

**ACADEMIC FREEDOM, INTELLECTUAL PROPERTY AND HUMAN RIGHTS OF EDUCATORS IN THEIR DIGITAL LEARNING CREATIONS (By Dr. Atty. Noel G. Ramiscal, All Rights Expressly Reserved)**

**X. THE TRUE AND NECESSARY DEFAULT POSITION FOR EDUCATORS' COPYRIGHT OWNERSHIP OF THEIR E-LEARNING CREATIONS**

From the human rights perspective delineated above, it is now clear that educators must be the first owners of copyrights in their teaching materials, lectures, lecture notes and scholarly works in e-learning, not their universities. This must be the true default position in any kind of contract or university policy that deals with copyrightable intellectual property created by educators. Dr. Atty. Ramiscal places emphasis on this, because in many university policies he had examined in his research for this book, this position only appears to be the rule, but upon close scrutiny, it has been diluted with so many exceptions in favor of the university, or eroded with the general position that all the works created by educators belong to the university by virtue of their employment.

The human intellectual property rights position of educators being at least the first, if not the only, copyright owners of their works is in total accord with the educator exception to the work for hire doctrine that was discussed earlier and propounded by judicial authorities in several

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jurisdictions. Although the pertinent judgments never expressed or declared any human rights perspective, they recognized and respected the inherent right of educators to own the copyright to their creations despite the fact that these were created under university employment [214].

It is also imperative that the copyright ownership of educators over their works should, as far as the human rights approach is concerned, last at least for the entire duration of the educators' professional lives. This does not mean that educators cannot enter into legal contracts over their intellectual property rights that lessen or diminish their rights over their creations. The human rights instruments assure them the liberty to contract provided they were not compelled or under duress to enter into any arrangement because of their need for employment.

The alternative movements have shown several creative ways by which educators can pass on to the general public the works and the knowledge embodied in these works that they have created. What Dr. Atty. Ramiscal desires to emphasize is that educators, as first owners of the copyrights to their works, must be given the right to choose from all available options the manner by which they desire their works to be known and/or used. This is the logical and legal outcome of the human intellectual property rights perspective which recognizes and traces the entitlement of any meaningful right to the source, that is, the creator of the work. This must be done to preserve the educators' human rights to the moral, material and economic interests in their works and their academic freedoms.