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FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB/LLB

SEMESTER SUBJECT:

INTELLECTUAL PROPERTY RIGHTS

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NAME OF FACULTY: PANKHURI SRIVASTAVA

Lecture-7



LECTURE 7: INTERNATIONAL CONVENTIONS: BERNE CONVENTION

Copyright protection on the international level began by about the middle of the nineteenth century on the basis of bilateral treaties. The need for a uniform system led to the formulation and adoption on September 9, 1886, of the Berne Convention for the Protection of Literary and Artistic Works. The Berne Convention is the oldest international treaty in the field of copyright. It is open to all States. The aim of the Berne Convention, as indicated in its preamble, is “to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works.” Article 1 lays down that the countries to which the Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

• *Basic Principle*

The Convention rests on three basic principles:-

1. Firstly, there is the principle of “national treatment”, according to which works originating in one of the member States are to be given the same protection in each of the member States as these grant to works of their own nationals.
2. Secondly, there is automatic protection, according to which such national treatment is not dependent on any formality; in other words protection is granted automatically and is not subject to the formality of registration, deposit or the like.
3. Thirdly, there is independence of protection, according to which enjoyment and exercise of the rights granted is independent of the existence of protection in the country of origin of the work. One of the important provisions is the one that covers works or expressions of what is called “folklore.” Without mentioning the word, the Convention provides that any member country may give protection to unpublished works where the identity of the author is unknown, but where there is every ground to presume that the author is a national of that country, by designating, through the national legislation, the competent authority which should represent the author of unknown identity and protect and enforce his rights in the countries party to the Convention. By Intellectual Property Rights providing for the bringing of actions by authorities designated by the State, the Berne Convention offers to countries whose folklore is a part of their heritage, a possibility of protecting it. The minimum standards of protection provided for in the Berne Convention also relate to the duration of protection. Article 7 lays down a minimum term of protection, which is the life of the author plus 50 years after his death.