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THE TOPİC OF THE PATRİOTİC WAR İS İN THE MATERİALS OF "ASSOCİATED PRESS", "UNİTED PRESS INTERNATİONAL", "REUTERS" AND TURKİSH MEDİA

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Abstract

In the article, the materials presented by the world's leading news agencies in this direction during the Patriotic War are discussed. The materials provided by the "Associated Press", "United Press International" of the USA, and the "Reuters" agencies of Great Britain during the war were examined, and the biased position of those resources that did not conform to the principles of journalism in relation to the Second Karabakh War was analyzed. In contrast to the main news agencies of the world, the materials prepared by the Turkish media during the war drew attention for their objectivity and impartiality, which were reflected in the study.

Keywords: *Karabakh, information war, Turkish media, "Associated Press", "United Press International", "Reuters", diplomacy, aggressive, one-sided relationship.*

The struggle of the Azerbaijani people against Armenia's terrorist-separatism policy bore fruit during the 44-day Patriotic War. Thus, in response to the next military aggression of Armenia on September 27, 2020, the Azerbaijani army went on a counter-attack and wrote history in the Patriotic War for the liberation of the occupied lands. In the Second Karabakh War, which lasted for 44 days, Azerbaijan won an unequivocal victory not only in the military field, but also in the information war. President Ilham Aliyev once again conveyed the true voice of Azerbaijan to the whole world in more than 30 interviews he gave to the world's giant media corporations. Since the beginning of the war, mainly the functions and principles of journalism were not followed in the materials presented in the leading world press, which started a series of articles and and a one-sided position was demonstrated. In contrast to the non-objective and biased articles in the American, Western press and Russian mass media, brother Turkish media supported Azerbaijan unambiguously on the information front.

From the first hours of the war, the Turkish media started reporting under the title "Azerbaijan Front", Anadolu Agency announced that 6 villages were freed from occupation, and informed the audience about what happened on the front line, in the country, recent events, terrorist incidents, etc. on social media accounts in different languages. Researcher N. Salamov wrote in the book "The Second Karabakh War" that the joy of the liberation of the land from occupation was presented by the Turkish media, which lives together with the Azerbaijani soldiers and people, with special headlines on the liberation day of Shusha, the heart of Karabakh [4], and "Hurriyet" newspaper presented the victory photo of war journalists with the title "Freedom to the heart of Karabakh" [3]. In general, the Turkish media provided objective informational support to Azerbaijan during the 44-day war. But it is difficult to say the same about "Associated Press", "United Press International" and "Reuters", which are authoritative information resources of the USA and Great Britain.

"Associated Press", which is one of the main news agencies of the world, tried to reflect the position of the parties to the conflict in the materials it presented, but it mainly acted in the interests of Armenia. On October 2, 2020, in the article entitled "Armenia is ready to discuss a ceasefire against the background of clashes in Azerbaijan", prepared

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based on the information of local correspondents of "Associated Press", acted as a divisive party by including the views of "Nagorno Karabakh" officials about the dead servicemen, along with the positions of the parties. At the same time, referring to the Armenian officials in the article, claimed that the Azerbaijanis attacked Stepanakert, the capital of Nagorno-Karabakh, and mentioned that the correspondent of "Le Monde" newspaper (Allan Kaval) and his photographer (Rafael Yagoubzadeh) were injured as a result of the shelling of the city of "Martuni", they were taken to the hospital located in "Stepanakert" and underwent surgery. [7] The agency violated the principles of journalism by presenting "Khojavand" as "Martuni" and "Khankandi" as "Stepanakert" throughout the material, and failed to be accurate and impartial.

The next material, in which Nagorno-Karabakh is presented as a disputed territory, is given under the title "Nagorno-Karabakh fighting increases the danger of deadly escalation". In the material prepared by Vladimir Isachenkov, during the Soviet rule, opinions were expressed about the fact that the population of Nagorno-Karabakh, which is an autonomous region within Azerbaijan, consists mostly of Armenians, and that the killing of 1.5 million Armenians by the Ottoman Turks in 1915 caused historical tension between the parties. The so-called "Armenian genocide" which is far from the historical facts was mentioned in the article, however, the genocides committed by Armenia against the Azerbaijanis were not touched upon, and a one-sided position was demonstrated by showing partiality. The author claimed that if Azerbaijan openly attacks the territory of Armenia, Moscow will be forced to intervene militarily to protect its ally, according to its agreement signed with Yerevan by recalling that Armenia does not have the resources for a protracted conflict, however, that the high level of patriotism in the population, by writing that the separatist forces in Nagorno-Karabakh and the Armenian army mostly use outdated Soviet-made weapons, that Azerbaijan has completely updated with the most modern attack drones and powerful long-range multiple missile systems. We can't expect Turkey to be idle either" [15]. The main factor hindering the activity of the anti-Azerbaijani media was that the war was going on in the occupied lands of Azerbaijan, and this deprived the CSTO of assistance to Armenia.

The next article prepared with the support of foreign correspondents of "Associated Press" and the authorship of A. Demouria is given under the title "Azerbaijani forces are approaching an important city in Nagorno-Karabakh". In the material, "Arutyunyan said in a video address from the main church of the city, which was fired by Azerbaijan this month, that the Azerbaijani troops stopped 5 kilometers from the city of "Shushi", which is located in a strategic position. The one who controls Shushi controls Nagorno-Karabakh. We must realize this and participate in the defense of Shushi. He did the addition "Shushi is located approximately 5 kilometers south of Stepanakert, the regional capital of Nagorno-Karabakh" to the ideas that "we need to reverse the situation".

Besides, he used the names "Shushi", "Stepanakert", "Mardakert" in the material and tried to form an aggressor opinion about Azerbaijan with the idea that these areas are subject to missile fire, moreover, he talked about the firing of the house of a civilian who allegedly lives in Shusha, and learned his opinions. Opinion was given about the firing of the Armenian armed forces on Tartar, Goranboy and Barda regions and the death of a civilian in the Goranboy region of Hikmet Hajiyev, the assistant to the Azerbaijani president on foreign policy issues referring to the Ministry of Defense of Azerbaijan, however, a complete picture of the loss of lives of civilians from the rocket attack on the

Azerbaijani side has not been formed and a one-sided opinion was created without studying the attitude of the people whose houses were destroyed. [5]

"Associated Press", which constantly keeps the issue of war on the agenda, reported the liberation of Shusha from the occupation with reference to the President of the Republic of Azerbaijan, and used the expression of the head of state "Shusha is ours - Karabakh is ours". In addition to the strategic value of Shusha in the material, attention was also paid to its special importance as a center of Azerbaijani culture, distinction of its music and poets at one time, however, Shusha" was repeatedly presented as "Shushi" and the word "Martuni" was used. [6]

In addition to using the words "Shushi" and "Stepanakert" again, "Associated Press" presented it not as "liberation of the territory belonging to it from occupation", but as "its capture" in the article titled "Armenia and Azerbaijan have agreed to stop fighting in Nagorno-Karabakh", forgetting that Shusha is the ancient land of Azerbaijan, moreover, he gave space to the opinions of Vaghram Pogosyan, the press secretary of the president of the so-called Nagorno-Karabakh government [8]. The position of the Azerbaijani side should also be reflected.

"United Press International" (UPI), one of the other influential agencies of the USA, also showed an unbiased approach to the Second Karabakh war. In the material presented by the author Daniel Urian on the day the war started, Nagorno-Karabakh was presented as a disputed territory, and the word "Artsakh" was used referring to the Twitter account of the Prime Minister of Armenia, Nikol Pashinyan and the person named Artak Beglaryan was introduced as the official representative of the "Artsakh" Republic and his opinions were given a place. [20]

In fact, since the influential media corporations that control the flow of information in the world have always played the role of a reliable source, the materials presented by them have maintained their reliability. But during the Patriotic War, the most serious information resources, including United Press International, have not been verified and presented materials that are inconsistent with historical facts and evidence and do not reflect reality, indicated Nagorno-Karabakh as a separate party. Nagorno-Karabakh was presented as a disputed region and enclave without specifying specific facts in the agency's article entitled "The fighting in Nagorno-Karabakh continues for the third day; world leaders are called for negotiations" and the opinions of world leaders about their concerns about the scale of the fighting and their calls for negotiations are included. [16]

It is written that the region located within the borders of Azerbaijan is controlled by Armenians, and since the collapse of the Soviet Union, both countries have had disagreements over its control in an article entitled "Armenia and Azerbaijan accuse each other of violating the new ceasefire" authored by Danielle Haynes of the agency. In the material containing the positions of Azerbaijani and Armenian officials regarding the ceasefire signed for humanitarian purposes, points such as "Karabakh officials accused Azerbaijan of using the ceasefire negotiations as a cover to prepare for a new attack" and "Armenia calls for international recognition of the territory of Nagorno-Karabakh as an independent state, while Azerbaijan says it wants to seize more land" cast doubt on the objectivity of the article. First of all, the reference to Karabakh officials is intended to show it as a separate party, secondly, as claimed, Azerbaijan did not intend to "capture" some territory, however, intended to liberate its lands under occupation. [14]

In most materials of "United Press International", the names of the lands under occupation are given in Armenian, and Nagorno-Karabakh, which is presented as a

disputed territory, is located within the borders of Azerbaijan, but it is indicated as a territory controlled by ethnic Armenians. The spokesman of the Armenian Defense Ministry, Shushan Stepanyan, claimed that civilian objects were targeted in some areas [12]. However, the armed forces of Armenia have intensively fired at the frontline residential areas of Azerbaijan, but Azerbaijan has never targeted civilian objects. The media organizations close to the Armenians deliberately tried to create the image of the killing of the civilian Armenian population by bringing the issue of civilian objects to the agenda.

UPI wrote in another article that Armenians settled in Nagorno-Karabakh after the collapse of the Soviet Union and that the region was recognized internationally as a part of Azerbaijanç however, he claimed that a thousand Syrian jihadists were sent to the disputed Nagorno-Karabakh and that the Turkish government was criticized by Russiaç however, no position found out by Turkey. [11]

"Associated Press" and "United Press International", which receive and distribute information from all over the world, have a strong influence on the information system of the world, as a number of giant media companies operating in the United States. The analysis of the various content materials of these agencies during the 44-day Second Karabakh war gives reasons to say that although these resources tried to reflect the position of the parties, they presented Nagorno-Karabakh as a separate party, in some of their materials they presented the liberation of the occupied lands in the form of "capturing more territory", they mainly spoke from the position of Armenia, and they allowed neutrality.

Great Britain's news agencies, especially the social media platforms of those resources, were selected for their special activity in relation to the Second Karabakh War. The analysis of the materials presented by him determined that the most radical position belonged to the "Reuters" agency. Researcher-journalist Vafa Isgandarova writes that Reuters, which reaches more than a billion people every day and is the world's largest international multimedia news provider, took the most radical position in describing the conflict, presented Nagorno-Karabakh as a separate party from Azerbaijan, and emphasized that its separatists are fighting with Azerbaijan. The news entitled on September 28, 2020, "says that there are 28 more soldiers who were killed in battles with the Karabakh Azeri forces", on October 2, "The Ministry of Defense of Nagorno-Karabakh reports about 54 more military casualties", on October 14, "President of Azerbaijan said that Azerbaijan continues military operations in Nagorno-Karabakh", "Prime Minister of Armenia Pashinyan says that Azerbaijan has the intention to occupy the entire Nagorno-Karabakh" are proof of this. It should be emphasized that the co-authors of the mentioned articles are Maria Kiselyova, Nvard Ohannisyan, Tom Balmforth, Alexander Marrow, Margarita Antidze, Alex Richardson. [2]

On the second day of the war, Mark Trevelyan's author's post was published. The author, who begins the introductory part of the article with the words "Fierce fighting has begun between Azerbaijan and its ethnic Armenian enclave, Nagorno-Karabakh, and thus the decades-long conflict has taken a new and dangerous form", presented the material in a one-sided form, voiced opinions that did not reflect the truth, exaggerated Turkey's support for Azerbaijan and tried to present it as military support and claimed that civilian casualties increased during the war by stating that Nagorno-Karabakh lives due to the budgetary support of Armenia and donations from the Armenian diaspora, with reference to Olesya Vartanyan, Armenian analyst of "Crisis Group" [13]. The author, exhibiting a one-sided attitude, focused on the civilian casualties by referring to the

Armenian analyst, however, by not giving space to the opinions of the Azerbaijani-born analyst, he cast doubt on the objectivity of the material.

In the materials presented by Reuters, Nagorno-Karabakh is presented as a mountain enclave that belongs to Azerbaijan according to international law, but its population is controlled by ethnic Armenians, and it is claimed that the war is going on between ethnic Armenian and Azerbaijani forces. The materials are designed to create the impression that Azerbaijanis are attacking the territory belonging to Armenians in the audience who do not know that Nagorno-Karabakh is the territory of Azerbaijan.

In another material submitted by "Reuters" it was mentioned that Azerbaijan has accused Armenia of firing heavily at a residential area in Ganja and hitting a residential building, the Prosecutor General's Office of Azerbaijan reported that 9 people were killed and 34 injured as a result of the attack, however, the agency has not been able to independently verify Azerbaijan's claims regarding the number of dead or wounded. In that material, the agency referred to the words of the unidentified "leader of Nagorno-Karabakh" as a source, however, he questioned the information of the General Prosecutor's Office of Azerbaijan and claimed that he could not independently verify the news, and quoting a Reuters photographer, wrote that on Sunday morning in Ganja, rescuers pulled out a dead body from under the ruins of a residential building, referring to Baku, added to the news that more than 40 civilians have been killed and 200 injured since the beginning of the conflict. The authors of the article added their opinion that "the Ministry of Defense of Armenia called the claims about the attack on Ganja "absolutely false" and accused Azerbaijan of shelling settlements inside Karabakh, including Stepanakert, the largest city of the region." In the material, pictures taken by "Reuters" agency from Khankendi, presented as Stepanakert, were presented, and it was written that "as a result of the bombing, a small brick house was damaged, the windows were broken and the roof was destroyed. [17]

"Reuters", which systematically presents materials related to the war, sometimes providing several materials on the same day, used the expression "ethnic Armenian forces in Nagorno-Karabakh and Azerbaijani forces" in all its articles, and accused Azerbaijan of attacking the lands of Armenians, almost considering it as an invader. In each of his articles, the officials of the unrecognized Nagorno-Karabakh, Arayik Haratyunyan, who declared himself the president of the so-called Nagorno-Karabakh, as well as the Ministry of Foreign Affairs, were referred to [9], and put forward the opinion that Nagorno-Karabakh lives at the expense of the donations of the world Armenian diaspora. [23]

There is a main line in the articles of "Reuters" employees: "According to international law, Nagorno-Karabakh is recognized as an integral part of Azerbaijan. But ethnic Armenians, who make up the majority of the population, reject the administration of Azerbaijan." According to another claim of the agency, when the Soviet Union began to disintegrate, it became clear that Nagorno-Karabakh would come directly under the control of the Azerbaijani government, ethnic Armenians did not accept this" [18]. In another article, Nagorno-Karabakh was called "a separatist territory of Azerbaijan controlled by Armenians" [19].

The agency constantly presented the occupied Azerbaijani lands under the name of Armenians and did not refer to the laws and decisions of Azerbaijan and distorted the facts. [21] Along with the opinions of the officials of Azerbaijan and Armenia, "Reuters" referred to the officials of the so-called NKR, local authorities, information of the Ministry of Foreign Affairs and Defense. [22]

On November 9, 2020, "Reuters" published material entitled "Say that Armenia, Azerbaijan and Russia have signed an agreement to end the Nagorno-Karabakh conflict." In the material, the agreement signed by Armenia, Azerbaijan and Russia to end the military conflict is mentioned. The opinions of the President of the Republic of Azerbaijan Ilham Aliyev, the Prime Minister of Armenia Nikol Pashinyan and the President of Russia Vladimir Putin have been included, at the same time, yet the unrecognized NKR was introduced as a separate party by adding the opinion "The leader of the Nagorno-Karabakh region, Arayik Harutyunyan, stated on Facebook that he agreed "to end the war as soon as possible". However, it was mentioned in the material that Shusha was captured by Azerbaijan. [10] In fact, Azerbaijan did not capture anyone's land, it only liberated its occupied lands, including Shusha.

"Reuters" agency was active in connection with the Second Karabakh war on its web resource and social media accounts, took the most radical position in describing the conflict, and could not maintain its neutrality.

The Turkish press, which provides complete and unequivocal information support to our country with its objective and truth-based position, was able to turn the opinion of the President of the Republic of Turkey, Rajap Tayyip Erdogan, "the time of reckoning has come, Karabakh must be freed from the occupation" into the headlines one day after the start of the war. [24]

The Turkish media focused on the Patriotic war for 44 days, successively liberated territories, the speeches of President Ilham Aliyev, anouncements and statements of world states and international organizations, including the co-chair countries of the OSCE Minsk Group, the targeting of civilians, territories not located in the frontline, materials reflecting the merciless behavior of Armenians despite the humanitarian ceasefire, a broad and understandable explanation of each point of the official documents signed, were presented to a wide audience.

The interviews given by President Ilham Aliyev to Turkish television channels TRT Haber, Haber Türk, A Haber, CNN-Türk, Haber Global, and NTV were of great importance in conveying the truths of Azerbaijan to the international world [1], in parallel, extensive discussions were held in the news and analytical programs of these channels, direct reports were given based on the information provided by the Turkish reporters sent to Azerbaijan, they prepared reports from our soldiers and presented to the whole world with facts, evidence and evidence that Armenians killed civilians using various weapons and ammunition.

The progress on the battlefield, the lands freed from occupation, the ceasefires signed during the war, the statements of the representatives of the Turkish state bodies on this topic, along with expert opinions, images reflecting their statements, videos and maps of the areas fired by the Armenians were shown in CNN Türk, Haber Global, Haber Türk, "NTV", "Show TV", "TRT Haber", "FOX TV", "Yeni Shafaq", "Milliyat", "Sabah", "Hürriyet" and "Sözcü" newspapers, live links established from the frontline, in this step taken in the direction of increasing efficiency, visibility and believability, conditions were created for the distribution of more correct and complete information and a complete impression was formed on the viewer and reader.

If we summarize the situation related to the Nagorno-Karabakh problem, the reflection of the First and Second Karabakh wars in the global media rhetoric, we can say that the leading world press, the main information resources of the USA and Europe have started a series of articles about Nagorno-Karabakh, since the beginning of the war. Ex-

cept for the Turkish press, in the materials presented in all formats in the US and Great Britain press, Armenian bigotry and biased approach pushed objectivity into the background.

However, the one-sided information war against Azerbaijan has been fiasco due to President Ilham Aliyev's high-profile interviews, rich in facts and evidence, given to the world's giant media corporations. As time passes, the contours in which the truths of Azerbaijan are spread are expanding even more and our national diplomacy takes away all means of influence in the information war and forming its image as an aggressor, invader and separatist.

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APPLICATION OF INNOVATIVE METHODS FOR GIVING LOANS BY BANKS

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Abstract

This paper explores the application of innovative methods for giving loans by banks, emphasizing the role of digital technologies and alternative credit assessment techniques. It discusses the profound impacts of these methods, from improved efficiency and risk management to enhanced customer experience and expanded credit accessibility. The paper also underscores the transformative role of FinTech in driving these innovations and the evolving regulatory landscape necessitated by such advancements. It highlights the improved financial inclusion resulting from these innovations and the potential for sustainable lending. Amid these benefits, the paper underscores challenges related to data privacy, ethical considerations, and regulatory compliance. Finally, it proposes future perspectives, emphasizing the need for banks, customers, and regulators to navigate these challenges effectively for the optimal realization of the benefits of these innovations in lending.

Keywords: *Innovative Loan Methods, Banking, Fintech, Financial Inclusion, Sustainable Lending, AI and ML in Banking, Peer-to-Peer Lending, Regulatory Environment, Big Data, Blockchain, Customer Experience, Financial Regulation, Data Privacy.*

The banking sector has been a prominent pillar of the global economy for centuries, performing essential roles such as facilitating transactions, offering saving platforms, and providing financial support in the form of loans. However, the traditional approach to giving loans by banks is undergoing a significant transformation, owing to the advent of technological innovations and novel financial strategies. This paper explores the application of innovative methods for giving loans by banks, specifically focusing on the incorporation of digital technologies, data analytics, and the deployment of new credit assessment techniques.

Banks are increasingly deploying digital technologies in their loan origination processes. Artificial Intelligence (AI), Machine Learning (ML), and Robotic Process Automation (RPA) are leading the charge, particularly in automating loan processes, underwriting, and decision-making processes. [1] The application of these technologies allows for faster processing, increased accuracy, and higher efficiency. Banks like JP Morgan have leveraged AI and ML to digitize loan processing, reducing the time and cost involved in loan origination. Similarly, RPA aids in automating routine tasks, minimizing human errors, and boosting overall productivity. The emergence of blockchain technology is also an innovative approach in loan origination. Blockchain's immutable, transparent, and decentralized nature can provide banks with a robust mechanism for tracking and recording loan transactions. [2] For instance, BBVA, a Spanish multinational bank, has executed a syndicated loan process using blockchain technology, enhancing the efficiency and transparency of the entire process.

Accurate risk assessment is a critical aspect of the loan origination process. Traditionally, banks have relied on credit scores and financial statements to assess the creditworthiness of customers. However, with the advent of big data analytics, banks can utilize a wealth of data for risk assessment, thereby improving the accuracy of their credit scoring models. [3, p.1165-1188] Big data analytics enables banks to gather, analyze, and interpret vast amounts of structured and unstructured data. This data can range from conventional credit history to unconventional data like social media activity and online shopping behaviors, allowing banks to build a more comprehensive borrower profile

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and make more informed loan decisions. [1] For instance, Wells Fargo has leveraged big data analytics for credit risk modeling, leading to improved loan performance and lower default rates.

The advent of new credit assessment techniques has transformed the way banks evaluate loan applicants. Peer-to-peer (P2P) lending and psychometric testing are two examples of these alternative techniques.

P2P lending platforms connect borrowers and lenders directly, thereby bypassing traditional banking intermediaries. They employ innovative credit assessment models that incorporate a wide array of data points, enabling them to cater to a broader demographic of borrowers who may not meet traditional banking requirements. [4] Similarly, psychometric testing is an innovative credit assessment method that assesses a potential borrower's personality traits, attitudes, and behaviors. It can be used as a supplement to traditional credit scoring models, especially for assessing individuals with little or no credit history. [5] Companies such as Entrepreneurial Finance Lab (EFL) have implemented this technique, showing promising results in emerging markets.

The integration of digital technologies is not without its challenges. AI and ML models, for example, can be vulnerable to bias if not properly trained and monitored. In addition, the deployment of these technologies raises issues concerning transparency, as the decision-making process of these models can be difficult to interpret, potentially leading to a "black box" problem. [6] Blockchain technology, while promising, still faces issues regarding scalability, interoperability, and regulatory acceptance. [2] The use of big data analytics also poses privacy and ethical concerns. The vast amounts of data collected and analyzed for risk assessment purposes can intrude upon customer privacy if not handled correctly. [1] Hence, banks need to ensure that they comply with relevant data privacy regulations, maintain robust data security measures, and transparently communicate data usage to their customers. The application of alternative credit assessment techniques like P2P lending and psychometric testing also present unique challenges. P2P lending platforms need to ensure they maintain proper risk management practices, given that these platforms often cater to riskier borrowers who may not qualify for traditional bank loans. [4] Meanwhile, psychometric testing should be applied cautiously, as it can raise ethical issues related to privacy and discrimination. [5, 631-655] Despite these challenges, the potential benefits that these innovative methods offer to banks and their customers are significant. By adopting these methods, banks can improve their loan origination processes, make more informed lending decisions, and ultimately, better serve their customers. Additionally, these methods could potentially democratize access to credit, making financial services more inclusive and accessible to underserved populations. Future research in this area could explore in greater detail how banks can successfully navigate the challenges associated with these innovative methods. Furthermore, as these methods continue to evolve and mature, research could also examine the long-term impacts of these innovations on the banking industry and the broader economy.

The application of innovative loan methods has profound impacts on both banks and customers. On the banking side, the digital transformation of the loan process results in improved efficiency, cost reduction, and enhanced risk management. [1] For instance, the integration of AI, ML, and RPA in the loan origination process can automate routine tasks, reducing the probability of human errors and the processing time. Furthermore, the application of blockchain technology ensures a transparent, immu-

table record of transactions, reducing fraud risk and fostering trust. From the customers perspective, these innovative methods provide an easier, faster, and more transparent loan application process. [7] The digital loan process offers a seamless experience with shorter processing times, instant updates, and round-the-clock accessibility. The use of alternative credit assessment methods, such as P2P lending and psychometric testing, broadens the spectrum of loan accessibility, particularly benefiting those underserved by traditional banks.

The rise of FinTech companies plays a significant role in driving loan innovation. FinTech companies, leveraging cutting-edge technologies, introduce disruptive changes to the traditional lending processes, forcing banks to adapt or risk losing market share. Companies like Lending Club, Prosper, and Zopa have pioneered P2P lending, offering competitive loan products to a broad array of borrowers. [8] Similarly, FinTech companies such as Kabbage and OnDeck employ advanced algorithms and machine learning models to automate their lending process and assess credit risk in real-time, thereby enabling faster loan decisions. [9]

The advent of innovative methods in lending has implications for the regulatory environment. As these methods become more widespread, they raise several regulatory and compliance challenges, including privacy and data security, the potential for discriminatory lending practices, and the need for adequate risk management frameworks. [10, p.378] Regulatory bodies globally are grappling with the task of establishing an effective framework that strikes a balance between fostering innovation and ensuring the security, fairness, and stability of the financial system. An example of this is the "sandbox" approach adopted by several regulators, including the UK's Financial Conduct Authority, which allows businesses to test innovative financial products, services, and business models in a live market environment, while ensuring appropriate safeguards are in place. [11]

The innovative methods in lending significantly improve the customer experience. A simplified, digitized loan application process enhances customer convenience and satisfaction. [7] Customers can apply for loans at any time, from anywhere, and get faster responses. Additionally, AI-powered chatbots and virtual assistants can provide real-time assistance, addressing customer queries promptly and improving customer service. [12]

Innovative methods for giving loans have a transformative impact on financial inclusion. Financial inclusion, the availability and equality of opportunities to access financial services, has been a long-standing challenge for the banking sector, particularly in developing countries. [13] Digital technologies and alternative credit assessment techniques offer promising solutions. For example, mobile banking platforms, enabled by digital technologies, have significantly reduced the cost of providing financial services, reaching remote and underserved populations. [14, p.1288-1292] Moreover, the use of data analytics and psychometric testing allows banks to evaluate the creditworthiness of individuals who lack traditional credit histories, providing credit opportunities to previously excluded segments. [5] Similarly, P2P lending platforms can cater to individuals and small businesses that do not qualify for traditional bank loans, effectively expanding financial inclusion. [8, p.2,7]

The application of innovative loan methods also paves the way for sustainable lending. Sustainable lending refers to the incorporation of environmental, social, and governance (ESG) criteria into the loan decision-making process. This concept aligns

with the growing global emphasis on sustainability and responsible finance. [15, p.201] Emerging technologies like AI and data analytics can be utilized to assess the ESG performance of potential borrowers. For example, AI can analyze a vast array of ESG-related data, including emissions data, labor practices, and corporate governance structures, allowing banks to make informed, sustainable lending decisions. [16] Blockchain technology can also support sustainable lending by enhancing transparency. It allows banks, investors, and regulators to trace how funds are used, ensuring that they are directed towards sustainable projects. [2] These innovative methods support the transition towards a more sustainable banking industry, allowing banks to contribute positively to societal goals while managing potential financial risks associated with ESG issues.

The future of lending is likely to witness further innovative disruptions. The continuous advancements in technologies such as AI, ML, and blockchain, coupled with the increasing prominence of FinTech, are set to further reshape the lending landscape. For instance, the convergence of IoT and AI has the potential to provide real-time credit assessments based on behavioral data. The evolution of blockchain could also pave the way for "smart contracts" in loan agreements, which could automate the enforcement of loan terms. [17] In the face of these disruptive changes, banks need to embrace innovation and adapt their business models accordingly. Collaboration with Fintech companies, either through partnerships or acquisitions, may be a strategic move for traditional banks to drive innovation and maintain competitiveness [18, p.268]. Moreover, regulatory bodies should evolve in tandem with these technological advancements, crafting flexible regulatory frameworks that promote innovation while safeguarding the financial system's stability and integrity. On the customer side, increased financial literacy will be essential. As financial services become more digitized and complex, customers need to be equipped with the necessary knowledge to make informed decisions and navigate the digital lending landscape effectively. [19, p.36]

In conclusion, the application of innovative methods for giving loans by banks is a rapidly evolving field that offers substantial benefits, including improved efficiency, enhanced customer experience, and democratized access to credit. However, these benefits come with challenges, such as data privacy, ethical considerations, and regulatory compliance. As these methods continue to evolve, it is crucial for all stakeholders—banks, customers, and regulators - to navigate these challenges effectively to realize the full potential of these innovations in lending.

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SPECİAL PRİNCİPLES OF İNTERNATİONAL SECURİTY LAW

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Abstract

In the article, issues related to the place of special principles of international security law in the international legal system are analyzed in interaction with international legal documents and the opinions of well-known scholars in this field. It is noted that within the framework of international security law, which is an important area formed in the international legal system, the special principles of international security law can include special principles such as the principle of equality and equal security of states, the principle of not harming the security of the state, the principle of indivisibility of security in the face of transnational threats and challenges. In addition, due to the fact that the main goal of international security law is to ensure international peace and security, it has closer cooperation relations with other areas of international law, and from this a number of specific principles of international security law have been formed. For example, the principle of supremacy (superiority) of international law, the principle of responsibility of states, the principle of disarmament, the principle of personal security. In addition, during the analysis of the important principles of international security law, it is necessary to implement its main provisions into the national legislation of the states.

Keywords: *special principles of international security law, international legal system, principles of international law, global security, norms of international law, international agreement, equal security, responsibility of states.*

When analyzing the specific principles of international security law in ensuring international peace and security, first of all, attention should be paid to the main principles of international law. The basic principles of international law are generally enshrined in the UN Charter and are often referred to as the principles of the UN Charter. Their content and system are defined in the Declaration on the Principles of International Law on Friendly Relations and Cooperation between States in accordance with the UN Charter adopted by the UN General Assembly in 1970 and in the 1975 Helsinki Final Act of the OSCE. These principles include: the principle of not using force or threatening to use force; the principle of peaceful settlement of international disputes; the principle of sovereign equality of states; the principle of non-interference in the internal affairs of states; the principle of cooperation of states; the principle of legal equality and self-determination of nation; the principle of honest fulfillment of international obligations; the principle of territorial integrity of states; the principle of inviolability of borders; the principle of respect for human rights and fundamental freedoms.

The basic principles of international law play an important role in the legal regulation of the provision of the global security system, as they determine the behavior of the subjects of international law, their basic rights and duties for the protection of global peace and security, etc. contains guiding principles that define important provisions. The main principles of international law have a serious impact on the development of international law. [1, p.26-28] In addition, the main principles of international law have a positive role in the development of individual areas of international law, and then the principles of national law. Finally, the basic principles of international law fully express the basic essence of international law and international security.

The main principles of international law also act as a basis for further strengthening of international peace and global security system, functioning and improvement of its legal regulation mechanism. In this sense, the development of the basic

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principles of international law should be one of the main tasks facing the international community. Considering this, international environmental security and international responsibility can be considered as the main principles of international law. A serious global problem such as the environment, including the necessity of the institution of international responsibility in international relations in all cases, finally justifies our opinion that a number of important international documents have been adopted or are about to be adopted in this field.

The main principles of international law as a whole should be considered in a single complex. Violation of one of the basic principles of international law leads to the violation of its other principles, which in general endangers the provision of the entire system of global security. The mutual description and application of the main principles of international law ensures intensive and effective coordination between those principles, and at the same time, it also ensures the appropriate cooperation between the separate fields of international law, and ensures the mutual development of the normative-legal basis and specific principles of those fields.

The provisions of the basic principles of international law must be followed unconditionally by states. For this, there is no need to adopt any national normative-legal act. It is enough to express a general attitude to the main principles of international law, which should be part of the basic law (constitution) of that state. In this sense, Article 10 of the Constitution of the Republic of Azerbaijan should be highly appreciated. Thus, it is noted that the Republic of Azerbaijan establishes its relations with other states on the basis of the principles provided for in universally accepted international legal norms. [16]

Thus, international law regulates the relations of its subjects mainly through a system of principles and legal norms. In the legal literature, it is even suggested that the principles of international law make up its system of basic principles, sectoral principles and intra-sectoral principles. [2, p.11] At the same time, a special role is given here to the basic principles of international law. In the legal literature, it is noted that under the name of this concept, general fundamental principles aimed at ensuring the stable and efficient functioning of the international legal system as a whole are understood. [15, p.59] The basic principles of international law play a key role in ensuring global security, as they determine the norms of action of the subjects of international law, the basic obligations of states to protect the universal values of humanity, such as peace and security. I.I.Lukashuk rightly notes that the main goals and principles of international security law are also the goals and principles of international law as a whole. [10, p.282] The main principles of international law form the basis of the international legal system and the most important place in the international legal regulation belongs to them. Thus, no norm of international law can contradict the basic principles of international law. In accordance with the UN Charter, the 1970 Declaration on the Principles of International Law Related to Friendly and Cooperative Relations between States stipulates that each state must fulfill its obligations in good faith in accordance with the generally recognized principles and norms of international law. [6] According to the main requirement of the Declaration, the content of the main principles of international law, which includes 10 principles, should be taken in interaction with each other. Thus, the Declaration directly states that during the description and application of the principles of international law, they are interconnected and it is necessary to consider each principle together with other principles.

Now let's analyze the specific principles of international security law. At this time, it should be specially noted that the task of a comprehensive approach to solving problems related to the strengthening of global security requires the improvement and development of special principles of international security law. This important area of international law accepts and regulates international relations related to ensuring global security as its subject. [4, p.87] It is noted in the legal literature that international security law regulates a certain range of international legal relations of the subjects of international law in order to ensure disarmament and arms limitation, political, military, economic, environmental, informational and other types of security, as well as to limit and prevent armed conflicts. [3, p.363]

Sources of international security law are divided into international treaty (universal, regional and bilateral) and customary international law as sources of international law. Western jurists consider norms related to international security law in the sections on non-use of force, disarmament, international organizations. [11, p.17]

The common starting points for the principles of international security law are the basic, universally recognized principles of international law. This is due to the fact that international security law acts as an important area of international law. In no case can the specific principles of international security law contradict the basic, universally recognized principles of international law.

Taking into account the main features of international security law, it can be concluded that the field principles of international security law include the following:

- The principle of equality and equal security, which implies the implementation of the principle of sovereign equality of states in the field of international security in order to achieve a balance of power within the framework of the multipolar world order at minimum levels of mutual security. This principle involves states reducing the level of their military defense capabilities based on the principles of reasonable adequacy, which allows national security measures to be adequate to protect the interests of the state. Any surplus of weapons beyond defense needs poses a security threat. The principle of equality and equal security is provided for in every treaty norm limiting armaments and armed forces and is valid only for a state or group of states that is a party to the treaty. Activating the activities of the states in the above-mentioned direction and implementing international control, including the expansion of international cooperation in this sphere (for example, the Non-Aligned Movement) should be among the most important directions of activity.

- The principle of not harming the security of the state, which involves taking into account the interests of the entire world community and reaching an agreement on security issues based on consensus. The content of this principle indicates the danger of deliberately acting against the security of the state, the consequences of which may threaten global security. The Declaration on international cooperation on disarmament and the principle of not harming the security of any of the parties link the security of the state with strengthening the security of the entire international community. [5]

- The principle of indivisibility of security in the face of transnational threats and challenges implies achieving a balance of interests based on the equal security of all members of the UN, while security in a bipolar world order implies maintaining a balance of power between opposing parties. Due to the interdependence of global threats, helping to protect the interests of each state meets the common interests of the

world community, which requires the formation of a tighter security regime for the entire world community.

Man-made and natural disasters, acts of terrorism and armed conflicts, even if they are local, have a negative impact on other states. In particular, despite the fact that the International Atomic Energy Agency developed and adopted the fundamental principles of global safety in the field of nuclear energy after the Chernobyl disaster, the accident at the Fukushima 1 NPP after 25 years, according to the results of the UN Scientific Committee on the Study of the Effects of Nuclear Radiation , continued to have unwanted effects not only on the radiation safety of Japan's neighboring countries, but also on global radiation safety.

The doctrine of international security law already defines new security institutions: nuclear, food, climate, emergencies. [18, p.55; 13] However, according to I.I Lukashuk, the special principles of international security law do not yet have a sufficiently clear understanding of the ways, methods and means of implementation. [11, p.17]

During the formulation of specific principles of international security law, it is necessary to give serious consideration to its interactions with other areas of international law. Since international law combines areas that are interconnected with each other, these relations must also be created. It is necessary to take into account what has been mentioned during the analysis of the main characteristics of each field, including its specific principles. Closer cooperation relations are formed between closer international legal fields.

Taking into account the above, the law of international treaties, the law of international organizations, international human rights law, international humanitarian law, responsibility in international law, international criminal law, international maritime law, etc., which act as important areas of international law during the formation of specific principles of international security law. At this time, it should be noted that international security law is the one that establishes the best cooperation relations with other areas of international law. Because global security is the main common and general criterion for all fields of international law, besides, the most important of the main goals of international law, including the UN as an important universal organization, is the provision of international peace and security.

Now, taking these factors into account, it is necessary to take a broader approach to the specific principles of international security law in ensuring global international security.

At this time, the principle of supremacy of international law, which has a leading role in coordinating the interests of states and the international community, can be mentioned first. The principle aims to increase the management of global security and prevent the emergence of new threats to world development. In accordance with the rule of law in international relations, a sovereign state has the freedom to act within the framework of generally recognized legal principles and norms. The supremacy of international law is expressed by its priority over all components of the system of international relations and world politics, as well as domestic legal systems. The UN Global Agenda states that ensuring the rule of law at the national and international level is one of the main tasks in achieving sustainable progress, economic development and human security. At the Millennium Summit, 193 UN member states and 23 influential international organizations officially declared their determination to strengthen respect for the rule of law in both international and domestic issues. [14] This principle closely links in-

ternational security law with national law and requires a new view of international law. The supremacy of international law fully accepts its primacy over national law. The theory of monism, which is one of the main theories in this field, fully justifies this. The developed countries of the world have already resolved the issue in this direction in favor of international law. Article 151 of the Constitution of the Republic of Azerbaijan states that If a conflict arises between normative legal acts of the legislative system of the Republic of Azerbaijan (with the exception of the Constitution of the Republic of Azerbaijan and acts adopted by referendum) and inter-state treaties to which the Republic of Azerbaijan is a party, the international treaties shall apply. [16]

The principle of responsibility of states defined by UN General Assembly Resolution No. 56/83 "Responsibility of States for Internationally Wrongful Acts" [17] contributes to the organizational unity and development of the entire international legal system to ensure global security, including by the system of international treaties and agreements. is supported. The principles of international responsibility should be approached from the point of view of the Draft Articles of December 12, 2001 entitled The responsibility of States for acts contrary to international law. Article 1 of that international document states that every act of the state against international law leads to the international responsibility of that state. In addition, Article 4 of the relevant international document directly states that the behavior of any body of a state, regardless of the position of this body in the state system, including whether it performs legislative, executive, judicial or any other function, is international according to the law, this is also considered as an action of that state.

The principle of responsibility of states is an important indicator of the efficiency and final result of the international legal mechanism of ensuring global security, demonstrating the legal nature of the international relations system itself. The legal consequences of violation of international obligations are defined in the 1969 Vienna Convention on the Law of Treaties, the 1978 Vienna Convention on the Succession of States to Treaties, the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or International Organizations, etc. it is also regulated by the norms of international law established in international documents. In addition, in the Millennium Declaration, the world's heads of state and government acknowledged their collective responsibility for peace and security, in addition to their responsibility to their own countries.

In addition, the 1988 Declaration on the Prevention and Elimination of Disputes and Situations that Threaten International Peace and Security and the Role of the United Nations in this Field defines the principle of the responsibility of states for the prevention and elimination of any international disputes and dangerous situations.

The next distinguished principle of disarmament is established in the most general form in Article 26 of the UN Charter, therefore, disarmament is defined as a set of measures aimed at stopping, limiting, reducing and eliminating the accumulation of material means of war in order to contribute to the maintenance of international peace and security.

Under Article 11 of Chapter VI of the UN Charter, the General Assembly reviews the principles of disarmament and arms regulation and makes recommendations to the Security Council, which is responsible for developing plans for a disarmament regulation system in this area. International legal tools in the field of disarmament are the

Conference on Disarmament, the First Committee of the UN General Assembly and the UN Commission on Disarmament. [7]

The lack of a recognized and universal commitment to disarmament in international law is an urgent problem. Disarmament as a duty to ensure security is established as a positive obligation of states in a number of universal international agreements. For example, the Treaty on the Non-Proliferation of Nuclear Weapons dated June 12, 1968, the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and Their Destruction dated January 13, 1993, etc.

The legal content of the principle of disarmament implies that the state, as a subject of international law included in the treaty relations on the reduction of arms, has only sufficient weapons for self-defense. Thus, the state is deprived of military resources for attack. At this time, as mentioned in the analysis, the principle of sufficiency acts as a general criterion for building a world without war and violence. [12, p.32] It is no coincidence that issues related to disarmament are already given a wider place in international law studies, and at the same time, they are even investigated as a separate field of this international law. [9, p.872-892]

In addition, during the analysis of the specific principles of human rights in the legal literature, the principle of the security of the personality is put forward and it is noted that the protection of the humanity begins with the protection of the personality. At the same time, it is noted that international and global security cannot be ensured where personal security is not ensured. Thus, respect for human rights should be carried out together with the provision of identity and, finally, international security. [1, p.60] A similar position can be found in other studies. [8, p.12-15] With the analyzes carried out in this direction, it can be additionally considered that the security of the personality is not only a principle of human rights, but also of international security law or an interdisciplinary principle. Because ensuring personal security is impossible without international security.

Thus, the following important conclusions can be reached with the conducted analyses:

1. Within the framework of international security law, which is an important area formed in the international legal system, special principles of international security law have also been formed and are currently developing further. Special principles such as the principle of equality and equal security of states, the principle of not harming the security of the state, the principle of indivisibility of security in the face of transnational threats and challenges can be included in the principles already formed in this field. The emergence of new threats, including the expansion of cooperation relations, will bring important innovations, additions and significant changes to the development of principles in this field, including their content.

2. Due to the fact that the main goal of international security law is to ensure international peace and security, it has closer cooperation relations with other areas of international law, and from this a number of specific principles of international security law have been formed. For example, the principle of supremacy (superiority) of international law, the principle of responsibility of states, the principle of disarmament, the principle of personal security. The mentioned principles are interdisciplinary in nature and have an important role in the modern international security system. Thus, the principle of supremacy (supremacy) of international law comes from the interaction of international security law and national law, the principle of state responsibility from the

interaction of international security law and responsibility in international law, the principle of disarmament from international security law and international humanitarian law, and the peaceful settlement of international disputes, including the interaction with the law of international organizations, and the principle of personal security directly follows from the interaction of international security law and international human rights law.

3. During the analysis of the important principles of international security law, it is necessary to implement its main provisions into the national legislation of the states. In other words, it is necessary to take into account the specific principles of international security law when adopting domestic norms in this area. National security cannot be ensured without ensuring international security, or national security can only get real, genuine content and assurance in the international security system.

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LEGAL FRAMEWORK OF THE CURRENT COPYRIGHT PROTECTION SYSTEM AND THE LEGAL ANALYSIS OF AI-GENERATED WORKS

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Abstract: *Copyright protection provides certain exclusive rights to the creator (author) for his creative work. Any form of expression is sufficient to be eligible for copyright protection provided it is original. Originality expresses the interrelationship between the author and the work. Creativity is the main point within the concept of originality which refers to author's intellectual production.*

In the discussion over copyrightability of AI-generated work, the concepts of author, work and fixation need to be clarified in the light of technology development. Under the current legal Intellectual Property protection instruments, AI is not directly entitled to be considered as an author (as it is not human), but the work created by AI may be discussed as copyrightable subject matter which makes challenge for existing copyright system. In this context, the terms 'work' and 'output' needs to be differentiated in respect to AI-generated works.

AI generated work is the result of mechanical work of AI system. However, it can be original, new that has not existed before. Although it can be original, creativity in that work is questionable. Because creativity is the conscious and moral point in the originality concept which attributes the human (the author) and the human labor.

Keywords*: copyright protection, originality, Artificial Intelligence, AI-generated creativity, difference between 'work' and 'output'*

Intellectual Property is the "creations of the mind" [16]. As one of the categories of IP, copyright protection provides certain exclusive rights to the creator (author) for his creative work. Protection provided for the creators is aimed to incentivize creativity through economic rewards and recognition of the creators. [17] Criteria for eligibility of copyright protection has been prescribed under the Berne Convention for the Protection of Literary and Artistic Works 1886 [3]. According to Article 2 of the Berne Convention, protected works include, but are not limited to literary and artistic works, derivative works, and collections.

The subject matter of copyright protection includes every production in the literary, scientific, and artistic domain; in any mode or form of expression provided, they are original creations. It means that there is not any interdependence between eligibility of copyright protection and the content of the work. Any form of expression is sufficient to be eligible for copyright protection provided it is original. Two necessary conditions for copyright protection for 'human-generated work' have been recognized: 1) the subject matter; and 2) the author.

Based on the above-mentioned criteria for subject matter of copyright protection, the main conditions of the work to be eligible for copyright protection are 1) fixation in any form, and 2) originality. Fixation refers to any form of embodiment on any tangible medium. Mostly national legislation establishes fixation as a requirement for copyright protection. Originality refers to the creative work of the author. For being entitled to copyright protection,

"An author's works must originate from him; they must have their origin in the labor of the author" [15, p.42].

It means that, the 'work' defined under the frame of copyright protection requires to have an author. Originality is attributed to the interrelationship between the author and the work (which reflects the labor of the author). The concept of "original" in copyright protection means that the work is created independently by the author and the work attains minimal degree of creativity. [7] Creativity refers to the expression of

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oneself in any form. Creativity is the main point within the concept of originality which refers to author's intellectual production. An original work attributed to the author is a work that is protected by copyright. Copyright protection does not cover facts or ideas as such. But original arrangement, creative choice by the author or original selection entitles the compilation or collection to copyright protection.

In the Berne Convention, the concept of author is not clarified, however it seems from the text that "authors who are nationals" of one of the countries of the Union are provided with protection. Thus, the author is the human, and that person (human) is deemed to be the creator of the work. Further, in the Berne Convention it is also mentioned that "authors enjoy the rights in respect of works for which they are protected" (Art. 5). Article 2.6 of the Berne Convention says that "This protection shall operate for the benefit of the author and his successors in title". It means that authors enjoy the rights for the work that they have created. In the Berne Convention, "rights of the authors in their works" have been stressed, but the term 'author' has been left open. However, case law clarified this concept in various legal systems. The term "author" has been accepted as "he to whom anything owes its origin; originator; maker" [5], and thus the copyright protection implies to human creations reflecting author's personality and expression of his free and creative choices [6]. "Consciousness" is one of the most disputed elements attributed to the human in respect to copyrightability of the work. But this is important to note that "consciousness" implies "neuralness" as well. It means that creativity process is somehow perceived by the person through senses. As it is accepted by case law purely mechanical labor which is creative and mechanical as such are not considered as creative. [5]

The concept of "authorship" in classic copyright protection system is generally attributed to the human person. In most cases, aim of copyright protection policy is to incentivize the human authors to create new works for the benefits of society. [14, p.4] From different approaches to Intellectual Property, such as labor [10, Ch.V] (According to John Locke's "Labor theory of property'' the fruits of one's labor's is his own, because that person worked for it) or personality [8] (Origin of personality approach is associated with G.Hegel's philosophical theory about human will and reason which refers to subjective and objective mind reflected in the property) approach, copyright protection is directly linked to human. So that, the work reflects the personality of the author (human person), or labor of the author. From utilitarianism point of view, the human audience in common get benefits from copyrighted works and ownership exceptions. [11, p.599] A utilitarian approach implies the concept of social welfare and, according to that, the authorship for a work brings social benefits to society.

In the discussion over copyrightability of AI-generated work, the concepts of author, work and fixation need to be clarified in the light of technology development. Those questions have been issued in relation to the emergence of computer-generated works or AI-generated works in line with advancement of technology. On this occasion redefinition of the term 'authorship' to include both human and non-human authors are being discussed. [12]; [13, p.659]; [2]

When arguing the question of copyrightability of AI generated works, it is important to clarify several questions such as whether AI can be regarded as an author under the existing copyright protection system; whether that is possible to regard AI as a person or as a right-owner; whether they should be considered as author; etc.?

Based on the established requirements for authorship and the work which have been recognized in the relevant IP legal instruments, AI is not directly entitled to be considered as an author (as it is not human), but the work created by AI may be evaluated as copyrightable subject matter and this makes challenge for existing copyright system. The reason is that, the terms 'work' and 'output' needs to be differentiated in respect to AI-generated works.

Crucial interrelationship between the author and the work leads to copyright protection. This interrelationship in human-generated work implies to minimum level of creativity which leads to originality and attribution of it to the author which means to be intellectual labor of the author. Criteria for minimum level of creativity is not definite by now. But the degree of originality has been argued in case-law, and resulted in the point that there is not requirement for high level of originality or creativity in copyright protection. The uniqueness of the personality of human has been taken as a main line and evaluated as a prerequisite for copyright protection. [4] The originality standard in copyright protection has been accepted in such a way, because of considering the work to be original needs not to be copied from any other work. [1]

Similar interrelationship prescribed in the legal instruments does not appear clearly in respect to AI-generated work. However, in line with development, AI can produce complex creative works based upon various multiple neural networks. Those works may be even non-distinguishable from the work created by human.

Time-by-time authorship held by computer programs or algorithms is called as algorithmic as it is based on neural work of the brain. [9] The source of AI-generated creativity is algorithm which takes its origin from human labor or mind. Any production which is AI-generated work is the result of mechanical work of AI that is structured by humans. From this perspective, even the output generated by AI cannot be considered "work" in the sense of copyright protection. That is to say, the end result of AI processing is the output which is mechanical fruit of processing. It is not the work which reflects the labor, personality, and creative choice of the creator as a copyrightable subject matter.

The other point in this case is about the labor put in the AI processing. Before AI to generate a creative work, there must be various inputs to be included to AI structure. These inputs cover data which should comprise comprehensive information to be sure in the result whether it is right and logical. And this demands labor of not one person or system, but several. Next Rembrandt Case [18]; [19]; [20] may be example of it. This AI system is based on data, data analysis and use of data in a well-organized multi-layered and qualified way to generate new work which in the end is a labor of lots of people in combination with technology.

Thus, originality of AI is mechanical based on data analysis and data processing. It is not an intuitive or conscious job. There is some definite logic behind the work of AI in data processing and data analysis. The result (work) may or may not be known to the programmer or may be unpredictable and this does not imply any significance.

In respect to human labor in AI, human person also takes origins of creativity from various sources including previous knowledge and experiences, environment etc. It means that human input structured on AI systems does not make absolute block for providing copyright protection to AI generated works.

AI generated work is the result of mechanical work of AI system. Although it is mechanical, it can be original, i.e., new that has not existed before. Even if the AI-gene-

rated work can be original, but concern about creativity in the work is questionable. Because creativity is the conscious or moral point in the originality concept which attributes the human (the author) and the human labor. The conscious interrelationship between the author and the work does not clearly appear in the case of AI-generated work.

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FEMALE AWARENESS IN THE CRIME OF ADULTERY: DIFFERENCES BETWEEN THE SHARIA AND ARAB GULF STATE LAWS

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Abstract

This study examines the differences between the criteria used in Islamic Sharia and the Arab Gulf states' laws to determine the age of women's criminal responsibility and awareness of the crime of adultery, while highlighting how such variations affect international cooperation among these countries to combat adultery. Accordingly, we adopt the comparative-analytical approach to examine the legislative texts of the Gulf Cooperation Council countries and the Sharia. The Sharia is clear on its stance wherein awareness is determined either by a physiological criterion or through a mathematical standard for both men and women. Some have adopted the Islamic rules, while others, their own rules, leading to a divergence. Consequently, a woman can be criminally responsible in one country while being considered a victim in another. These differences in the legal requirements for female awareness may hinder the extradition and mutual legal assistance required to address adultery offences in Gulf Arab states.

Keywords: *adultery; Sharia; female awareness; Gulf Arab states; comparative analysis.*

Before the present-day Gulf Arab states were established in their current form per the concepts of international law, they have been connected by many ties amongst their people. Through these links, these states have formed close relationships at the social, cultural, religious, and economic levels, leading to the cementing of such ties in a political form, that is, the Gulf Cooperation Council (GCC) in 1981. The GCC aims to achieve high integration and development in all areas of state and societies. Article 3 of the Charter of the GCC refers to the cooperation and integration among the members across various levels and areas, including the legislative and administrative affairs, which would also help strengthen the interdependence of GCC countries' internal laws.

These states share almost identical cultural, social, and religious ties; as such, these similarities have been reflected in the philosophy of their national legislations in the creation of internal laws, specifically regarding their system of values and interests. Consequently, the contents of these internal laws have converged, particularly regarding the Penal Code. Sexual crimes are at the forefront of this convergence, with two main considerations. The first is the Gulf Arab states' adherence to religious texts that prohibit sexual intercourse outside marriage. The second is the regulation of women's presence in public in Gulf societies and its association with social concepts such as innocence and purity. These considerations have been commonly observed in the criminal remedies for adultery crimes in the penal laws of these countries.

Right after its establishment, the GCC, sought to bring its penal laws into practice. However, adultery was already considered a criminal offence in the penal laws of the member states, even before the Council was established. The Gulf Arab states started establishing their own penal codes since the end of the 1950s, as can be seen with Bahrain's Penal Code of 1955, which was repealed by the subsequent Penal Code of 1976; the Kuwaiti Penal Code of 1960; and the Federal Penal Code of the United Arab Emirates (UAE) of 1987. The UAE Penal Code and the Omani Penal Code of 1974 were repealed by the current Penal Code of 2018, and the Qatari Penal Code of 1971 was

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repealed by the Penal Code of 2004. Saudi Arabia also adopted the 1902 Islamic law, as established in the Qur'an, Sunnah, and the opinions of the jurists.

All these penal laws contain direct provisions that criminalise adultery between men and women. Nevertheless, this legislative convergence that stemmed from the proximity of the community culture among the Gulf Arab states, could not be fully practiced owing to the following reasons.

First, the basis of the legislative system of the Gulf Arab states varies, as some of these countries (e.g., Saudi Arabia) strictly follow the Sharia, while other states (the UAE and Qatar) may have their own legal systems but may still follow definitions and punishments of the Islamic law, as in the case of adultery. By contrast, Kuwait, Bahrain, and Oman's stance on adultery is not at all linked to Islamic law.

Second, because of the difference in the countries' legislative systems, the concept of adultery in the penal laws of the Gulf Arab states also varies. There is a fundamental difference in the legal basis of the penal laws in the Gulf Arab states, whereby adultery, is more broadly defined in Islamic laws than in positive laws. Islamic law includes all sexual contact between men and women. By contrast, adultery in positive laws requires the offender (male or female) to be in a marital relationship, which can be persecuted by a different punishment category from crimes of similar weightage in the Gulf Arab countries.

Third, the minimum age at which criminal responsibility for adultery can be assigned for women differs among the Gulf Arab states. Countries that have adopted the Islamic law in their treatment of adultery consider physiological puberty while determining criminal responsibility, increasing the possibility of prosecuting the offender criminally. Meanwhile, the states that have adopted positive laws consider the age of the accused during criminal prosecution. This difference in approach has led to a discrepancy between the adultery laws between different countries. That is a woman can be held criminally responsible in one country but deemed not responsible or even a victim in another country if puberty and age requirements do not coincide. This discrepancy can erect legal barriers for international cooperation among Arab Gulf states.

Some Gulf Arab states have a distinct criminal treatment for women accused in sexual crimes, including adultery. For example, a different age could be set, crossing which a woman is considered responsible for her sexual behaviour. This approach has been adopted in the laws of Kuwait and Bahrain; while criminal responsibility is set at the age of 18, adultery laws do not consider the consent of a woman who has not reached the age of 21. The same applies to the laws of the UAE, Qatar, Oman, and Saudi Arabia, which do not consider women's age in adultery crimes but follow mixed standards between Sharia and other laws. Consequently, the achievement of symmetry and convergence in the penal legislation of the Gulf Arab states is hindered. Given this context, we highlight three major studies in the literature discussing the discrepancy in the penal legislation of different Gulf Arab countries. The first study compared the general differences between the penal code and Islamic law without delving deeply into adultery and sexual crimes. [1] The second study dealt with the relationship between the Kuwaiti penal law and Islamic law regarding the crime of adultery without referring to the difference in their positions on the issue of female perception during the crime and differences with other Gulf countries legislations. [2] The third study dealt with the issue of adultery from the perspective that the treatment of this crime in the country's penal code overlaps with that of other sexual crimes, but without considering the issue

of female perception or referring to the position of other Gulf countries. [3] However, not a single study has addressed the issue of female awareness in adultery. Thus, this study contributes to the literature by filling the gap in knowledge on women's awareness in the crime of adultery and the differences between the Sharia law and Arab countries' penal codes.

By addressing the aforementioned gap in the literature, this study answers questions that have not previously been answered in jurisprudence, whether Arab or Islamic or others and, through its findings, hopes to offer the GCC some guidelines for future legislative amendments and unified solutions for this issue. The study's findings would also help understand the dimensions involved in adopting an Islamic legislative rule within the context of positive laws.

Accordingly, we adopt a comparative analytical approach to highlight the difference in women's age for criminal responsibility in adultery crimes between Islamic law and the laws of the Gulf Arab states, to investigate the rapprochement sought between the GCC countries, and the extent to which these countries converge with respect to their internal laws. Such an investigation requires us to look into the age of criminal responsibility for women in adultery crimes under Islamic laws and under the positive laws of the Gulf Arab states.

I. FACTORS FOR DETERMINING PUNISHMENT FOR WOMEN IN ADULTERY CASES IN ISLAMIC LAW

Islamic Jurisprudence provides the following conditions for defining the limits of adultery: (1) engaging in penetrative sex and other sexual acts outside of marriage, (2) the persons involved must have reached puberty, (3) the person involved must have been aware of the prohibitions against adultery while engaging in the act, and (4) the person is guilty unless there is adequate testimony proving otherwise. [4] We focus on the second condition, which is based on puberty and reason (mental capacity), from which it follows that the laws of adultery will not be imposed on children and insane people. The Messenger of Allah, peace and blessings be upon him, said, "The responsibility is lifted from three people: a sleeping person until he awakens, a child until he becomes an adult, and an insane person until he regains his sanity" [5].

Generally, puberty considered as the beginning of adolescence. However, in Islam, it is a time when boys and girls attain maturity and assume complete responsibility for their actions as adults. Puberty is marked by signs that are apparent and natural. In Islamic law, the common signs for boys and girls in their respective order are wet dreams, germination of pubic hair, puberty. [6] In addition to those common signs, girls' signs also include menstruation and pregnancy. Notably, these signs are definite (e.g., age) and not subject to differences, and some of them vary according to the differences among individuals (e.g., birth, germination, menstruation, and pregnancy). Puberty or maturity is considered to begin when someone starts experiencing nightfall, and this usually occurs no later than the age of 15. Moreover, if teenagers do not experience nightfall until this period, this is considered a birth defect. However, in terms of the legal and the penal system, 15 years is considered the threshold for assigning criminal responsibility in cases involving adultery, because late onset of puberty does not mean that the person is insane (in whose case the laws on adultery are not imposed). Accordingly, there are two main criteria for determining the age of puberty in Sharia law. The first is physiological and the second is based on age.

1. RELATIVE SIGNS OF PUBERTY: THE PHYSIOLOGICAL STANDARD

The relative puberty signs in jurisprudence are nocturnal emissions, germination of pubic hair, menstruation and pregnancy (for girls), with semen drop [7] being a sign of puberty for both boys and girls [8]. This point is supported by consensus among scholars such as Muhammad bin Daoud al-Dhaheri, Ibn al-Munther, and Ibn Qdamaa. [9] Pubic hair growth is also considered a sign of puberty based on the doctrines of Maliki and Hanbali, and a treatise about Abu Yusuf by Hanafi, which provides sayings from the ancestors of the sect chosen by Ibn Hazm, al-Shoukani, al-Shangiti, Ibn Baz, and Ibn Othimeen. [10]

The evidence on the signs of puberty mentioned above, first came from the **Sunnah** about Attia al-Qurazi, who said: "I was a prisoner of war, so whoever had hair in the pubic area was killed, and whoever had no hair was not killed." [11] Therefore, it may be inferred that pubic hair is a sign of puberty in Muslims and non-Muslims alike. Further, it is pointed out that the conclusion from this was an achievement against Muslims, specifically regarding Islam and age. [12] Second, germination of pubic hair is a process that is presented at the time of puberty and is associated with semen production. [13]

The next sign of puberty among girls is menstruation. If a teenage girl is menstruating, she is considered to have reached puberty and womanhood and thus, is answerable petitions as evidenced by the consensus conveyed by Muhammad bin Daoud al-Dhaheri, Ibn al-Munther, and Ibn Imama. [14] Finally, pregnancy is considered a sign of puberty in women as agreed in four jurisprudential doctrines: Hanafi, Maliki, Shafi and Hanbali because these doctrines provide proof of relegation. [15] From this stage, women are considered, according to the Islamic physiological criterion, fully aware and criminally responsible for the crime of adultery, regardless of their age. Given that the physiological criterion is subject to the structure of the human body and its hormonal and physiological aspects, the difference in criminal responsibility in the crime of adultery between women and men in the Islamic perspective is not surprising. This is because the signs of puberty differ between men and women and are more prominent in the case of women. This impacts the age of puberty and who is liable to criminal responsibility.

2. DETERMINING THE SIGNS OF PUBERTY (BASED ON AGE)

In Islamic law, if a boy or girl does not show signs of puberty by the age of 15, he or she will still be considered an adult when he or she becomes 15. This ruling is based on the age criteria, as per the doctrine of the Shafi'is, Hanbali and Hanafi leaders such as Abu Yusuf, and Mohammed. Abu Hanifa, may God rest his soul. provides evidence for this doctrine based on an incident of Ibn Omar, may God rest his soul, who said: "The Messenger of Allah inspected me on the battlefield on the Day of Uhud, and I was fourteen years old. He did not allow me (to take part in the fight). He inspected me on the Day of Khandaq-and I was fifteen years old, and he permitted me (to fight)." In agreement with this point, Ibn Qdamaa said: "As for age, puberty is [reached when someone is] 15 years old."

In Kitab ul Umm, al-Shafei said: "The boy does not have to perform Hajj until the boy reaches puberty, and the slave girl menstruates at any age they have reached, or they have completed fifteen years of age." In Kanz Aldaqayiq, he said: "The male[s] and the female[s] are 15 years old." This statement has the agreement of Abu Yusuf and Muhammad (may God bless them), al-Shafei as well as a novel about Abu Hanifa.

However, al-Maliki argued that puberty, when there are no other signs, is reached at 18 years of age. Khalil said in his abbreviation: "The boy or girl reaches 18, or wet dreams, and for girls the puberty signs are menstruating and pregnancy" In his other novel, Abu Hanifa argued that when there are no signs, puberty is reached when a male (female) is 18 (17) years old, as mentioned by the author.

It has been previously mentioned that those who have reached this age are considered reasonable and responsible for all the words and actions they commit. The wisdom in doing so, has been provided by al-Suyuti, who said:

The wisdom in declaring [them] responsible at the age of fifteen: It is the age of marriage, and the desires like lust, eating and other are increased in this age. The desires urge the person to commit sins and stop from good deeds, unless he controls himself and avoid[s] them. Wisdom gets complete and man has full strength in this age. So, according to God's wisdom he should be responsible and if he commits the crime with all his wisdom and strength he should be punished.

Thus, we conclude that the limit of puberty is the completion of 15 years, both for male and female individuals, based on the doctrine of Shafi and Hanbali, and the saying of Abu Yusuf and Muhammad bin al-Hassan from Hanafi texts, wherein, some of the ancestors were said to have chosen by Sanani, Showkani, Ibn Baz [16], and ibn Othimeen. [17] The evidence from the Sunnah**,** ibn Omar, may God bless them, is that the Messenger of God (peace be upon him) offered him on Sunday, the son of 14 years; he said, "He did not reward me and then he offered me the day of the trench, and I am fifteen years old, so he passed me." [5] Second, the influencing factor is in the fact that the mind is the "origin in the door." [7] Based on the mathematical standard in Islamic Sharia, it is arguable that a woman at the age of 15 is accountable for the crime of adultery, regardless of the appearance of the signs of puberty.

Based on Islamic rules, whichever criterion fits first, would lead to the consideration that the woman is fully aware of her actions and is thus responsible for the crime of adultery. On the one hand, this would make the standard flexible and vary from one female to another in terms of responsibility and awareness. On the other hand, the signs of puberty may appear before the age of 15.

II. ADULTERY IN THE CONTEXT OF ISLAMIC LAWS

In contrast to the context of Islamic law, the Gulf Arab states did not follow a specific methodology to determine the age of responsibility of women accused of adultery. This situation can be attributed to the differences between these states regarding the sources of legislation governing the crime of adultery. Even in their internal laws, they are not clear in determining the age when a female is responsible for the crime of adultery. Some Gulf Arab states (e.g., Qatar and the UAE) apply the Islamic law on the crime of adultery. Other states (e.g., Kuwaiti and Bahrain) do not follow the Islamic law in dealing with the crime of adultery [18], while Oman takes the guidance of Islamic law's provisions without clearly or explicitly adopting them in the provisions against adultery in law no. 7. [19]

Although the laws of all the Gulf Arab states criminalise adultery and agree on the same punishment, their definitions of the term adultery vary. Therefore, there are both similarities and differences between sexual intercourse-related offenses in adultery in accordance with Islamic laws and that in accordance with positive laws (see Table 1 for a summarized list of differences). Consequently, this affects the determination of the required age of responsibility for women in adultery offenses in states that have adop-

ted positive laws, those that have adopted the Islamic law (subsection 1), and those that have introduced status texts for such crimes (subsection 2).

Table 1: Differences in female awareness in adultery cases between the laws of the Gulf countries and Islamic law

Country	Responsibility Criteria	Awareness Criteria	Awareness Signs
Kuwait	Awareness	Age Standard	**Adultery**: (15 years) **Other sexual offenses**: (21 years)
Bahrain	Awareness	Age Standard	**Adultery**: (21 years) **Other sexual offenses**: (21 years)
Qatar	Awareness	Adultery: signs of puberty Other sexual offenses: Age standard	**Adultery**: Signs of puberty or 15 years of age, whichever comes first. **Other sexual offenses:** (16 years)
United Arab Emirates	Awareness	Adultery: signs of puberty Other sexual offenses: Age standard	**Adultery**: Signs of puberty or 18 years of age, whichever comes first. **Other sexual offenses**: (14 years)
Oman	Awareness	Age Standard	**Adultery**: (15 years old) **Other sexual offenses**: (15 years)
Islamic law	Awareness	Age Standard/ signs of puberty	**All sexual offenses:** puberty by signs such as wet dreams, menstruation, pregnancy, germination, or reaching 15 years of age whichever comes first.

1. WOMEN'S CRIMINAL RESPONSIBILITY AGE IN ADULTERY CASES: STATES ADOPTING ISLAMIC LAW PROVISIONS

The Qatari laws have adopted a dual methodology for determining women's age of criminal responsibility in sexual crimes. The first methodology relates to sexual intercourse crimes in which the age of 16 is set as the basis for differentiating crimes involving women's consent. The second methodology deals with crimes involving force or coercion, in which the consent of a female aged below 16 years is not considered. This is stipulated in Article 281 of Qatar's Penal Code No. 11 of 2004, which reads, "Anyone who has sex with a female that has reached the age of 16 withut coercion, threat or trick,

shall be punishable with imprisonment up to seven years." However, this provision limits punishment to men but not women because a female is considered a victim and not an offender. This conclusion is based on Article 282, which criminalizes incest and punishes any male who has sex with a female aged below 16 years. The second paragraph of the article says, "Punish female by the same punishment if she accepted to be subjected to Actus Reus, knowing that it is forbidden."

The second legislative treatment is for adultery offences: Article (1) of the Qatari Penal Code stipulates that "The provisions of Islamic law apply in relation to the following offences if the accused or victim is Muslim: 1-Hudod offences relating to theft, robbery, adultery, libel, drinking and apostasy." In this text, the term "Islamic law" has been used in a general sense, encompassing both sides of the crime: the conduct of the criminal and the applicable punishment. The provisions of Sharia (Islamic law) have been interpreted through the four doctrines of jurisprudence, which shed light on how to determine the age at which a female is considered criminally liable, as discussed in the first section. Qatari law has adopted in all its provisions the Islamic doctrine of Hanbali, stated through the text of Article III of Law No. 22 of 2006 on the Family Code. The law states that "In what is not contained in this law, it shall act under the provisions of the *Hanbali Law, unless the court considers the introduction of others, for reasons indicated by* the court" [emphasis added]. The Hanbali doctrine has several standards to determine female puberty, including physiological signs such as wet dreams, hair growth, menstruation, and pregnancy, or mathematical standards according to the age. Moreover, most jurists say that the Qatari law shall be in accordance with the doctrine of the Hanbali, setting the age of 15 as the age when women reach the stage of full legal responsibility. [1, p.298]

However, it seems that the Qatari judiciary is not in agreement with the Qatari law because based on Article 281, the Qatari judiciary views the approved age for female responsibility to be 16 years for crimes of sexual intercourse with consent [20]. Thus, the Qatari judiciary has excluded the female age from being subject to the provisions of Islamic law according to Article 1 of the Qatari Penal Code and applies the positive law treatment in accordance with the principle of *Tazir* crimes (crimes created by the ruler based on God's delegation).

The same applies to the UAE's Federal Penal Code No. 3 of 1987, where a specific age (i.e., 14 years) is stipulated to justify the consent of the perpetrator (female or male) of a sexual offence. Therefore, consent of those under the age of 14 is not considered and thus, having sex with them would constitute a crime of coercion or indecent assault.

As for adultery offences, the UAE Penal Code applies the provisions of Islamic law and its first article states that "The Islamic rules should apply to Hudod crimes, Tazir and Qusas crimes, and the Tazir crimes and its punishments are determined in accordance with the provisions of this law and other penal laws." The Emirati law adopts the doctrine of Imam Malik, then the doctrine of Imam Ahmed, then Shafi and then Abu Hanifa, as stated in the third paragraph of Article II of the Federal Law No. 28 of 2005 in relation to personal status. Since Imam Malik's doctrine is based upon the female responsibility according to the signs of puberty such as wet dreams, hair growth, menstruation, and pregnancy, he also identified a definite standard in the absence of such signs at the age of 18. Therefore, the UAE law establishes two criteria for female responsibility for adultery: either a physiological criterion of puberty or a mathematical

standard of 18 years of age according to Imam Malik's doctrine. The UAE judiciary confirms that the legislative standard is based upon the physiological criterion as an application of the Islamic law. [21]

2. WOMEN'S AGE IN THE CRIME OF ADULTERY: STATES NOT ADOPTING ISLAMIC LAW PROVISIONS

Contrary to the penal laws of Qatar and the UAE, the penal laws in Kuwait, Bahrain, and Oman are quite different with regard to determining women's age for sexual offences in general and in adultery in particular. The first of these differences is that the penal laws in Kuwait, Bahrain, and Oman have not adopted the physiological signs of puberty for punishment but rather follow a definitive and clear standard focusing solely based on age. However, some of these laws came about in a state of ambiguity that was reinforced by the differences between the jurisprudence and judiciary.

Kuwait's Penal Code No. 16 of 1960 deals with the age of women in sexual offences on two scales. First, the age criminal responsibility of a women considered in sexual intercourse offenses is set at 21 years, based on which, they can be held accountable as perpetrators both in the crime of sexual intercourse with consent (Article 194) or the crime of incest (Article 189). Second, in its general rules, Kuwaiti law considers the age of criminal responsibility to be set at the age of 18 years and establishes special criminal treatment for women based on age under the rules of civil liability by raising the age of responsibility for sexual offences to 21 years. [2, p.556]

As for adultery, which is used by Kuwaiti and Bahraini law to describe sexual intercourse amongst those in which at least one person is married, Kuwaiti law is more ambiguous in its article 195 of the Kuwaiti Penal Code, which states that "Every married person who has sex with a female that is not his/her wife, and is satisfied with this, and is caught in the act is punishable by imprisonment not exceeding five years and a fine of not more than three hundred and seventy-five dinars or one of these punishments." Notably, the Kuwaiti Penal Code, when establishing a woman's responsibility for the crime of adultery, did not indicate her age in the crime of sexual intercourse (among unmarried parties). This raises the question of whether a married woman who has not reached the age of 21 is responsible for the crime of adultery.

Adultery crimes in which the female was a minor has not been tried before the Kuwaiti judiciary except in rare sentences that considered the crime of adultery involving a minor female who had not reached the age of 21. Some jurists support the position adopted by the Kuwaiti Court of Cassation based on Article 195 of the Kuwaiti Penal Code, which does not mention the age of the woman unlike the law governing the crime of sexual intercourse with an adult female's consent that considers age responsibility. [3]

As per the Kuwaiti law, a woman below the age of 21 is not liable for the crime of adultery. In such cases, the legislator, based on article (197) of the Kuwaiti Penal Code, gives a victim's husband the right to suspend the proceedings in a case or suspend the execution of the sentence. Suspension of the execution of the final sentence also does not go through the provisions of article 194 when the Kuwaiti law does not allow the victim's husband to be prosecuted in accordance with another description of the act, namely, the crime of having sex with an adult female despite her consent. The law is explicit, as it limits the prohibition of the offence of an adult female to her consent if the victim's husband makes a waiver without article 188 addressing the position of a female

who is under 21 years old. This means that the law was made without envisaging the crime of adultery committed by a married female under the age of 21 that is in accordance with the provisions of the crime of adultery in Kuwaiti law. [23]

Bahrain's Penal Code No. 15 of 1976 does not differ from the Kuwaiti penal code, especially since Bahrain's previous penal code of 1955 is the historical source of Kuwait's penal code [28]. These penal codes have established the offence of adultery in accordance with article 316 and the law of consent, based on article 345 of the Penal Code. They do not specify the female's age for the crime of adultery, in contrast to situations that deal with the crime of position with consent, where the article stipulates that:

Anyone who has sexual intercourse with a female who has completed fourteen [years] and has not completed sixteen years with her consent shall be punished with imprisonment for a period not exceeding twenty years. Anyone who has sexual intercourse with a female who has completed sixteen years and has not completed twenty-one years with her consent shall be punished with imprisonment for a period not exceeding ten years.

Bahrain's penal code also does not criminalise sexual intercourse between adults aged above 21 years.

Regarding the crime of adultery, the first paragraph of article 316 of Bahrain's Penal Code stipulates that, "An adulterous husband [24] shall be punished with a maximum of two years' imprisonment" without specifying the age of both the female and the male. From the aforementioned article, it is unclear whether Bahrain's penal code assesses the responsibility of a 21-year-old woman for adultery? In fact, a female under the age of 21 is not considered for the crime of adultery according to article 345 on the position of consent. This article is used for the consent of women older than 16 but younger than 21 years, but this reliance is not for establishing responsibility for the crime. It is the criminal's responsibility as an actor in the crime to assess the punishment for the male perpetrator, which is referred by the Bahraini judiciary. This judiciary condemned a perpetrator in a crime of sexual activity of a female younger than 21 years of age without assessing her criminal responsibility, as the provisions of the Bahraini Penal Code - regarding women who have not reached this age and but were active participants in the crime of position - was not taken into account [25].

Since a woman under the age of 21 is not an actor in a crime of consent, she is accordingly not supposed to be responsible for the crime of adultery. Therefore, for the same reason, the Bahraini legislator (similar to the Kuwaiti legislator) does not provide completeness. How a woman under the age of 21 is perceived in any sexual intercourse does not change how the female nature is perceived because the legislator has created a definitive offence depending on age and not on personal experiences for both situations; in marriage or outside of it.

In Omani law, the treatment of a woman's age is different from that in the Omani Penal Code issued by Royal Decree No. 7/2018. It limits the wording of sexual intercourse offences carried out with consent with the word adultery as the title of Chapter 5 of section 5 of the Law in accordance with the provisions of articles 225 and 226. Article 225 stipulates that, "Every man and woman who committed the act of intercourse without having a proper marriage shall be punishable by a minimum of three months' imprisonment and not more than one year for any man and woman who committed the act of intercourse without having a legally valid marriage contract." Article 226

stipulates that, "Any married person who has sexually contacted other than his spouse shall be sentenced to at least one year's imprisonment and not more than three years' imprisonment. The partner is punishable by the same penalty." It is assumed that marriage will take hold unless otherwise proven.

The Omani law also does not specify a woman's age for accountability in both types of adultery, whether married or unmarried, which raises the question of the age at which she can be proven criminally liable. However, the Omani Penal Code has a provision regarding what is punishable by imprisonment for any person, without specifying the gender, if he or she is under the age of 15 in accordance with article 218, paragraph 3: "An act shall be punishable by *five to fifteen years' imprisonment: 3: anyone who has committed debauchery in a person under the age of 15 or who has a physical or mental deficiency, even if the act occurs without coercion, threat or trickery"* [Emphasis ours]. Accordingly, Oman's Penal Code has addressed the age of women during sexual intercourse from two perspectives:

-It does not consider the consent of a woman under the age of 15 in any sexual contact, and

- It does not specify the age for a woman to be held criminally responsible for any sexual contact with consent.

When referring to the rules for determining the criminal liability in the Omani Penal Code, we find that it has established a reduced penal liability regarding punishment for juveniles in accordance with different Sunni controls. The first one is for juveniles who have reached the age of 13 and have not completed the age of 15, where this age is considered to be the basis for inflicting a reduced sentence on the juvenile based on article 106 [26]. The second one is for juveniles who have reached the age of 15 and have not completed 18 years of age, where they are subject to a greater reduction of penalties than those based on article 107 [27]. Accordingly, the female is criminally responsible at the age of 13 in accordance with the general rules of the Omani Penal Code, but the Omani legislator does not consider the age for sexual offences, and a 15-year-old female is deemed accountable for adultery offences. Therefore, the female is responsible for the crime of adultery once she reaches the age of 15, but she is not punished for the full crime as long as she is not 18 years old.

III. CONCLUSIONS

This study showed that the Arab Gulf states' cultural, social, and religious ties have led to the general framework for the criminal treatment of certain sexual offences in these countries. Moreover, relative convergence of the laws has been achieved but without conformity in the punitive policy concerning women's age of criminal responsibility in adultery cases, for several reasons. The first is the difference in the basis of the penal laws of these countries. The second is the mixed application of Sharia and positive law texts in some countries such as the UAE and Qatar. This has generated an inconsistent hybrid treatment, which is the main problem in determining the women's age in specific crimes. In addition, the age of criminal responsibility for female sexual offences has been raised in some countries such as Kuwait and the Kingdom of Bahrain, which increased the gap between them and other Gulf Arab states, hindering the convergence in their punitive policy regarding this crime.

Specifically, the different conceptions of the term "adultery" among the Arab Gulf states' laws and the discrepancy in the standard of awareness in the crime of adultery adopted in these countries impede international cooperation with respect to extradition

and judicial delegations. This stems from the fact that judicial cooperation can only take place when the state from which extradition or cooperation is required recognises a person as an "accused." However, as mentioned above, the same woman may or may not be considered the "accused" between these countries, and the discrepancy in the standard of awareness may lead to recognising a female as criminally responsible in one country while being a victim in another. As a result, the consequences of judicial applications of legislative texts will be different from one state to another state and creating a kind of instability regarding legal positions and an escalation of disputes among the GCC countries regarding cases of extradition and judicial delegations.

Undoubtedly, this study has limited its scope to the issue of women's awareness in adultery crime, but the reality proves that many other differences at the level of criminal policy in other legal texts (crimes) need future and comprehensive studies to find integrated solutions to the problem of incompatibility. Consequently, without reconciling this issue, international cooperation between Arab Gulf states regarding the crime of adultery is likely to fail

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4. The term "suspicion" refers to the situation in which the matter is in the circle of, and there is no certainty in it.

5. M.A. Bukhari, Saheh al-Bukhari, Dar Toq Alnjaat: Syria, 2001. p. 533.

6. Puberty is the time in life when a boy or girl becomes sexually mature. It is a process that usually happens between ages 10 and 14 for girls and ages 12 and 16 for boys. It causes physical changes, and affects boys and girls differently.

7. Semen drop while sleeping means to drop semen in a dream, and in his judgment, to drop in vigilance, whether by intercourse or otherwise.

8. A.A. al-Kesaniee, Badea al-Snaaea, Dar Al-Kotob al-Elmia: Lebanon, 1986, p. 435.

9. D. Al-Dhaheri, 2004; M.I. Al-Munther, Al-Egmaa, Dar Al- Muslim Publishers: Saudi Arabia, 2004, p. 411; M.I. Qdamaa, Al Mognee, Cairo Library Publishers, 1968, p. 312.

10. Qdamaa, supra note 8, p. 313–314; M.I. Abedin, Hashit Ibin Abedin, Dar al-Feker: Lebanon, 1992, p. 123; Hajar 2008, A.I. Hazm, Al-Mohala, Al-Muneria Library Publishers, 1933, p. 711; M.I. al-Shawkani, Fateh al-Qadeer, Al-Marefaa Publishers: Cairo, 2013, p. 423; M.A. al-Shangiti, Adwaa Albian, Mojama Jeddah al-Feqhee al-Islamee: Saudi Arabia - 1996. P. 344; M.S.I Othimeen, Al-Shrh al-mumtea, Dar Ibn al-Jawzi: Saudi Arabia, 2002. p. 125; Imam Ibn Baz said, "Puberty is reached in three circumstances. First…, Second: the germination of rough hair around the vulva, which is called pubic hair. As a result, if the man or woman has gained this bodily sign, he or she becomes an adult and must pray, fast Ramadan, do Hajj if he can (finically and healthily). A.A. I. Baz -Fatwas Noor Ala Adrb, Voice Recorder Program, Al-Mktaaba al-Shmelah, 1992, p. 33–34.

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14. Daheri, supra note 8; Al Munther, supra note 8; I. Imama, 1968.

15. Abedin, supra note 9; O. al-Qurtobee, Alkafé, Riyadh Modern Library Publishers, 1980, p. 212; Al-Nwowee, supra note 10, p. 113; Qadamaa, supra note 8.

16. Ibn Baz said, "Reaching the puberty through three signs: one of which is to complete fifteen years, if he completes fifteen years, he becomes a man, and so is the woman" (see Baz, supra note, 9, p. 33–34).

17. A. al-Maroodee,Al-Hawee, Dar Al-Kotob al-Elmia: Lebanon, 1999, p. 75–76; Al-Kesaniee said, "The scholars differed regarding the lowest age to which puberty relates." He added that "Abu Yusuf and Muhammad, and Shafi'i, may God rest their soul, said: reaching fifteen years is the standard to distinguish between a child and adult" (Al-Kesaniee, supra note 7, p. 172);; Al-Qurtobee, supra note, p. 123; M. al-Sanani, Sobal Aslam, Dar al-Hadeeth, n.d., p. 277; Al-Shawkani, supra note, p. 413; Ibn Baz said, "Reaching the puberty through three signs: one of which is to complete fifteen years, if he completes fifteen years, he becomes a man, and so is the woman" (see Baz, supra note p. 33–34); Qthimeen, supra note , p. 124.

18. Kuwaiti law contains three provisions that criminalise adultery in accordance with Law No. 16 of 1960, namely, articles of 195–197. Bahraini law also deals with adultery in one text, article 316 of Law No. 15, 1976

19. Omani Law No. 7 of 2018 deals with adultery offences in three articles, namely, 225–227

20. This is according to the Qatari Court of Cassation. The Criminal Division is ruled under no. 431/2015.

21. Ras al-Khaimah Court of Cassation, Criminal Chamber, Appeal No. 14 session on September 30, 2007

22. A.Almanee, "The fact of incomplete awareness of the female in the crime of sexual intercourse with a female who has reached the age of fifteen and has not yet reached the age of twenty-one with consent - Commentary on Constitutional Court Judgment No. 4 of 2007 Issued on June 10, 2008", Kuwait University Law Journal, 2015, Issue 3, p. 35.

23. This is based on an explanatory note of the Kuwaiti Penal Code

24. It should be noted that the term "husband" refers to either the wife or husband in the Arabic language.

25. Judgment of the Bahraini Court of Cassation, Criminal Appeal No. 29 of 2005, session 12 December 2005

26. Article 106 of the Omani Penal Code

27. Article 107 of the Omani Penal Code

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TYPES OF SOCİAL MEDİA TOOLS: GAPS İN LEGAL REGULATİON

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Abstract

In the article, the types of social media tools and shortcomings in legal regulation are widely analyzed based on the diversity of opinions in the legal literature and international practice. Like the Internet, there is no generally accepted definition of social media. In general, positions commenting on social media can be classified into four groups: technical approach, social approach, legal approach and mixed approach. In the end, it is concluded that differentiating the types of social media tools is important in terms of impact on human rights and freedoms. Because depending on the purpose of these tools and means, shared content and scope of use, it is possible to determine both the role in the realization of specific rights and freedoms, as well as which rights and freedoms they pose a threat or risk to.

Key words: social media, rights and freedoms, social networks, media tools, legal approach, technical approach, social approach, mixed approach.

1.1. Concept of social media and legal approach to it

Social media, which is a combination of the word "social" and the word "media" of French origin, is considered a medium of social communication.

Social media means easy communication, continuous participation, free communication, being online, no time and space limitations, the ability to address many communities at the same time, and the ability to perform many activities (1).

Usenet, also known as the User Network, was the first foray into social media, founded in 1979 by Tom Truscott and Jim Ellis of Duke University as a discussion platform that allowed users to post social messages. Also in 1989, an open diary application called Open Diary was developed by Bruce and Susan Alberson (2) that brings together people who keep diaries.

The main objectives of social media are broadly listed in the Digital-2023-Global-Overview-Report - We Are Social (3):

keep in touch with friends and family	to spend leisure time	read the news
search for content (e.g. articles, videos).	to become familiar with what is written about oneself	to be interested in the type of occupation and the products of purchase and sale
product search	watch live broadcasts	share and discuss ideas with others
make new relationships	view content from your favorite brand	work-related networking or research
watch sports	Search for like-oriented communities and interest groups	share a post about your life
follow celebrities and events	fear of missing out - FOMO	supporting good actions and events

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Like the Internet, there is no generally accepted definition of social media. In general, we can classify the positions commenting on social media into four groups: technical approach, social approach, legal approach and mixed approach. All researchers who interpret social media in a technical direction offer almost the same interpretation, evaluating it as a group of Internet-based programs which is built on the ideological and technological institutions of Web 2.0 technology and allow user-centered creation and change (4). In other words, from technical aspect social media can be defined as all virtual media and tools that include web services where written, visual and audio content from users is shared as a product of Web 2.0 technology (5).

As a result of the development of new communication technologies, the traditional media consisting of communication tools such as newspapers, television, magazines, radio and telephone have begun to give way to social media. Because social media platforms make it easier for individuals to access information, a person who wants to buy a product can not only get information about that product, but also read comments shared by users of that product on social media. Most importantly, everyone has the opportunity to share, comment and discuss their thoughts and content they create on social media.

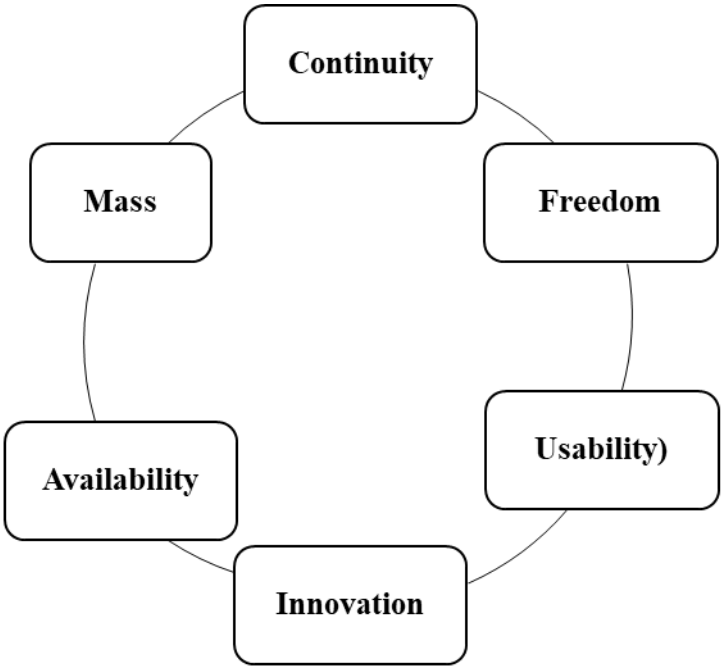
Interaction on social media platforms is faster and easier than traditional media, providing an interactive environment. Since its inception, the main purpose of social media has been to improve communication between people. As we know, traditional media has one-way communication. And in social media, since such communication is mutual, social media offers wider opportunities than traditional media. Here, communication means sharing any post, commenting on someone else's and one's own posts, transmitting information of various contents to others and such communication can be in forms of video conversation, voice conversation, direct message, private message, etc., depending on the used social media platform. Another feature of social media is that the element of reciprocity does not necessarily involve only two people. In addition to personal dialogue, users can also communicate collectively by creating groups with other users. It is these qualities that have determined the formation of social-oriented comments on social media. From this aspect, social media is a virtual environment in which written, audio and/or visual contents created, shared and accessible by users from all walks of life are transmitted to other users using internet tools. In short, social media is a social and virtual environment that is used to share, co-create, modify and discuss (6) and provides conditions for people to communicate (7).

In addition, there is a mixed approach to social media, in which the proponents of this approach present both technical and social elements in a unity and evaluate social media as web sites built on Web 2.0 technologies that ensure the creation of deeper and closer social interaction, the formation of collective opinion and the achievement of collaborative projects (8).

The interesting thing is that none of the mentioned approaches reflected the advantages of social media. For example, one of the most important features is that the services offered here, especially unlimited communication, are mostly free of charge. In fact, since many social media platforms like Facebook, Instagram, X and Tiktok are free to join, it is easy and affordable to take advantage of the sharing opportunities these platforms provide. That is why social media is characterized by the activity of users, which also affects the realization of rights and freedoms. For example, social media platforms, which are a comfortable space for freedom of information, opinion and

speech, also enable active participation of individuals in the life of society. There are many experiences that influence political decisions with such activity. Historical facts such as the Arab Spring (9), disinformation about the US elections (10), Chiapas-95 (11) can be cited as examples.

Thus, there are a number of characteristics that distinguish social media from traditional media, which can be considered as advantages of social media:



• Availability. Since publication in traditional media platforms is carried out by private companies or government agencies, certain funds are required for printing the paper form. However, social media is considered more affordable as such costs are not required for using social media platforms.

• Ease of use. Content production in traditional media requires specific skills and training. Anyone can create and share content in any form on social media platforms.

• Mass. Mass includes two aspects: mutual communication and the formation of a certain group (society). Users share their thoughts or experiences on social media by creating an agenda and creating a topic related to a particular topic or person. In other words, individuals easily create and share a community by communicating about topics and events they are interested in. By sharing the content produced by the person with other users, they allow them to comment, like, and at the same time, he can express his opinion about the content he wants, write a comment or reshare it. Interactions between individuals on social media can occur simultaneously or at different times.

• Sustainability. In traditional media platforms, content cannot be changed once it is created. For example, a newspaper or magazine cannot be changed after it is printed and published. And social media content can be re-edited.

• Freedom. Compared to traditional media, there is more freedom and liberty in social media. Some authors describe this feature as openness: Using social media and accessing content is very open and easy. Social media encourages individuals to give feedback, share ideas and information, comment and vote without barriers. It is possible to encounter obstacles only in cases permitted by law (12).

• Innovation (newness). The time lag in traditional media communication is longer than social media, and it has an immediate impact. The impact of social media on traditional media has begun to reduce this time gap. Time is fast on social media. Thus, the interaction is instantaneous. Also, the agenda on social media is fast. The flow is constantly changing and users are quick to keep up with the agenda and are open to change. Updates and current information are rapidly disseminated and shared with users (13).

The mentioned points have shaped the legal approach to social media. This approach can be analyzed in two directions:

- Legal understanding of social media;
- Interpreting social media in terms of human rights law.

When we look at the information law literature regarding the legal concept of social media, we notice that the given concepts actually contain mixed elements. A few examples are presented in the table below:

Different concepts given to social media	**Specific features**
Social media are Internet-based platforms that allow interaction between individuals or content to be broadcast to a wider environment and are more interactive than traditional broadcast media (14).	It is closer to a social approach, but also contains technical elements.
A social media platform is a platform provided by a third party that enables sharing, communication, connection and collaboration between individuals and organizations (15).	In addition to containing social and partly technical elements, it also presents a legal approach (a governance issue).
Social media means interactive web technologies used to access, post, and interact with text, images, video, and audio for the purpose of informing, sharing, promoting, collaborating, or networking, including commenting on content posted by third parties (16).	As a broader interpretation, it includes technical and social elements as well as social media tools.
Social media, unlike traditional media that delivers content but does not allow readers, viewers, or listeners to participate in the creation or development of content, refers to a type of online media that facilitates communication (17).	Considers social media as a variety of online media.
Social media is any mobile phone or internet-based tools and applications used to share and disseminate information (18).	It prefers a purely technical approach.

As it can be seen, the concepts given to social media in modern literature do not allow to fully define its legal content. In general, there are two distinct problems with

the conceptualization of social media. First, the speed of technology development makes it difficult to define the exact boundaries of social media. Second, social media services facilitate different forms of communication as other technologies allow. The question of which of these forms of communication should be included in social media is one of the urgent problems of the agenda. So, if social media facilitates communication between people, should tools such as telephone and e-mail also be considered social media? - It is possible to answer these questions by giving legal understanding to social media. If we look at the legislation of Azerbaijan, the first article of the Law on Media, covering the concepts, gave a legal interpretation to the online media. The main characteristic features are:

First, the Law rightfully excludes radio and television broadcasting, print media from online media.

Second, online media includes content posted on a website. Unfortunately, the Law does not provide an understanding of the website. The concept of a website is not given in the current legislative norms in the field of information. But there is a contradictory point here. From the analysis of many articles of the Law on Media, it seems that the website means Internet information resources (Articles 29.6, 30.5, 30.7, 41.6 and others). According to the norms of the Internet information resource in the Law on information, informatization and information protection, we can note that these resources are designed for the dissemination of information and do not carry the task of ensuring mutual communication. If so, to what extent is it correct to equate the website with an internet information resource? - In fact, in any case, the form of manifestation of the Internet information resource is websites. However, not every website can be considered as an Internet information resource.

Furthermore, if we limit online media to media entities (as the Law on Media requires), can social media platforms be considered online media? - One of the important requirements established in the Law is that the online media subject has a domain name. In accordance with Article 13-1 of the Law on Information, informatization and information protection, it must have a top-level domain name with a low country code. Considering that social media platforms have international domain names, then considering these platforms as online media does not correspond to the goals mentioned in the Law.

Thirdly, the Law on Media does not mean the creation of mutual communication and connection when it comes to online media.

Considering the above, we can conclude that the concepts of online media and social media do not have the same content and meaning. Especially since the range of subjects is different, although social media platforms are related to the online environment, they do not fully fall under the scope of online media. Therefore, there is a need to determine the legal concept of social media platforms in the legislative order. For this purpose, US legislation can be used as a more successful regulation than the experience of foreign countries. So, in the US, the term social media platform means a website or internet environment that includes:

a) allows a person to become a registered user, create an account or create a profile in order to allow the creation, sharing and viewing of content;

b) allows one or more users to create content that can be viewed by other users of the media;

c) serves primarily as a means for users to interact with content created by other users of the media (19).

Apparently, one of the main characteristics of social media is participation as a registered user, which is not characteristic of online media.

1.2. Types of social media tools: current challenges

The channels through which social media must exist are called social media tools or means. Let's look at the more common types of social media tools.

Social networks are social media environments where billions of people create personal profiles and use them for many purposes. Users can communicate with friends, neighbors and users on the other side of the world, share their knowledge and experience, shortly, the content they create. Social networks are not only intended for mutual communication, but are considered as a source of spread of many news related to everyday life. In addition, such networks also create conditions for real friendships. Friendships established in the virtual environment move to real environments by meeting and getting to know each other in real life. The first social network was called SixDegrees.

Thus, social friendship networks are virtual platforms where users communicate with their friends, find old friends and make new friends. Social networks allow you to create a public or semi-public profile within a site with defined boundaries, connect to other users' lists, and view their contact lists. Social networks are used not only for socializing and having fun, but also for people to communicate with each other, learn new information, and find work.

The most popular of social networks is Facebook, a social networking service where users create their own profiles, add other users as friends and communicate. Founded in 2004 by Mark Zuckerberg at Harvard University to enable students to communicate with each other, get to know each other and share information, Facebook is one of the most used social networks today and has more than a billion users worldwide (20).

LinkedIn, a professional social networking platform that aims to enable people in the business world to communicate, also aims to empower its users to connect with each other and enable them to share professionally.

Blogs, which are considered to be the first examples of social media, are websites where individuals write continuous and regular daily posts and comments. More specifically, blogs are modern diaries where users share their feelings, thoughts and experiences without the need for professionalism. The name blog is a combination of the English words web and blog.

The main features of blogs include that they are constantly updated, that users can easily add comments, as well as share content such as photos, videos and text. Blogs are run by a single person who is a freelancer and is called a blogger. The posts they share are called posts. RSS (Really Simple Syndication) for blogs was first introduced in 1999 as a system for easy tracking of content added to blogs and podcasts. Thanks to the RSS system, users receive information about newly added or changed content by subscribing, saving time and providing easy access to the content they are interested in.

Examples of blogs include Tumblr, WordPress, and Blogger. The main reasons why blogs dominate among social media platforms are:

• Dynamic content with regularly updated ideas and conversations

- Free or cheap production
- Not requiring a special program for installation
- Not requiring special computer knowledge
- Ability to update and distribute content easily
- Providing easy interaction
- Use of RSS to ensure readers have immediate access to posts
- Ability to easily comment (opinion) for everyone
- The possibility of creating a dialogue between the reader and the blogger.

Initially, blogs, which were called personal diaries, later became more widely used, and corporate blogs were also opened. Companies and institutions prefer to create blogs where they share information about developments, products and services related to the sector. Therefore, blogs in the modern world are classified as personal, political, corporate (business) and media blogs.

Wikis. The word wiki is of Hawaiian origin and means fast. Wikis take their name from this word. Wikis are social networking sites where users can share photos, videos, create collaborative content, permanently delete some content, and update content. It is also an environment where data can be collected and presented to users. Users play an active role in the process of collecting and sharing information. Therefore, a reader can also be a writer.

With these rich features, wikis are used for a wide range of purposes, from various learning environments to documentation systems. Many companies operating in various industries provide online documentation and support services to their customers, engineers can publish the first description of any product on a Wiki, other users can make various changes to the content of this product and add supporting information (21). Wikipedia, the most popular wiki, has built a virtual encyclopedia system using social media collaboration.

Microblogs. It is the networks where users can share their status or events from anywhere in the world in the shortest and fastest way. In other words, microblogs respond to the function of instant messaging. Their content is shorter and more concise than blogs. So here people can easily learn by sharing their interests. In addition, posts made can be seen by anyone who views or follows the profile. Sharing is not just about expressing feelings and thoughts. Covering large areas such as agenda reporting, sharing of useful information, reporting on social or political events, sharing of research, these networks provide multiple information flows. There are two main differences between microblogs and blogs: One is that they are shorter, allowing for faster communication by reducing thinking time, and the other is the frequency of updates. While blogs are updated every few days, microblogs can be updated several times in a day. Although microblogs are faster, easier, and more accessible than blogs, the writing restrictions here prevent the sharing of long ideas.

The most popular microblogs are Twitter and Tumblr.

Twitter is used for many purposes such as news, communication, advertising, entertainment, both personally and corporately, and has become an effective mass communication tool in recent years. There are many historical facts that prove the influence of this microblog on social and legal events. For example, we can mention the Yellow Vest uprising in France in 2018. The Yellow Vest protests started with a petition posted online by a social media user named Priscilla Ludosky. Protests were organized by calls shared on social networks and covered the entire country (22).

In fact, although such socialization has positive effects in social and legal directions on the one hand, in many cases it causes negative consequences from the point of view of human rights. Thus, due to the fact that Twitter users talk about what is happening in their lives and the lives of other people and share a series of stories, information about people's personal lives gets into the hands of third parties. This may later become a subject of dispute in terms of the right to privacy. For example, in the incident that happened in Kırıkkale in Turkey in 2019, a mother was killed by her husband in front of her 10-year-old daughter. This mother's cry "I don't want to die" became a topic in the country in a very short time and became Trending Topics on social media platforms like Twitter (23). Although such coverage of the incident led to many campaigns and awareness raising against violence against women, since the video images taken during the incident were shared without censorship on social media platforms, it may have a negative impact on the psychology and future life of a 10-year-old little girl and constitute a violation of her right to privacy.

A forum is a discussion about a topic of interest to society, in which listeners from different groups speak in turn under the instructions of each other and within the framework of the rules of speech. In forums, Internet users generally do not reveal their identity, but they can start discussion threads and comment on topics they want. Businesses and companies can monitor user comments and what is being said about them through forums. Social media forums are managed by an administrator, these administrators cannot participate in the discussion and cannot control the discussion, this feature is their main difference from blogs. While blogs have clear owners, forums have members.

Social bookmarks. These are platforms where users bookmark and save pages and content they like so they can use them again later. In addition, saved pages and contents can be shared with other users. Saved pages and contents can be rated and commented on by users.

Media sharing platforms. Media sharing sites, also referred to as photo, audio, and video sharing sites, are social media platforms that allow users to create, upload, share, and comment on multimedia content. The main difference between these platforms and social networking sites is that there is no friendship element in sharing content. Only certain types of content such as text, photos, videos and slides are uploaded and shared here. Users are not required to create a profile page, general information such as the date they joined and the date the shared data was shared, media content is enough. Formed in 2005 by Chad Hurley, Steve Chen and Jawed Karim because television recordings could not be re-watched, YouTube is the world's largest video sharing site. Founded in 2010 by Kevin Systrom and Mike Krieger as a photo and video sharing site, Instagram is also popular among media sharing platforms today.

Podcasting is the broadcasting of pre-recorded digital media products, sounds and images (radio programs, videos, etc.) that can be watched and downloaded on computers, tablets, MP3 players and smartphones via notification over the Internet. Files uploaded in this way are called podcasts (24). Users can access a range of podcasts as a paid or free subscriber, listen to audio files on their favorite blogs anytime, anywhere, and stream from any internet-connected device. In addition to using podcasts for entertainment purposes, they can also be accessed for educational and business purposes. Generally, there is no charge to subscribe to podcasts. If the podcast is not desired, the user can unsubscribe at any time. Since all their actions are

anonymous, users can act as they wish. Content can be watched and listened to anytime, anywhere. With these features, podcasting differs from traditional media platforms.

In addition to the positive aspects of social media tools, there are also negative aspects. We can include problems such as the violation of various rights and freedoms, ethical problems (for example, sharing or discussing unethical contents, writing unethical comments and reviews, the presence of dense advertising content, etc.), the use of fake identity profiles.

The right to privacy should be mentioned among the most violated rights. So, companies like Google can collect users' personal data and searches, and share user experiences and features with companies. Passwords of e-mail and social media accounts entered by users to use social media are decrypted by spy programs, and there are many cases of intrusion into people's privacy.

In the social media environment, people hide themselves and express themselves more easily. But this can lead to many problems. Relying on their anonymity, people can easily say things on social media that they would not be able to say to the other person in normal life. This situation has led to the formation of cyberbullying and hate speech. So, some users use the social media space to promote hate speech against a segment of the society, to direct the society against each other, to discriminate. Given the potential of social media to influence large masses, the necessary legal arrangements should be made to make such racism and hate speech committed on social media a critical form of crime (25).

Examples of cyberbullying include malicious behavior such as hacking a personal website, sending threatening or intimidating e-mail or text messages, and sharing other users' information, documents, and images without permission.

1.3. Summary

Differentiating the types of social media tools is important in terms of impact on human rights and freedoms. Because, depending on the purpose of these tools and means, shared content and scope of use, it is possible to determine both the role in the realization of specific rights and freedoms, as well as which rights and freedoms they pose a threat or risk to.

Social media has formed serious problems like reduction of the sense of confidentiality, moral erosion, increasing polarization, communication difficulties due to the reduction of face-to-face meetings, loneliness, inability to live in the moment, physical and psychological health problems, internet addiction, reduced work productivity, personal data and other information secrets falling into the hands of malicious persons and distribution of them, unethical academic, social and professional harms such as sharing content without indicating the source, sharing fake content, etc.. In general, content on social media is not subject to any controls or standards, making it vulnerable to attacks by malicious users. Therefore, it is important to specify the requirements for those contents precisely and concretely so that the number of violations does not increase.

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DIGITALIZATION AND INDUSTRIAL PROPERTY: TRADEMARKS (AUDIBLE MARKS)

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Abstract

The rapid development of information technologies and their wide use in various fields have affected intellectual property legal relations as well as other legal relations. The digitization of economic relations, the more accessible, profitable, and convenient implementation of commercial activities using electronic means make it necessary to ensure the protection of industrial property objects. As a result of the rapid development of information technologies, the nature of legal relations is changing, new types of relations are emerging. In such a case, there is a need to hold important discussions about protection from future legal disputes and determination of effective regulatory means. An example can be given by determining the need to change the substantive and procedural legal norms regarding the registration and protection of trademarks in a new form in audio format. In the article, a comparative analysis of the legislation of different countries was carried out, and the recommended practice announced by international organizations was referred to.

Keywords: *intellectual property rights, industrial property, digital society and intellectual property, trademarks, e-commerce and intellectual property, audible marks, audible trademarks.*

The development of information technologies has positive and negative effects on social relations. Even though the use of information technology tools and digitization in various fields help to simplify, make transparent, operationalize, and optimize processes, it complicates the resolution of regulatory and legal disputes due to the novelty of relations. The mentioned brings innovation to social relations and changes the nature of relations. This makes it important to create new legal norms regulating social relations, including amendments and changes to the existing legislation.

In the legal literature, it is determined as on the worldwide web, there exist conflicts of economic interests pertaining to assets such as intellectual property and information. Consequently, a predicament arises in the form of the legal regulation of disputes based on prevailing legal norms. Nevertheless, the interactions on the internet distinguished by the absence of a central regulatory entity that bestows legislative administration within the network. Consequently, the network operates within a multi-jurisdictional milieu, and its global nature encompasses various material jurisdictions. However, there is still a dearth of comprehensive legislative mechanisms for legal regulation at both the international and national levels. [1] As mentioned, the widespread use of the Internet, making data protection a particularly important issue, necessitates a special determination of the legal protection regime of information that is the result of creative activity considered as objects of intellectual property. Thus, in order to ensure the protection of intellectual property objects in the digital environment, as well as objects belonging to the information category, which are the result of the creative activity of individuals, the formation of a normative legal framework is one of the main requirements of the modern era. The rapid development of e-commerce and business relations especially increases the economic value of information that considered an object of intellectual property in e-commerce relations. This makes it even more important to create a special regulation from the mentioned direction.

Currently, rapid digitization observed in economic relations, which is of particular importance for preventing unfair competition in existing relations and ensuring a free

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market economy. In such relations, the protection of intellectual property objects, which considered as a category of property in addition to their understandable property, is particularly important. It should note that intellectual property objects are widely used in the digital environment. Thus, the mobile or web applications, websites, their design, and the content available there, which are the basis of digital platforms, are the object of intellectual property rights, and if it is necessary to emphasize, copyright. On the other hand, industrial property objects with economic value are widely used in electronic commerce and business relations.

It is evident that the "creative economy" is predicated upon the creative industry, which encompasses copyright and related rights. This category encompasses a wide array of products, including computers and other information and communication technology (ICT) goods, books and other publications, new media, music, film production, applied arts, design, and so forth. As evidenced by the report, the creative industry has demonstrated a greater degree of resilience and resistance to the global economic crisis that has engulfed the world when compared to other conventional industries. Therefore, new economic trends that stimulate the recovery of the global economy are evaluated as potential measures. In summary, the advancement of the creative industry in the contemporary world is instrumental in ensuring socio-economic development, and each nation should carefully select the appropriate strategy in this regard. The creative economy exhibits a characteristic that necessitates coordinated efforts across various disciplines, including economic, social, cultural, scientific-technical, environmental, and other domains. Additionally, the creative industries policy not only addresses economic necessities but also takes into consideration social, educational, cultural identity, social inequality, environmental aspects, and other specific requirements. In essence, the creative economy represents the convergence and integration of art, culture, business, innovation, and novel business models. The quintessential element, the fundamental cornerstone of this economy, is the intellectual property that shapes it, namely copyright [2]. The development of the creative economy and its subcategory, creative industry play the most important role in the formation of new forms of trademarks. Thus, the development of information technologies and the presentation of traditional copyright objects in a new version (online) exclude business activities in this area from the traditional level. In such cases, both the cases of using new types of industrial property objects increase, and the fight against the environment of unfair competition in such relations moves to a new level.

In the legal literature, intellectual property rights, including copyright, patents, and trademarks, treated as a category of property rights. By granting these rights and allowing them to control how their property is used, they enable IP creators or owners to profit from their work or investment in production. Trademarks are now crucial to modern business. They come in a variety of shapes and denote a wide range of products and services. Businesses invest a significant amount of time and money in creating their brands and trademarks. [3] At this time, the identification and understanding of industrial property objects that are widely used in the digital society are of particular importance to implement the regulation. In practice, the followings can distinguish as the main disclosed industrial property objects that are widely used for commercial purposes on digital platforms:

- trademarks

- geographical indications;
- service marks.
- industrial designs e.t.c.

Taking into account the above, it is also necessary to clearly define the notions of the above-mentioned intellectual property (industrial property) objects.

According to Section (1) of WIPO Model Law for Developing Countries on Marks, Trade Names and Acts of Unfair Competition of 1967 "trademark" means any visible sign serving to distinguish the goods of one enterprise from those of other enterprises [4]. The concept that is define in that model law defined in the relevant law of the Republic of Azerbaijan. Thus, according to Article 1 of The Law of the Republic of Azerbaijan on "Trademarks and Geographical Indications" "trademark is any sign or combination of signs which can be represented graphically and is capable of distinguishing the goods and services of one entrepreneur from those of another entrepreneur" [5].

Some points should be noted in the given definitions. The first point here is related to distinguishing, which can express the purpose or function of a trademark. The trademark is a sign that serves to identify and distinguish the goods of a particular company from those of others. Therefore, in order for a trademark to be registered, there must first be a sign and that sign must be distinctive. The purpose of the trademark means that practically any sign that can be used to distinguish one product from other goods can be trademarked. Trademark laws should therefore not attempt to create an exhaustive list of marks permitted for registration. Where examples are provided, they should provide a practical illustration of what can be registered without being exhaustive. If there are to be restrictions, they should only be based on practical considerations, such as the need for a functioning register and the need for publication of the registered trademark. If we strictly adhere to the principle that the sign must serve to distinguish the goods of a particular company from those of others, we can imagine the following types and categories of signs: words, letters and numbers, devices, combinations, colored Marks etc -dimensional signs, audible signs (auditory signs), olfactory signs (smell signs), other (invisible) signs. [6] According to Article 4 of The Law of the Republic of Azerbaijan on "Trademarks and Geographical Indications" words, personal names, letters, numerals, figurative elements, shape of the goods or their packaging, combinations of colors as well as any combination of such signs may be registered as trademarks [7] But according to article 9 of the Trademarks and geographical Indications Law of Republic of Bulgaria the mark shall be a sign capable to distinct the commodities or the services of one person from these of other persons and could be graphically presented. Such signs could be words, including names of persons, letters, numbers, drawings, forms, and the form of the commodity or its packing, combination of colours, sound or any combinations of such signs. *A mark shall be a trademark, mark for services and certificate mark* [8]. Limitation of the category of the trademark to only visual signs or their combination may have a negative impact on the regulation of market relations formed in the modern information society, as well as on the fight against unfair competition in e-commerce relations.

The two categories of sound trademark distinguished in the WIPO Model Law for Developing Countries on Marks, Trade Names and Acts of Unfair Competition of 1967.

They are namely those that can transcribe in musical notes or other symbols and others (e.g. the cry of an animal).

In the legal literature, noted as a sound mark serves the purpose of identifying and distinguishing a product or service based on auditory characteristics rather than visual ones. These sound marks act as indicators of origin when they take on a definitive form or arrangement and create an association in the listener's mind with a specific product or service. Consequently, sounds registered on the Principal Register if they possess qualities of being arbitrary, unique, or distinctive, and if they have the ability to leave a lasting impression on the listener, thus indicating that a particular product or service originates from a specific, albeit potentially anonymous, source. Examples of sound marks include a sequence of tones or musical notes, with or without accompanying words, as well as verbal expressions accompanied by music. There exists, nevertheless, a discrepancy amid unique, dissimilar, or noteworthy auditory perceptions and those that resemble or mimic "ordinary" auditory perceptions or those to which listeners have been exposed under diverse circumstances, which necessitates demonstrating the acquisition of distinctiveness… Instances of "ordinary" auditory marks encompass commodities that generate the auditory perception during their customary functioning (e.g., timepieces, appliances incorporating audible alerts or indications, telephones, and individual safety alerts). Therefore, only goods that produce sound as part of their typical functioning are eligible for registration of sound marks, provided that distinctive characteristics which determined that cellular telephones emitting a "chirp" sound belong to the category of goods that generate sound during their normal operation, personal security alarm clock products emitting sound pulses. [9] First, it would be necessary to define the elements of audio trademarks. Thus, audible trademarks must initially be distinctive. This criterion considers as a very difficult criterion to evaluate. Because in practice, it sometimes finds that common sounds have the ability to differentiate. For this, it is necessary to provide an evaluation of the ability to absorb, taking into account the average consumer's opinion. Thus, a combination of ordinary sounds can have the ability to differentiate goods or services with its special effect. This complicates the process of determining such criteria. The second key element is the fact that the sound mark corresponds to the main function of the trademark. Thus, the main purpose of the trademark is to distinguish the goods of one market entity from the goods of other market entities. Distinctive sounds or combinations that do not perform this function can not be considered as sound trademarks.

In this sense amendments to current legislation of the Republic of Azerbaijan are needed for better regulation the relations which exists in this field. If when a comparative analysis of both concepts conducted, the concept given in our trademark legislation considered successful for the period when they were adopted. After the development of information technologies, when analyzing the cases where the trademark is used as an object of industrial property in the digital environment, electronic commerce or business activity, it is noticed that the given concept is not compatible with the existing social relations, and it is necessary to make certain changes and amendments. Thus, the trademarks currently used on certain digital platforms can exist not only in visual form but also in different forms.

For example, in the current period, many entrepreneurs distinguish their goods or services with sound trademarks. Even in some developed countries, the trademarks which is in the form of sound is registred. The use of sound trademarks on digital platforms is widespread. Even consumers distinguish many goods or services with sounds and melodies, identify the entrepreneur to whom those goods or services belong with such signs. We can take as example to such trademarks the intro music of their films used by the famous film producer TWENTIETH CENTURY STUDIOS, Inc., the intros of films, series and other audiovisual contents available on the digital social platform owned by "Netflix, Inc.", the sound used in goods (telephones) produced by the telecommunications company Nokia Corporation. Even, according to the official website of the USPTO, the intro music of films produced by "20th CENTURY Studios, Inc" was registered in the United States (Registration number: 74629287) [10].

At the same time Article 15 of The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) the main international agreement on protecttion of intellectual property rights in the international trade relations any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colors as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible. [11] As can be seen, the definition given in the international agreement related to the protection of intellectual property rights in international trade relations is also general. Although the form of trademarks is listed in the article given that concept, sound trademarks do not exist among them. As can be seen from the examples mentioned above, many multinational corporations choose to differentiate their goods or services by means of sound marks. This contributes to the development of the free market economy, including the fight against unfair competition, by providing differentiation between consumers in the market. In the mentioned article of TRIPS, giving member countries the right to register only visually reflected signs is not compatible with the new changing nature of international trade relations. It would be appropriate to further expand the concept in the mentioned international agreement, to define all the forms used in today's commercial relations among the forms of the trademark.

Audio branding, as a relatively new concept, has been widely used in practice. Some acoustic designs have already become famous marks, for example, “the lion’s roar of Metro-Goldwyn-Mayer” (US Trademark Reg. No. 1395550.), “the Nokia ringtone” (US Trademark Reg. No. 3288274), and Intel jingles. Behind those strong brands, high value and profit are generated beyond the product itself. Thus, the protection of brands’ added value is of great significance. The trademark, as an exclusive right, is an effective tool to protect brands. In fact, the registration of sound marks has become an international tendency. Different jurisdictions, to a certain extent, specified the registration requirements in legislation. Audio designs need to meet the criteria before gaining the trademark protection. It is therefore quite critical to discuss the registration criteria. [12] As mentioned above using sounds as marks or audio branding is the new

trend for distinguishing the goods and services in the economic market. In particular, the digitization of music, film, cinema platforms and the increase in their use, as well as the unexpected increase in the number of users of various applications (apps), make it necessary to determine the procedures for the protection of the use of sound trademarks, which leads to an increase in the economic value of this category of intellectual property objects.

"Sounds have become an important method used to help consumers better recognize and distinguish brands and products. Behind the famous audio branding, massive profit can be generated by those sound marks. It's the law's role to protect the added value of a sound mark. Indeed, different jurisdictions have already recognized the current situation and made an amendment in their laws. In March 2006, the Singapore Treaty on the Law of Trademarks was adopted by 147 WIPO Member States in Singapore, then entered into force on March 16, 2009. This Treaty set out a multilateral framework for the law definition of different types of marks which included non-visible signs on trademark application and registration. In its last two sessions, according to the SCT (the WIPO Standing Committee on the Law of Trademarks), there are some areas representing and describing non-traditional marks being defined, like 3D marks and sound marks (Non-Traditional Marks, 2009). It was meaningful in that this was the first international reference discussing non-traditional marks in that area" [10]. From this point of view so many countries which have strong economy have been started to amend to their legislation. According to infographic of World Intellectual Property about the top 10 countries which filed the most Madrid (Madrid System for the International Registration of Marks) trademark applications in 2013 [4] (hereinafter-infographic) China was ranked the seventh largest user. The third amendment of the trademark law which allowed for audible trademarks to be registered adopted in May 2014 in China. "Amongst the amendments, the most significant one is that the revised law extended non-traditional trademark registration to cover sound. Although the relevant examination procedure is waited to release, it is still an important progress for China to keep pace with international standards and provide an enhanced protection for businesses" [10]. Should be noted, the legal regulation of the process of registration and examination of sound trademarks is one of the most difficult issues.

The main difficulty in determining the specific requirements for the examination or registration of sound trademarks is that since these are new types of trademarks, there is no uniform practical approach to them. Forming the foundations of this unified practical approach is not an easy process.

In infographic Japan followed China in the 8th place of this list. According to the Article 2 of Trademark Act (No. 127 of April 13, 1959) of Japan "Trademark" means, among those which can be perceived by people, any character, figure, sign or three-dimensional shape or color, or any combination thereof; sounds, or anything else specified by Cabinet Order (hereinafter referred to as a "mark") which is: used* by a person in connection with a good which the person produces, certifies or assigns as its

* Section (1), WIPO Model Law for Developing Countries on Marks, Trade Names and Acts of Unfair Competition of 1967

business; or used[**] by a person in connection with the services which the person provides or certifies as its business (except those provided for in the preceding item). This definition and forms of trademark in this Act was extended after 2015 amendments to Act.

The experience of Thailand in this regard is also commendable. Thus "Thailand has several amendments in the pipeline for the Trade Marks Act. Amongst them is the introduction of smell and sound marks. The bill extends the meaning of a "mark" to include non-visual trade marks such as sounds and smells, which will bring Thai trade mark law in line with international standards. To be registered, sound would need to be distinctive. The bill being considered describes it as a "sound that is not directly descriptive of the quality or character of the goods, a natural sound of the product or a sound arising from the functionality of a product". For example, a sewing machine manufacturer cannot register the sound of the sewing machine as a sound mark. By making natural sounds unregistrable, the bill provides a fair playing field for businesses. Only those sounds that can indicate a product's origin will be allowed. For example, jingles used in advertisements for some products may be registered provided consumers associate those jingles with that product. Businesses will be able to register not only the traditional visual marks but also the sounds used in the product's advertising, thereby providing complete protection" [13].

According to EU legislation the trademarks can be registred in the forms of sounds. The Article 1 of Regulation (Eu) 2017/1001 of the European Parlıament and of the Council of 14 June 2017 on the European Union trade mark (codification) (hereinafter- Regulation on EU trade mark) states that " A trade mark for goods or services which is registered in accordance with the conditions contained in this Regulation and in the manner herein provided is hereinafter referred to as a 'European Union trade mark ("EU trade mark")'. An EU trade mark shall have a unitary character. It shall have equal effect throughout the Union: it shall not be registered, transferred or surrendered or be the subject of a decision revoking the rights of the proprietor or declaring it invalid, nor shall its use be prohibited, save in respect of the whole Union. This principle shall apply unless otherwise provided for in this Regulation." The Article 4 of Regulation on EU trade mark was defined as "an EU trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings; and being represented on the Register of European Union trade marks ('the Register'), in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor".

Considering the above, we can note that after the acceleration of digitization in entrepreneurial activity and its radical change in the nature of relations, it was inevitable to change the norms related to the protection of intellectual property objects. It is a well-known fact that non-traditional industrial property objects are widespread used in digital platforms. "In modern times, the world is full of brands with high-tech

[**] Infographic-
https://www.wipo.int/export/sites/www/global_innovation_index/en/docs/infographics_marks_2013.pdf

designs. The audio mark, as a popular technical method, has consisted of an important part to establish a distinguished brand; meanwhile the trademark law serves an essential function to protect those audio brands. By analyzing of the EU and the US laws, we could summarize the core criteria that an audio brand need to meet the distinctiveness and functionality standards, and should be able to be graphic presented. And also, those rules established meaningful models to other jurisdictions. However, current legislations are still immature, and many counties haven't admitted the sound trademark yet. The audio branding, as well as the sound trademark, still has a long way to go" [10]. As a result, it is understandable that it is more convenient and appropriate for entrepreneurs to distinguish the services they offer on digital platforms with sound marks. This is due to following several factors:

1. It is more memorable;
2. It is more distinctive.
3. Using this type of marks can reach a wider audience e.t.c.

The utilization of audible trademarks in the realm of electronic commerce has become progressively vital owing to multiple key factors such as brand recognition, augmentation of user experience, marketing through various channels, accessibility, memorability, emotional connection, voice commerce, and intelligent devices. Audible trademarks, including jingles or sonic logos, serve as an auditory embodiment of a brand. They possess the potential to be instantly identifiable, comparable to a logo or brand name. Amidst the bustling electronic commerce landscape, these auditory cues can facilitate the distinctiveness and remembrance of your brand. Within electronic commerce, where customers frequently rely on visual and auditory cues, audible trademarks can contribute to a more immersive and captivating user experience. This, in turn, can result in heightened user satisfaction and potentially enhanced sales. Businesses in the electronic commerce sector operate across diverse digital platforms and marketing channels. Seamless integration of audible trademarks can be accomplished within video content, podcasts, radio advertisements, social media posts, and other mediums. This unwavering consistency in branding aids in reinforcing the image of the brand. Auditory marks can be particularly beneficial for individuals who have impairments in their vision. They offer an additional means for users to identify and interact with a particular brand, thereby enhancing the inclusivity of e-commerce. Auditory stimuli tend to have a greater impact on memory compared to visual stimuli. A memorable jingle or a distinctive sound can firmly establish itself in a customer's mind, thereby increasing the likelihood of the brand being recalled when making purchasing decisions. Music and sound have the ability to elicit emotions, which e-commerce brands can use to their advantage. Through the use of an auditory mark, positive associations can be established with a brand, leading to enhanced customer loyalty and trust. Auditory marks are capable of transcending language barriers and can be universally understood. This is particularly advantageous for e-commerce companies with a customer base that spans across the globe. With the increasing prevalence of voice-activated devices and voice-based commerce, such as Amazon's Alexa and Google Assistant, auditory marks have become even more relevant. These devices often rely on voice cues for interaction, making an audible brand identity crucial.

In conclusion, it should be noted that since intellectual property objects are closely related to the nature of developing economic relations, it is appropriate to change internaland international legal acts that regulate intellectual property legal relations in accordance with the current situation. The implementation of such changes in legal acts will result in the development of economy and entrepreneurship in countries, protection of consumer rights, ensuring of free market economy, prevention of unfair competition between competitors, protection of people's digital rights, and more effective regulation of intellectual property legal relations existing in this field.

Radical changes in modern market relations make it necessary to change the essence of norms on the regulation of intellectual property objects. Because it is known that intellectual property and economy are distinguished by their continuous effects on each other. The fact that technological development significantly changes social relations makes it necessary to adapt economic relations, as well as the mechanisms of regulation of social relations about intellectual property objects to the modern era. Audible trademarks serve a crucial function in the field of electronic commerce by augmenting the recognition of a brand, enhancing user experiences, and fostering a more profound emotional connection with customers. As the realm of electronic commerce steadily expands, establishing a robust auditory brand presence becomes a valuable resource for distinguishing one's business and establishing a bond with consumers.

As a result of the conducted research, it is proposed to specify and expand the scope of objects that can be protected as a trademark of the Law of the Republic of Azerbaijan "On Trademarks and Geographical Indications", as well as to make appropriate changes in the normative legal acts regulating the examination process necessary for the registration of trademarks. In particular, in the rules for examination of trademark claim documents, the examination procedure of sound trademarks should be determined taking into account the specific characteristics of audio marks. In such a case, one could not observe high indicators in the statistics of industrial property disputes on audible trademarks.

It is necessary to form technical mechanisms, such as defining legal mechanisms in order to ensure the registration and protection of sound trademarks. The mechanism that can be proposed as the most effective way to solve the issues that may arise from this direction can be the use of artificial intelligence or special algorithm-based applications in the expertise process. By means of an application operating on the basis of artificial intelligence or a special algorithm, a comparison of more copyrighted musical works with or without text could be made in a shorter period of time, and the result obtained would be more accurate than the results of a human search.

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