

Radji v. Khakbaz,
607 F. Supp. 1296 (D.D.C. 1985)

Year	1985
Court	United States Court of Appeals for the District of Columbia
Key Facts	Plaintiff Parviz C. Radji, as the last Ambassador to Great Britain for the government of the late Shah of Iran, kept a daily diary of his experiences that he later published as a book that he registered in both the United Kingdom and the United States. A British newspaper, the <i>Sunday Times</i> , paid £15,000 for the exclusive right to publish three articles containing several verbatim book passages. Without permission, defendant Javad Khakbaz, owner and editor of the <i>Iran Times</i> , copied 86% of the verbatim book passages, translated them into Farsi, and reprinted them for a series of articles in his paper. Plaintiff initiated an infringement action against defendants Khakbaz and <i>Iran Times</i> .
Issue	Whether it was fair use to publish unauthorized translations of excerpts in a newspaper that were obtained from another newspaper that was licensed to publish them.
Holding	The court held that defendants' unauthorized use of the <i>Sunday Times</i> excerpts did not constitute fair use. The court ruled that the defendants viewed the book as newsworthy and used the excerpts for their own commercial purpose—to boost sales. The court noted that the defendants were not reporting on factual news events, but were copying verbatim the expression of a political figure commenting on such events. Defendants added no new expression in the form of criticism or commentary, thereby weighing against a finding of fair use. Furthermore, defendants admitted that they were aware that plaintiff's work was protected by copyright and used it anyway, demonstrating a lack of good faith and weighing against a finding of fair use. The court then concluded that the plaintiff's work was an introspective and subjective account of a public figure's experiences and not a rote recounting of biographical and historical facts. The diaries, therefore, were of the type of expression that is most protected by copyright. The court also found that the quantity and quality of the copying was substantial because defendants merely translated the contents of the excerpts contained in the <i>Sunday Times</i> articles—the only portions of plaintiff's book to which they had access—into Farsi. Finally, the court found that defendants' copying, translation, and publication of plaintiff's work in the <i>Iran Times</i> adversely impacted the market and potential market for the book. The court reasoned that plaintiff's work had been officially translated into Farsi soon after its publication, and that defendants' publication of the Farsi excerpts would have injured the market for this translated work and may have prevented plaintiff from licensing his work to other publications. The court thus found the aggregation of these factors to be sufficiently in plaintiff's favor.
Tags	District of Columbia Circuit; News reporting; Textual work
Outcome	Fair use not found

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