INTERNATIONAL INFORMATION LAW AND REGULATION OF INFORMATION LAW RELATIONS

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Abstract

In a modern society where the informatization processes does not recognize time, space and political boundaries, it is not enough to regulate information relations only by domestic law. It also defines the subject and methods of regulation of international information law. However, the differences in the levels of economic development of the world's countries, the differences in the level of use of information and communication technologies, in general, affect the international framework of information legal regulation. The thesis examines these areas of influence from the legal point of view, makes suggestions and recommendations.

Keywords: *international information law, ICT, information law relation, global information space, legal regulation, information rights.*

The lack of a unanimous approach to the concept of "international information law" in modern literature has led to the existence of several approaches under various titles. Some sources use a term such as "international media law" [10], some sources apply "international internet law" [7], and there are some references to a case as "international telecommunications law" [5]. Moreover, such references as "international regimes for information and communication technologies" [6], "international media law" [8] and etc. can also be come across. The main discrepancy here stems from the issues included in the subject of international information law. Many researchers since they initially link information to mass media tools consider International information law as a part of regulation of information/media relations. For instance, Monroe Price, director of the Annenberg School of Global Communications, said that the content of international media law includes, first, freedom of expression, and then issues related to freedom of expression and the mutual development of technology. [4] A similar approach can be traced in the work of other authors.

The formation of the information society led to the emergence of the "right to information". Considering the fact that information law got its autonomy as an independent field of law, is it feasible to speak here of an independent subject and object of international information law? - Since ICT covers all spheres of human life in modern times, it might be complicated to define the boundaries of the right to information and which relations to include in the subject of this field of law. It is no coincidence that most authors consider the right to information as an integral part of administrative law. [9, p.23] The relations included in the subject of information law are characterized by their complexity. Due to the fact that the process of informatization covers all areas of society, information is distinguished by its leading role in all areas of law. In addition, human behaviour, which is the basis of social relations, manifests itself in a certain form of activity, and a person carries out any activity in a reciprocal form, rather than in isolation from other activities. Therefore, the difficulties in defining the boundaries between the branches of law can be considered normal. Basically, when determining the subject of a particular field of law, attention is paid to the content, object and subject of the relations regulated by it, as well as the applicable legal norms. This general rule should also apply to the right to information.

If the first principle that characterizes separate field of law is its subject, the second principle is the method of regulation applied in that field of law. The method of legal regulation means the method of influence of legal norms on public relations. Methods of information law include both dispositive and imperative methods of influence. Thus, what are the features that distinguish international information law from information law? - In general, international information law also regulates relations in the field of information. Certainly, there may be

similarities in the relationships that are subject to regulation. However, this does not mean that the concepts mentioned have the same meaning. In many cases, domestic law is not enough to regulate relations in cyberspace that does not recognize state borders. In this case, international and regional regulation comes to the fore. In this regard, international information law should be considered as a field of law governing relations in the international information space.

As the global information field is a new one, it is unfeasible to imagine this field without international legal regulation. Therefore, the role of international organizations is irreplaceable, based on the functions of international information law. In this regard, the following two directions should be considered:

First, the formation of the global information space leads to the emergence of new types of relations, the regulation of which is required at the international legal level. As the global information space is not limited to internal borders and has a wide content, this determines the legal attitude of international organizations to the existing secular problems in the information space and defines the implementation of the normative function.

Secondly, the process does not end with the legal regulation of relations arising and developing in the information space. The adoption of international law does not mean the successful regulation of information law. Thus, if the states authorized to apply any method in their jurisdiction do not cooperate with each other, do not create conditions for the safe and accessible exchange of information and knowledge in the global information space, the mechanism of functioning international law will fall to zero. Here one can assert that leaving the provision of such working mechanisms to individual states can lead to chaos. As the traditional inequality between the countries of the world can usher to the "hegemony" of the stronger states over the less developed ones, therefore, international organizations perform an information function that serves the purposeful and effective influence of all existing relations of public life in the information space and their subjects. It is this function that serves to eliminate the existing information inequality between states.

Thus, both functions interact and are interconnected. If the normative function is not performed properly, there will be shortcomings in the exchange of information between states, and international and regional organizations will not be able to ensure the availability of knowledge. On the contrary, if there are gaps in the implementation of the information function, there will be no mechanism to ensure the established international law.

Conflicts and legal contradictions in international information law arise from the interaction of information rights. For instance, the conflict of freedom of information with the inviolability of the personal life, the conflict of information rights with the right of intellectual property, freedom of expression with the protection of honour and dignity, and etc. It would be relevant to report on some of these conflicts.

Every person's right to privacy is enshrined both in international and national law. On the other hand, all norms provide ample opportunities for obtaining any information due to the principle of accessibility of information. In many cases, such opportunities lead to a violation of the right to privacy. Therefore, based on international and regional regulations, national legislation also provides an accurate list of information on personal and family life.

Another notable controversy arises over copyright. The main problem with the protection of intellectual property rights in modern society is that the openness of the Internet, i.e. easy access to information, increases the number of violations of intellectual property rights. The authors even call this conflict the Internet-Copyright conflict. [3, p.198]

There are two approaches to protecting intellectual property rights on the Internet. According to the first approach, there is no need to protect intellectual property rights on the Internet, which can hinder the development of the Internet. At best, recognition of a person's non-property rights is sufficient. The second approach, on the contrary, considers it essential to secure intellectual property rights on the Internet, and for this purpose offers a method of "collective mana-

gement of rights." This method is used when it is difficult to protect copyright and related rights individually. In this case, the objects of intellectual property are used/applied; in return, however, the intellectual property right holders are paid in the prescribed manner. [2, pp.238-252]

Special notice deserves UNESCO's paper on the protection of intellectual property rights. In January 2006, the organization launched a research project, Law and Society in the Digital Age. The main goal of the project was to reach a compromise between intellectual property owners and users. The initial activity began with a survey on rights to digitally expressed intellectual property. According to the results of the survey, few interesting facts were revealed. For example, 51% of rights holders surveyed said that the main reason for the increase in piracy was not only gaps in the legislation, but also the low level of consumer legal awareness. Another example: 46% of users and 44% of right holders advocated that the distribution of pirated products for non-commercial purposes should not be punished at all. On the contrary, they considered it necessary to impose stricter penalties for the production of pirated products for commercial purposes. [11, p.11]

The other compelling issue which is related to the protection of intellectual property rights on the Internet is that, despite the implementation of the above-mentioned protection and securing activities in our country, there are still some legal problems. Thus, although many rules governing copyright have been amended in relation to e-government, the legislature has not yet commented on the "electronic masterpiece (work)", while some norms remain in the old version and need to be updated. For instance, in the Law of the Republic of Azerbaijan "On Copyright and Related Rights", the writing of works or phonograms in electronic (including digital), optical or other machine-readable form for temporary or permanent storage is also considered copying (Article 4). "Publishing" also includes the use of works and phonograms through electronic information systems. However, no changes have been made in other articles related to these concepts. Furthermore, while covering the explanation of the public demonstration of the masterpiece/product, the legislator avoided to touch the issues of its publication on the Internet. Thus, to eliminate these contradictions, there is a need to revise the legislation governing intellectual property rights. Since to guarantee protection of the copyright on a work published on the Internet, it would be more correct to establish a separate regulatory mechanism for such publication.

International information law, which emerged as a result of the formation of the global information society, serves as a complex area of law to regulate the information legal relations that arise in the information space. Thus, the development of ICT has resulted in the emergence of various international relations. First of all, relations have been formed to develop the application of ICT in all spheres of society, as well as to ensure the normal and unimpeded functioning of ICT, and the subjects of these relations are mainly international organizations and their institutions, world-renowned research centres and states (via their representatives). As the application of ICT also introduces new forms of realization of basic human rights and freedoms, this has created conditions for the emergence of new group relations in international legal regulation. For instance, various forms of e-commerce, as well as the prevention of dangerous tendencies in the information society, etc. such issues are regulated by international information law.

The sources of international information law should also be guidance to a domestic law. Otherwise, legal conflicts in practice create problems for the exercise of rights and freedoms. Therefore, the national legislation has not yet clarified many information and legal terms, and the fact that the laws provide for some repetitive provisions also leads to confusion in practice. For example, as can be seen from the name of the Law of the Republic of Azerbaijan "On information, informatization and protection of information", the protection of information is taken as one of the areas of legal regulation. However, the term "information security" is used in all international documents, as well as in the information and legal literature. At the same time,

ensuring national information security is one of the main tasks and activities in the National Strategies for 2003-2012 and 2014-2020. Therefore, we believe that it is expedient to change the name of the law by replacing the term "protection of information" with "information security", as well as to include "information security" in the article giving the basic concepts.

Another point related to the harmonization of the legislation of the Republic of Azerbaijan with international norms is related to freedom of thought and speech. Article 47 of the Constitution of the Republic of Azerbaijan enshrines freedom of thought and speech; however the term "freedom of expression" is used in all international documents. Certainly, it is impossible to determine the guarantee mechanism if the person does not express his views and opinions, as these ideas are internal and do not have the form of external expression. It is through disclosure, that is, through the transmission and dissemination in various ways, that the use of freedom of thought and speech takes the form of an external manifestation. In this regard, the use of the term "freedom of expression" is appropriate. In fact, it is impossible to imagine freedom of expression in isolation from the right to receive and impart information. Because freedom of information and freedom of thought and speech are often realized together. They act as a condition for the emergence of each other, or vice versa. At the same time, given that freedom of thought and speech is exercised in the written or oral form in the media, it is practically incorrect to envisage the principle of freedom of the information in Article 50 of the Constitution, rather than in Article 47. In our opinion, it is more expedient to present freedom of information and freedom of expression in the new edition under a single norm.

Finally, the last point is the recognition of high-speed Internet as a fundamental right. Such a right has already been declared in Canada since 2016. One can assume that the recognition of this kind of a right stems from the requirements of the modern information society, as it is not feasible to talk about the active participation of a person who does not have access to the Internet in the information society. Measures taken to ensure the right to high-speed internet will also eliminate digital inequality.

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