exception Only



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### Diversity of Exceptions

- **Who:** Libraries, Archives, Museums?
- **What:** Published or Unpublished? Articles or Full Works? Movies or Music?
- **When:** During Term of Economic Rights? After the Term?
- **Why:** Purpose? Conditions and Proof?
- **How:** Analog or Digital?

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### Armenia (I)

#### Replacement (Art. 24(3)(a))

- **Who:** Libraries, Archives, and Educational or Cultural Institutions
- **What:** Lawfully Published Works
- **Why:** Restoring or Replacing a Work in the Collections
- **How:** Reprographic Reproduction

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### Armenia (II)

#### Research or Study (Art. 24(3)(b))

- **Who:** Libraries and Archives
- **What:** Articles and Short Works published in collections; Short Extracts of published works
- **Why:** Study and Research at the request of a user
- **How:** Reprographic Reproduction

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### Armenia (III)

#### Improvements and Adjustments?

- Digital Technologies
- Preservation (not just Replacement)
- Completion
- Flexibility of Amounts
- Include Unpublished Works
- Access by Dedicated Terminals
- Role of Licenses
- Relationship to Fair Use or Fair Practice

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### Armenia (*Future Possibilities?*)

- Digital Technology
- Preservation
- Interlibrary Loan/Document Supply
- Internal Library Use
- Orphan Works
- Data and Text Mining/Research Support
- Education Support
- Persons with Disabilities
- Fair Use / Fair Practice

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### What is Fair Use?

- Section 107 of the Copyright Act

- Based on Four Factors:

- **Purpose** of the Use
- **Nature** of the Work Used
- **Amount** and Substantiality of the Portion
- **Effect** on the Market for the Work




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Bill Graham Archives v. Dorling Kindersley Ltd., 448 F.3d 605 (2nd Cir. 2006).



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### Breaking the Pattern

- **Belarus**
  - Allows use of Digital Technologies
- **Czech Republic**
  - Who: Greatly Expanded
  - What: Wide Range including Unpublished Works
  - How: Allows any Media
- **Uzbekistan**
  - Adds “Making Available” on the Premises

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### Implications

- **Libraries and Archives are a Priority**
  - Enacted in Most Countries
- **Exceptions Debated in Additional Countries**
  - United States, Australia, Brazil
- **Uneven Application of Digital Technologies**
- **Little Innovation in Scope and Language**
- **Influence of Models and Agreements**

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## Implications, Part II

- Political Realities
- Competing Interests
- Economics & Culture
- History
- Regional Agreements
  - European Union
  - Bangui Agreement
- Role for WIPO – Possible New Treaty?



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## The Challenge Ahead

- Application to Digital Technologies
- Expansion of Library Services
- Needs of Education
  - Classroom Copies
  - Online and Distance Education
  - Library Services
- Cross-Border Delivery of Works
- Fair Use / Fair Practice

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Copyright Exceptions for Libraries and Research

**Thank You!**



**Twitter: @kcrews**

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