

Rethinking the Contract: The Global Fair Contracts

Initiative

The International Authors Forum's Global Fair Contracts

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Katie Webb, Canadian Writers' Summit, Toronto, Canada, June 2016

Hello and thank you for being here today. Thanks to John and Siobhan again for making it possible for me to be. I run the International Authors Forum, which is a global network of 59 organisations representing writers, visual artists and translators worldwide - we have three members in Canada –and between them, our members represent over 600, 000 individual creators on all continents except Antarctica. I won't go into anything substantive on contracts, as the previous speakers – all IAF member representatives who have been very active in contributing to IAF's work on this – have outlined and honed in on lots of the important issues. Rather, I'll give you a brief rundown of what we have been doing about this issue of unfair contracts at the international level.

One of the prevailing reasons IAF was formed in the first place – this was back in 2009 but we were officially constituted three years ago, in 2013 – was because of this problem, common to most authors worldwide – of not being on a level playing field with publishers in terms of bargaining power when securing a publishing contract and therefore often being subjected to contract terms, which unfortunately they have signed, often irreversible, which don't give them a fair share of the income generated from their work, or limit what else they can do with that work or future work because they have ceded so much control – often without realising it – to the publisher. The problem is twofold. Yes, publishers often exploit authors – (not always, there are of course many reputable, responsible publishers and I don't want to tar all publishers with the same brush – but authors are also in the main unaware of the extent and complexity of their rights or even that they have an opportunity to negotiate with them – that they can question the terms on the contract the publisher first puts in front of them – and if they are, they don't necessarily know what it's reasonable or in their best interests to ask for. Which is of course partly why organisations like the UK Society of Authors, the Authors Guild in the US and UNEQ, in Québec, Canada, exist: to help them out. However, authors in all countries aren't lucky enough to have access to such support, and also, of course, one of the

functions of IAF is to bring strength through solidarity between authors across national borders, so it was felt that some action did need to be taken at the international level.

So, in order to give authors in countries whose authors' associations weren't yet active on this issue, but wanted to be, some idea of how to go about addressing the issue, last year IAF formed a Fair Contracts Working Group which was the launch of our global fair contracts initiative.

The group was populated by representatives of our members across the world and was fantastically chaired by Jan Constantine, the US Authors' Guild's Legal Counsel and Former Executive Director, who was also busy spearheading the Guild's own very vocal, very active fair contracts initiative in the US – which was a great help to IAF in its work and really, we couldn't have done it without her. So although you're not here, thank you Jan. As you've seen from the presentations today, because of political, legal and cultural differences in the way publishing contracts work, there's no definitive way of dealing with the issue globally – despite the fact the problem is common to authors across the world. Added to that, the specific problems faced by writers, visual artists and translators – all of whom IAF represents – vary. But there are some really good examples of what is being done and what can be done to

improve things. For example, here I have a recently updated version of something called APACT – an agreement between authors and publishers in South Africa – about what constitutes a fair contract. Inevitably it involves compromise on both sides, but at least there is a dialogue.

Other IAF members, for example, have lobbied successfully to have their copyright contract laws (if they exist) updated or even introduced, in some countries there are template contracts to give guidance and in others, like the US, it is a case of getting publishers to listen and to actually discuss the issue with authors – which takes a lot of work. And then of course there is the educational work of bringing authors and their representatives up to speed be it through information, workshops or in other ways.

So the first part of IAF's working group's work was to pool this information to build up a worldwide picture, by asking for information from its members, which we have made available as a resource on our website for all members to learn from and make use of. Secondly, we consolidated the information we had from our members about the main problems with contracts in different countries into 10 principles for fair contracts which could be applicable to authors in all countries and which reflect the most important features a publishing contract should and

should not contain. Which you can see on the screen. These are intentionally succinct and don't use the confusing legal language often used in actual contracts – containing the principle, such as 'contracts should not be for ever', and overview of how a good contract addresses the principle – and the worst case scenario which would run counter to the principle if contained in the contract – which authors should avoid at all costs.

We presented the principles to our members at our meeting in Mexico City last November, and it was felt that the principles were right and comprehensive but presented according to the needs of writers and needed to account more for the needs of translators and visual artists, which IAF also represents. So the question was raised of whether we should have separate sets of principles for translators and visual artists. We consulted our translator and visual artist members, who fed back on the original document and plugged any gaps, but there was general consensus that one document is stronger than three and that, although the updated document emphasises certain points more to meet the needs of the other author groups, at the principles level, these 10 points work for authors across the board. The final edits are in and the definitive set of principles, for now, will soon be available and at

members' disposal in English, French, Italian and Spanish – and any other languages into which anyone would like to translate them.

So what now? Well, in January of this year, again, taking our lead from Jan and the Authors Guild in the US, IAF launched an open letter campaign where we encouraged as many members as possible, if this was an appropriate course of action for them, to release open letters to their national publishers and publishers' associations asking them to listen and discuss with authors how authors can obtain fairer contract terms. Not all members were in a position to do this but the initial action received a lot of media attention, secured meetings for our members with their publishers and is continuing to gather momentum. Of course, as always, there is still much work to be done – especially in countries whose authors are newer to the issue – but we hope the work so far provides the foundation for authors and IAF members to continue to work together to give authors the tools to know why their contracts are so important, are better equipped to achieve fair terms, can meet publishers – collectively and individually – on more equal terms and can ultimately achieve a fair reward for their work.

Katie Webb, June 2016