

My personal opinion**Yaron Meishar***Translation:
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Royalties for the Use of Dances

Better Late Than Never

Composers and lyricists receive royalties through ACUM. The time has come for dance choreographers to receive ACUM status and to receive royalties from those who use the folk dances they choreographed.

A Bit of History

A summary of the minutes from the meeting of the Israeli Folk Dance Creators [choreographers] dated February 9, 1967 illustrates the problems from various angles involved in the matter of royalties and personal recognition of choreographers.

The Status of the Choreographer in the Folk Dance Movement; Copyright.

Dina Roginsky: *"This will only encourage. Actually, the entire folk dance movement is carried on the shoulders of the choreographers. And it's random and not well thought out".*

Gurit Kadman: *"The question is whether royalties can be demanded for something that is longing to be of the people and is of the people in all countries. The actual concept of "folk dance creators" is a contradiction. But to justify this, it must be said: It's called folk dancing, but these dances are taught with the hope that they will eventually become folk dances. On the one hand we want dances to be widely distributed and on the other hand we want royalties".*

Rivka Sturman: *"It's been a problem and something that has hurt from the very beginning. At first, we thought of having anonymous choreographers, but once Hora Agadati was introduced and the explanations of who he was – authenticity was over.*

I saw that, in the United States, our dances were being danced and they were accepted. The explanation: Israeli folk. I was pleased because copyright is obligatory there. The power of a folk dance is that there is no copyright. On the other hand, the instructor isn't the important person, but rather, the creator of the dance.

Fifteen years have passed and in other countries it was recognized that Israeli folk dances don't grow on trees, they are created by choreographers".

* This article is only my personal opinion and not in the name of the Rokdim-Nirkoda editorial board.

** What is written in this article is not a legal document, but is based on decades of experience in the field of documentation and distribution of folk dances as well as ties and agreements with ACUM and the record companies regarding the use of songs and music.

*** This article has been forwarded to other relevant parties (mainly leading choreographers) so that they can comment before it is published. The comments will appear in the next issue and, in the meantime, more people will have the opportunity to comment. What follows is the brief reply from ACUM.

As soon as possible, a mechanism should be created to enable giving royalties to dance choreographers for the use of their dances. Preferably, this should be done through their becoming members of ACUM so that ACUM could collect the royalties for public use of their dances and can disburse the sums accordingly to what they deserve, or the funds could be transferred to the Irgun Ha'Markidim – Association of Folk Dance Instructors and



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Choreographers in Israel and Abroad - for general activities of the movement.

This is a charged topic. Clearly, many will object to it. But, in my opinion, this is a morally and ethically correct step to take and it is also an inevitable process that can bring many good things into the field:

Wikipedia defines ACUM as follows:

"ACUM" (Association of Composers, Authors and Publishers) works to protect the rights of Israeli composers in the fields of Israeli music, literature and the Israeli music publishers. The purpose of the association is to collect fair and reasonable royalties and to distribute them to the creators.

*The Association was founded in 1936 by Jewish artists in the fields of music and literature. Among the founders were important Hebrew poets, writers and composers including **Moshe Wilensky, Leah Goldberg, Avraham Shlonsky, Alexander Penn, Yedida Admon, Mordechai Ze'ira, Emanuel Amiran-Pougatchov and Emanuel Harussi**".*

Let's try to examine the place of folk dances when it comes to copyright:

The field of "Israeli folk dance" has two sections: (a) Stage performance choreographies; (b) Dances for the public at large, i.e., communal folk dancing.

A. Dances for the Stage

These dances are created by the choreographers of folk dances/Israeli dances for the stage. They are dance creations in every respect. The choreographers, those who create the dances, receive a salary from the institution to which the dance troupe belongs. The salary, in almost every instance, is for the hours spent working at rehearsals working with the dancers and not for the choreographies. The troupes are generally budgeted by various institutions such as municipalities and community centers. They stage performances at various locations, some for free and some for a fee. The payments cover day-to-day operation expenses of the troupes

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– purchase of costumes, payment to the choreographers and directors, transportation, etc. The dancers who perform these dances are not professionals and do not receive payment for their performances, and certainly not for the time they invest in rehearsals and training. In many cases, they even pay for the privilege to attend rehearsals, study dance and participate in the performances of these troupes.

These choreographies, although almost never financially rewarded, are protected by the “Copyright Law” in the sense that **no one is permitted to copy and stage a performance with another troupe without the choreographer’s permission.**

B. Dances for the General Public

The purpose of these dances is for the **general public to learn them and to dance them at every possible opportunity in classes (chugim) and at open dance sessions (harkadot) to which the public comes and pays an admission fee**, as well as at spontaneous events and free of charge celebrations and ceremonies. The choreographers of these dances **are not paid directly** for creating these dances. They are financially rewarded when they are invited by professional colleagues to dance sessions and particularly when they are invited to participate in dance workshops and camps abroad. In the past “folk dances” were choreographed to be dances for the folk. Today there are other considerations such as advertising, position in the dance community, invitations to lead at other dance sessions, especially abroad and often unfortunately, the need to supply “new dances” to locations that request them.

It’s not clear if these choreographies are protected by Israeli “Copyright” law, since choreography is defined as part of “dramatic works of art”. It’s not clear if a “folk dance” without dramatic elements falls under this definition.

Since these dances were put together **to be used by the dancers**, every instructor/leader is allowed and even encouraged to use them (i.e., to teach and to lead them) as much as possible. No one can prohibit another person from dancing a dance he/she has choreographed, or



The dance "Bim Bam Bom" during the Independence Day celebrations at Kibbutz Einat



Folk dance during the Independence Day celebrations at Kibbutz Einat

from teaching this dance to other people who wish to learn it, whether at a dance session or through some form of digital media (video or internet).

Of course, the folk dance session participants are not paid. **They pay** for the privilege of enjoying, and dancing these dances, together with their friends. Their teachers – the folk dance instructors – **are paid** for their work as instructors and for making the dances accessible to the general public. But **they do not pay** for the right to use these choreographies.

In this sense, the dances are **the twin siblings** of the songs (lyrics and music). A folk dance (or what we call a folk dance), is the third aspect of “lyrics” and “music” and its legal status should be identical to the other two. This is an additional reason why folk dances should be added to ACUM’s database of protected works.

Until a few years ago, the music industry (record companies and artists) benefitted from the sales of music on magnetic media (tape recordings, records, CDs, videos). **The composers and lyricists received royalties** for these sales through ACUM.

The folk dance “industry” also profits from these sales, but in most cases, unfortunately, with no payment of royalties to the copyright holders.

Today, the “business model” of the record companies, the singers and ACUM has changed. The singers earn their living from performances (for which they, of course, pay royalties to ACUM) and in order to bring in an audience, they upload the songs to the internet for free use by the public. The record companies and ACUM base their revenues on “public use” of the recordings (old and new) used by DJs, catering/banquet halls, broadcast networks, restaurants and pubs, institutions and organizations. They must pay for a license to use these recordings.

The broadcast networks (radio, television, etc.) pay exactly according to the playlist used during the broadcast. The others pay by means of “play” licenses (annual) that they receive



Dancing with Yaron Carmel at Masada

from the record companies and from ACUM. The amounts are set according to the scope of public use (hall size, frequency and time of use, number of seats in the hall, etc.).

The distribution of monies for these licenses is done according to popularity surveys and various models which are not detailed here.

Where are the rights of the choreographers? Only through them do we have dances for our dance sessions.

The choreographer is entitled to have his/her name to be clearly presented when one of his/her dances is performed by the public. This is generally difficult to execute. He/she is also entitled to credit and to acknowledgement when the dance appears on the internet. This is certainly possible, but it doesn't always happen.

Since these dances are created in order to be performed and distributed in many ways, and they are uploaded to the internet in great quantities, the choreographers have no way to prohibit filming. They certainly cannot forbid the uploading of these videos onto the "Rokdim" website, although Rokdim makes sure to give credit to all rights holders.

Do they have additional rights? Material ones? **In my opinion, yes!** They have the rights to royalties for the use of their dances for dance sessions and for any other public use. If this happens and they join ACUM, they will receive royalties for the sale of the dances on the "Rokdim" website, just as do the composers [of the music] and the lyricists. The short

videos on the site are for free. It's not much money but it's an official recognition.

I have supported this and worked for its advancement since 2007, when the "Rokdim" website made it possible to allow the downloading of music and video files for payment, "online". I thought this was morally correct (and I still do) and I very much hoped that this would bring about the cooperation of the choreographers with the website and lead to the distribution of good quality filmed dances, while protecting the rights of the lyricists, the composers and the record companies. Thus, everyone would enjoy reliable and efficient service.

In 2007, the "Rokdim" website distributed royalties to the choreographers for the sale of the dance videos on the site. Unfortunately, this procedure wasn't continued because the choreographers didn't want to participate, and the process was technically difficult.

The fact that the folk dance industry doesn't really cooperate in maintaining the rights of others (composers, lyricists, record companies and singers) makes it very difficult to implement this process for the choreographers. On the other hand, it's possible that this process will teach us all that it is necessary to protect the copyrights of all rights owners.

It is certainly possible, and justified, to produce a mechanism of royalties for the "public use" of these dances at folk dance sessions. Initially, I suggest a symbolic annual fee of approximately 300 NIS [shekels] to produce the mechanism and so that we can join ACUM. The fee will

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grant an annual license to use the dances. I suggest that initially the money be raised for a special fund to support and promote folk dance in Israeli culture and perhaps in schools, or any other community purpose. This will make it easier to adapt to the new situation. Later on, this could change.

I am not a choreographer and I do not sell dance videos. I have no financial interest in the use of this process. I make this suggestion in light of my tremendous experience and knowledge which I have gained in the field over many years and my feeling that this is the proper thing to do.

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And here are several objections and questions that may be raised and my replies to them:

1. Folk dance is a popular communal activity. The dances belong to everyone and woe unto us if dances are choreographed just for money.

This same objection existed when it was decided to establish ACUM for composers and song writers. It was difficult to get used to the idea that they, too, deserve to make a living and that **listening to music** must be paid for. The world has become accustomed to it and will also become accustomed (in Israel and around the world) to payment for the use of dances in places where money is charged for such activity.

2. Payment for choreographing dances will bring about an overwhelming number of new dances that we won't be able to handle.

Today, the pressure to choreograph new dances comes mainly from the need to become well renowned and to receive invitations to instruct in workshops abroad. Also, the acclaim that a new dance receives when seen on Facebook and the competition between instructors over who will be the first to teach a new dance, are what cause the surge in creating so many new dances. At this time, this offer does not imply any payment to the dance choreographers personally.

3. The instructors won't agree to pay.

This is indeed the biggest obstacle: to acclimate the system to the idea, first of all, that this is moral and valuable and then – hopefully – it will also become legal and will properly organize this disorganized industry. The annual fee that I suggested above wouldn't change the price of admission to a dance session. This fee would stop people who have not been trained. It could prevent a wild market and could bring a greater order to this industry. It isn't easy. It's complex, but necessary. Such a change will be of great benefit to the instructors who have been trained and are members of the organization.

4. This arrangement will lead to the consideration that playing the music for a dance at a session will be influenced by friendly relationships and the thought that "if I promote my dances and those of my friends they will do the same for me".

This situation exists in part anyway. Money will not change it substantially. And anyway, according to the proposal here, the money will initially not go to the dance choreographers, but rather for an important public purpose.

5. Who will pay for playing the dance music?

Integrating folk dances into payments for “copyright” will bring more order to our industry. It recognizes the fact that the profession of “folk dance instructor” is a profession like any other.

Every folk dance instructor who earns a living from teaching dance and leading sessions where the dances are done, will need to purchase an annual license. At first this would be a fixed price and perhaps, after several years, depending on the extent of his/her activities. Alternatively, if the instructor is not self-employed but works for some institution, the institution will have to pay for a license just as it does for the use of music. These fees should not and aren't intended to raise the price of admission for the dancers.

6. Who will collect the monies and take care of their disbursement?

As mentioned, it would be best to integrate “folk dances” into ACUM which already has a mechanism to collect money. Until that happens, if there is a strong organization, it will be able to handle this situation and also use the money for advancing the industry.


7. How will the money be distributed?

It should first be determined that the royalties will be collected in a special fund for the benefit of the choreographers and instructors in times of need or for any community purpose chosen (as indicated above).

8. How can you even count or measure the number of times a dance is played?

There are two ways to measure: (a) the system that currently exists with ACUM which includes annual user surveys made by several “experts”; (b) later, when the, the technology is enabled, the instructors will provide daily playlists that will be collated into one software program that will manage the data. Such an arrangement will greatly help ACUM to distribute royalties more fairly to composers and lyricists for the use of their songs on the dance floor.

The licenses granted by ACUM and by the record companies to all those playing the music in public have created a certain order in the music industry (catering/banquet halls, DJs, weddings, pubs, etc.). The licensing arrangement makes it difficult for those working without a license who interfere with those who want to work legally (lowering prices in the industry).

Integrating folk dances into payments for “copyright” will bring more order to our industry. It recognizes the fact that the profession of “folk dance instructor” is a profession like any other. It is a profession that requires training in order to work in it, loyalty to other instructors and working in accordance with agreed norms. Such an arrangement would, to some extent, prevent a “wild market” situation. 

ACUM: Heartily Accepts

In the past, several attempts were made to allow choreographers to become members of ACUM and to address their “copyright” protection. Unfortunately, these attempts have failed.

ACUM will be pleased to again meet with the representatives of the choreographers and discuss the issue anew, in order to include folk dances in the database of works protected by ACUM. Thus, it will be possible to collect royalties for the use of dances and songs, and to transfer these royalties to their creators.

At your service...