

A COMPARATIVE STUDY OF THE ROLE AND PLACE OF INTELLECTUAL PROPERTY IN THE LEGAL SYSTEM IN IRAN AND IRAQ.

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ABSTRACT

Without a doubt, in today's culture, information is regarded as a potent force. As futurist Alvin Tu Feller correctly noted, the twenty-first century is the century of mental strength. Intellectual property (IP) is becoming more widely acknowledged as a crucial commercial asset on a global scale and as a key factor in the nation's social, economic, and technical advancement. One of the cornerstones of the national innovation system, which has a specific role, is the national intellectual property rights system. In this system, it has a function. This paper compares the function and positioning of intellectual property in the legal systems of Iran and Iraq. Additionally, references to university and field professors are made. The study's findings demonstrate that all Islamic jurists embrace the spiritual or moral component of intellectual property rights, just as ordinary international law does. This is true from the standpoint of Islamic international law. Due to the consideration of the right of the community in addition to the right of the individual, the duration of intellectual property rights has been determined in Islamic international law and the interactions of Islamic nations with other countries, as well as in ordinary international law.

Key words: the role of intellectual property, Iranian and Iraqi rights. Iranian rights Iraq , Philosophy of Law

1 INTRODUCTION

Without a doubt, in today's culture, information is regarded as a potent force. As futurist Alvin Tu Feller correctly noted, the twenty-first century is the century of mental strength. Intellectual property (IP) is becoming more widely acknowledged as a crucial commercial asset on a global scale and as a key factor in the nation's social, economic, and technical advancement. One of the cornerstones of the national innovation system, which has a specific role, is the national intellectual property rights system. plays a part in this system, and any inefficiency therein can harm the inventive activities of the nation's manufacturing and service firms and substantially harm the nation's competitiveness and advancement in the field of science (Sadri, 2017).and put significant barriers in the way of innovation and technology. The inefficiencies of the current system, the country's incorrect standing in international and regional rankings, the need for upstream documentation, and the legal requirements have all increased the urgency with which this issue has to be addressed. Because the dimensions, components, and indications of the intellectual property rights system are not fully understood, the system's performance is subpar, which eventually leads to its collapse. The system's scientific performance cannot or cannot be evaluated since there are no assessment markers. The national intellectual property rights system has been measured by a number of indicators based on various techniques, although certain indicators, such as the indicators of patents, trademarks, and copyrights, are directly related to intellectual property rights. Sometimes, due to the fact that the intellectual property rights in that particular issue are not tangible and cannot be directly observed, some indicators are indirect. The main

characteristic of these indices is that they provide a large amount of information as well as various aspects of intellectual property rights and capabilities in a single set. Identifying and categorizing these indicators provides a clear picture of the level of capability and performance of each country in various fields related to intellectual property rights. Miri (2019) with a similar topic of resolving intellectual property rights disputes in Iran's legal system. and Afghanistan stated that without a doubt, intellectual property rights refer to material and moral rights as a privilege, which is intended for the owners of intellectual creations. The prominent role of intellectual property in the field of trade and industry has caused specialized, technical dispute resolution methods to be created for it at the national and international level and in accordance with the needs of this type of rights. The legal systems of Iran and Afghanistan in the field of resolving disputes related to intellectual property Legal methods and alternative methods have been considered in such a way that the legal methods have a binding aspect and the votes issued from it are binding, but the alternative methods have a friendly aspect and are not essentially binding, and the implementation of its provisions has been postponed to the agreement of the parties to the dispute. The evaluation of legal and alternative methods of intellectual property dispute resolution has been discussed in the legal system of Iran and Afghanistan. In the field of intellectual property dispute resolution, a research with this structure and approach has not been written so far, and this research with a comparative, descriptive and analytical approach aims to explain and investigation is the subject of the research and the main sources used in this article are the rules and regulations in the legal system of Afghanistan, related international treaties and especially the books of articles and laws in the legal system of Iran. The similarities and differences between the two systems in the field of identification There are legal and alternative ways to resolve intellectual property disputes. (Naserzadeh, 2016) The commonalities of the two mentioned systems in the legal methods of dispute resolution are the identification of public courts, arbitration and the Hague Court of Justice, and in the identification of alternative methods, they are the identification of negotiation methods, mediation, expertise, private proceedings of the Dispute Review Board and the combined method. It can be said that there is complete cooperation between the two systems in this field. The establishment of special courts in Iran's legal system and the existence of commercial courts and the World Trade Organization's dispute resolution pillar as ways to resolve intellectual property disputes in Afghanistan's legal system are among the major differences between Iran's and Afghanistan's legal systems. National systems of intellectual property, innovation and development Economic is to help countries in strengthening the contribution of national intellectual property (IP) systems to their social and economic development, especially through the effects of these systems on innovation performance. The studies that are done in countries, based on a detailed assessment of the national property systems, provide concrete policy recommendations to carry out these assessments. Supporting the goals of innovation and development of emerging economies has been developed and its theoretical foundations (Rationale) have been described as follows (Salimi Far, 2017) Innovation plays an important role in economic development, this is one of the key teachings of the past decades. . Building innovation capacities is a principle for achieving successful growth. Intellectual property rights are important for building these innovation capacities. These rights can create incentives for invention in the fields of technology, business, patents, trademarks, and copyright art. Intellectual property not only helps to create direct incentives for inventions, but also through some other mechanisms Directly, such as facilitating access to knowledge and inventions, stimulating innovation by solving information asymmetry, facilitating international competition and trade, and increasing access to finance are in the service of the innovation system. The performance of national innovation depends on various factors and policy options for innovation are long They have an important period. The national intellectual property system is a policy area that has a potentially significant impact on innovation. The national system of intellectual property allows a market-based economy to create innovation and at the same time provides suitable grounds for other types of effective government intervention. (Hosseini, 2015) In many cases, intellectual property policy is complementary to other innovation policy tools that can be used to promote the

commercialization of government research or as a guarantee of inventors' response to the public needs of demand-side policies to strengthen access to easy loans. And he used it without any trouble or other government financial resources, etc. For this purpose, the present research was looking for a comparative study of the role and place of intellectual property in the legal system of Iran and Iraq.

2 Research method and design

The current research method is descriptive and analytical, and the method of collecting library information is also used. In addition, internet sites and referring to professors of the field and university are also used.

3 The position of ethical studies in the intellectual property system

The initial foundations for defending intellectual inventions in the form of creator's rights and intellectual property may be found in the 15th century. Despite legal acceptance and even the existence of international treaties, it must be acknowledged that intellectual property's development, especially in economic dimensions and more importantly, It took place slowly in the theoretical fields. In the early 17th century, intellectual property in new areas such as; Literary and artistic ownership entered the legal literature in a more serious manner and in some industrialized countries in the form of judicial decisions and laws.(Mousavi, 1421). At the end of the 20th century, due to the accelerated growth of science and technology and the development of international communications, intellectual property in various dimensions was the focus of countries at the national and international levels. This growth was so much that in the international negotiations that led to the establishment of the World Trade Organization, intellectual property became an integral part of it and the acceptance of the provisions of the TRIPS Agreement, the Agreement on Commercial Aspects of Intellectual Property Rights as the minimum intellectual property rights as a prerequisite for entering into trade. was released In addition to this, the speed of producing intellectual creations in the field of literature and art, the development of new information technologies, biological technologies, especially in the human field, and the production of drugs for incurable diseases caused the economy and acquisition through intellectual property to affect the important aspects of human life. put Although this may have caused the increasing development of science and technology, the economic view of all aspects of science and technology through the creation of exploitation monopoly for the producer may cause poor countries to be unable to organize their vital foundations and human rights. Due to the weakness in social and scientific foundations, they will not be able to be in the frontiers of knowledge to benefit from the advantage of intellectual property, and on the other hand, even if they are capable of producing a product, they will have to pay a lot of money for its knowledge and technology. For example, even if a country can provide the production facilities of a certain medicine with its domestic capacity, if the related patent is valid, it cannot do such a thing (Sabzwari, 1416). The invention should bear the additional pressure. Apart from this, some people believe that the globalization of intellectual property has very important political dimensions and its international acceptance and support will lead to the realization of the domination of individuals over intellectuals, and perhaps even in important areas of inventions. Independent creators do not have the right to make economic use of their findings, the existence of such concerns caused the theoretical dimensions of intellectual property to be discussed a lot. One of the factors that could play a role in this field and even manage this field to some extent is paying attention to moral norms. Although referring to ethics is also accompanied by many difficulties, because ethics is also one of the fields of study that are highly considered in scientific societies and many theories have been proposed in it; However, it must be said that the existence of such a difficulty in ethical issues did not prevent its presence in the intellectual property system, but on the contrary, it causes the theoretical studies of intellectual property to be followed more and more deeply, and it is possible to manage this field with better insights today. Therefore, today, referring to the writings about intellectual property, especially the new literature in this field, shows (Walter, 2012) that most of them include moral issues. Beyond this, some have even examined the ethical dimensions of intellectual property. These studies will clarify the outlines of the legal systems and provide a suitable way to solve the emerging issues. Considering the rational and extra-legal status of

moral issues and its effect on legislation, interpretation and implementation of the law, perhaps it can be said that such studies, such as *ijtihad*, are based on jurisprudential evidence in relation to the Islamic legal system. For this reason, some have stated that when lawyers deal with the moral justification of legal rules or the moral justification of judicial decisions in contrast to their legal justification, it seeks to investigate whether a legal rule or judicial decision is independent of its legal documentation or not. and empirical as well as ethical norms should be considered. On the other hand, legal justification means compliance with legal rules. In addition, assuming the moral legitimacy of intellectual property, the implementation of its rules may also be examined ethically. Ethics here means the norms accepted by the society and is expressed with concepts such as good manners or public customs, which are considered necessary in legal systems. (Beecham, 2013) The requirements for understanding the idea of ethics in the patent system have been defined by the appeals board of the European Administration. Ethics refers to the conviction that some actions are morally right and defensible while others are immoral and contrary to socially accepted norms. It is a structure with a strong cultural foundation. The culture under discussion in the European Patent Convention is the one that is institutionalized in the society and culture of Europe. As a result, due to their conflict with ethical principles, innovations that violate the established cultural norms of behavior will not be registered.

4 Validity of intellectual property

Why intellectual property is legitimate is one of the fundamental inquiries regarding intellectual property. Because intellectual property is not a straightforward issue that can be assessed generally, posing this topic in a generalized manner is ambiguous and even vaguer. Since literary, artistic, and industrial property are the two primary categories of intellectual property, the issue should be phrased more specifically. Aside from these fundamental components, industrial property also includes inventions of industrial plans, geographical indications, trademarks, and trade secrets. Trade secrets are valuable pieces of knowledge that only one person possesses. Because of trust-based laws and contracts, it is not a difficulty to transfer the trust to another individual, but in the case of literary and artistic ownership, why does the creator, in economic terms, legally transfer his work like a book to another legally? has transferred (Breakey, 2015) despite having exclusive rights such as printing, publishing, distribution, summary, adaptation and translation, it is more difficult than this question in invention and industrial designs. Here the question is that if a person has made an invention and has registered it in the registration authority, no one without his permission can have commercial use such as manufacturing, production, export, import, sale, and offering for sale. This problem is difficult when it is possible that two people have made a similar invention without knowing each other and have presented the same solution to solve a problem in the industry, but one of them registered before the other. If the first person doesn't have the right to exploit his invention, of course, he has the personal use of his intellectual achievement. It is similar to this statement in trademarks. By registering a sign as a trademark, a person prevents others from exploiting it. The sign prohibits and it can have proprietary behavior with that sign in social and economic relations. In all these cases, the question is why the creator has exclusive rights and privileges even against similar creators. Regardless of the will of the governments in crediting Forgiving such things based on laws, to answer this question, moral and economic and even political and social arguments can be cited so that as a result, the rights to intellectual creations can be considered as having extra-legal validity. The moral aspect of these arguments It is placed in the field of applied ethics. Applied ethics, in a sense, is the application of general ethical theories to ethical issues with the aim of solving those issues, although this definition is a limited definition according to some views, and in a broader sense, any critical use of philosophical methods to examine ethical decisions. Practical and discussion of issues, procedures and policies in technology and government jobs and the like.is. (Sreenivasulu, 2013) In other words, A variety of philosophical techniques are used in applied ethics, which does not insist on using them all to solve the issue. Moral justifications may also be used to support the legitimacy of the system of intellectual property. These justifications make it simpler to remark on the nature and development of intellectual property. Discussions of moral philosophy on intellectual property are made possible by

ethical studies that establish the legitimacy of intellectual property. There are two different strategies: one focuses on ethics, the other on intellectual property. In order to study intellectual property concerns based on the first method, we require corresponding ethical considerations.

5 Investigating Iran's intellectual property system

The expansion of communication technologies, the globalization of the economy, and the escalating growth of commercial exchanges between various countries have led to the fact that not only the fields of use Illegality of creative works by artists and inventors is easily provided, which highlights the need to create and support ideas and innovations resulting from human thoughts. But there are also significant challenges in the monetization of these ventures. In this way, the intellectual property system has evolved into one of the fundamental concerns of contemporary national economic strategies, and legal frameworks have been established to safeguard these rights internationally. Attention has been paid, therefore, understanding the legal and economic foundations of the intellectual property system is a prerequisite for understanding the increasing role and importance of it in the national strategy in order to strengthen the competitive power and accelerate the economic and social development. Many developing countries that often import technology, have made many investments in various fields of science and technology in recent years, and therefore in some of the technological fields of these countries, they are among the creators and suppliers of technology, or they are looking for such a position. . (Mahboubi, 2003) For this reason, these countries are trying to develop and improve the infrastructure of supporting and developing their intellectual property assets in order to supply technological achievements to other countries of the world. However, preliminary investigations and studies indicate that Although the protection of industrial property as one of the main branches of intellectual property as well as the formulation of legal laws in this field has a long history in Iran, it seems that the policy makers of the country have addressed the category of intellectual property more than the legal aspects. Other topics in this field have received less attention. However, the growing trend of supporting various aspects of intellectual property around the world, as well as the increase in technological innovations in Iran in recent years, has led to the attention of officials and politics. Iranian investors should be drawn to the need to develop and support intellectual property assets. By examining Iran's intellectual property system and comparing it with the intellectual property system of several other countries, propose policies to promote and support intellectual property. The capacity to create and apply knowledge has become one of the most important factors in increasing the sustainable competitiveness of countries. In the meantime, the increasing pressures in various markets, which mainly come from phenomena such as the globalization of the economy, deregulation, changes in demand patterns, and new social needs. (Bagheri, 2003) have accelerated the rate of technological developments and increased the centrality of knowledge in technological developments. Additionally, developing nations frequently want to import and absorb technology from wealthy nations. They are astonished to the core. For instance, as a result of these advances, some technologies now have shorter life cycles, which may exceed the time needed to transmit and absorb the desired technology. One of the most important factors in the development of technology is the protection of intellectual property rights, which has become increasingly important as a result of these changes in the development of national technology.

6 Value pluralism in the international system of intellectual property rights

Justice, freedom, independence of interest, and privacy are only a few of the ideals that the legal system aspires to protect. The system of intellectual property rights is not an exception to this rule, and like other legal systems, it aims to realize and defend particular values or values that are generally accepted in the international community, particularly during the Uruguay Round negotiations and the creation of agreements on commercial aspects. The primary objective of intellectual property rights (TRIPs) as they are expressed in the system of intellectual property rights is to boost economic efficiency. This makes it possible to determine the ultimate objective of the intellectual property rights system, which is to

maximize the effectiveness of the superior value. For example, in the field of literary and artistic works, patents and industrial designs, the prevailing theory is that these institutions mainly aim to achieve economic efficiency. Benefits are through motivating production. (Habibi, 2014) In the field of trademark and geographical indications of value, the best way to gain benefit is to prevent consumers from going astray by reducing the cost of new searches. In this way, the main goal of the intellectual property rights system is to gain utility and benefit through the realization of economic efficiency. . The criteria stipulated in the Terpis Agreement are mainly established in this direction. As a result, countries that are trying to amend their laws in order to join the World Trade Organization, have to reflect the rules stipulated in the TRIPS Agreement, which mainly aim to increase economic efficiency, in their domestic laws. In this way, there are less opportunities for the emergence of other values in the domestic system, a topic that is known as value unificationism in the existing philosophical literature due to the centralization of one value as the superior value. Increasing economic efficiency is not the priority in all countries that want to join the World Trade Organization. As a result, it cannot be said that everything that motivates innovation and its disclosure should be protected in the form of intellectual property rights. (HakmatNia, 2014) Currently, during the Uruguay Round negotiations and after that, the developing countries want to establish a special system of intellectual property rights in support of traditional knowledge, genetic resources, and expressions of popular culture. Based on this, a committee has been formed in the World Intellectual Property Organization. While supporting these issues cannot necessarily be justified based on utilitarianism and creating economic efficiency, developed countries resist the expansion of the intellectual property rights system on these issues. According to them, there has been no creation of genetic resources that requires the creation of incentives through the establishment of exclusive rights. Such resources are God's gifts that developing countries only host these resources in their country. Also, regarding the traditional knowledge and manifestations of popular culture, although the creation of these topics is undeniable, but the creation of these topics happened over time by a group of people, which cannot be attributed to a specific time and person. This argument in It is acceptable to accept that in the framework of the international system of intellectual property rights, only one value is known as the superior value and other values are subordinate to this value. Philosophical literature is against the view of value unitism, the view of value pluralism, according to this view, the highest value cannot be limited to a specific value. Rather, within each system, several values emerge, all of which have the same degree of validity, and within the discussed system, depending on the specific case and situation, sometimes they assume a superior role and sometimes a secondary role. In confirmation of this claim, among Known examples of intellectual property rights also have issues that cannot necessarily be justified on the basis of utilitarianism, for example in trade secrets, along with the view that believes in the basis of utilitarianism in justifying this part of intellectual property rights, there is another view. which believes that the main purpose of protecting trade secrets is to preserve the independence of individuals by respecting the privacy of their commercial information. (Shahabi, 2014) In this way, within the system of intellectual property rights, the highest value is not simply gaining benefits and efficiency through creating production incentives or preventing consumers from going astray. Rather, other values also show a certain degree of credibility in this field, especially at the international level. Although believing in the theory of value pluralism is not a serious problem in the theorizing stage, the difficulty of this theory in practice and It appears when selecting the top value in a particular situation. Judges and legislators are both necessarily in decision-making positions when they are tasked with interpreting and enforcing the law, as well as setting regulations and establishing the dos and don'ts of a legal system. They won't be able to pick wisely and logically in these circumstances if they don't have an index to choose from and don't know what value is being supported in a certain circumstance. 2016 (Maciej) Additionally, adopting this viewpoint may result in the growth of the application of the system of intellectual property rights. It might be difficult to identify the greater value or values internally.

7 Intellectual property right system suitable for developing countries

Intellectual property rights in the broadest sense of the word are the rights arising from intellectual creations and creations in scientific, industrial, literary and artistic fields. Intellectual property rights are usually divided into two areas, which are industrial property rights and literary and artistic property rights. And related side rights, one of the important questions is what role does the protection of intellectual property rights play in the economic development of countries and what kind of intellectual property rights system helps the development of developing countries more. (Balwinder, 2013) According to many authors, one of the basic factors and perhaps the most important factor in the economic development of countries is innovation and technology, and developing countries have two ways to promote innovation and technology: encouraging innovation and research and Development within the method (endogenous) and importing technology from outside (exogenous method). Now it should be seen what role intellectual property rights have or can have in these two ways of promoting innovation and technology. The relationship between intellectual property rights policy and technological learning has pointed out that technological ability in developing countries starts with simple production engineering. Intellectual property rights play a small role at this stage.

8 The concept of intellectual property

The right to any type of possession and profit is granted to the owner through an assumed credit connection between him and the thing. According to the restrictions and requirements outlined in the legislation, he wants to utilize all of its benefits. Any legal dominion is referred to as property in law, and the term "ownership" is used in this sense to describe things like home ownership, business ownership, and intellectual property ownership, which is defined as the credit connection between a person and his or her works and creations. His intellect and idea, which grants the owner of the work the exclusive and total right to acquire and exploit these works, subject to any legal restrictions. (Emami, 2008) So, first of all, the issue of intellectual property is intellectual activity and work and immaterial phenomenon. Secondly, intellectual property is an absolute and exclusive right, just like the property of material objects, because it only allows its owner to take any possession of his property and take any kind of benefit from it. In the definition of intellectual property rights, lawyers have made several definitions. Among other things, Dr. Safaei considers intellectual property rights as rights that have economic value and trade, but the subject of that is not a material thing. According to him, the subject of these rights is actually human activity and intellectual work. while the spiritual aspect of intellectual property rights has no economic value and cannot be transferred in principle. In another definition, intellectual property rights are defined as rights arising from intellectual creations and creativity in the scientific field. Industrial, literary and artistic in this definition is a kind of generalization and does not give a clear definition.

9 Legal conditions and legal and criminal dimensions of intellectual property in Iran's legal system

Man has always strived to learn and grow, and his knowledge came from the experiences that made his life simpler and his progress more seamless. It is performed in the imagination and put into practice through deed. The thinking man, however, has taken a parallel route while combining the scientific and experiential paths. (Amani, 1383) As time went on, human progress via experience grew more expensive, leading to a preference for science over experience and the expansion of experimental sciences. Experimental sciences, which were more heavily reliant on laboratory research and trial-and-error, greatly grew and developed into There were prerequisites and guidelines., however, after the industrial revolution and the peak of the development of science in its era, discoveries and inventions also progressed in its context, but from the point that reaching the subject of research for researchers is a material and spiritual cost in It was discovered and with the theft of the obtained researches, all material efforts were wasted, the issue of patenting took a legal path and created legal obstacles and civil and criminal laws, which became known in the world of science as patenting and exclusive patent rights. (Shakib, 1381) Invention is the exclusive right that is granted to the inventor for the creation and creation of a product with an industrial process that has the characteristics of novelty, innovative step and industrial application by the

government and the governing authority, inventing a new and innovative solution to solve Technical problems are scientific in society. This solution may be related to the creation of a drug product, a completely new educational scientific industrial process, or it may just be a partial improvement of a known product or process. Therefore, to clarify the issues related to intellectual property, Supporting laws and regulations are necessary in order to create, maintain, produce and distribute it. Therefore, government support in its general sense will actually support the development and create transformation in the political, social and economic system and create an international position for countries. The right of spiritual (intellectual) property is one of the examples of citizenship rights because it is the product of human thought and art and has become very important in the new era (Noroozi, 2012). Intellectual (intellectual) property is called rights. which gives its owners the right to benefit from human intellectual and innovative activities and has economic value and the ability to trade and sell, but its subject is not a specific material object. The rights of creators of literary or artistic works or literary and artistic property known as copyright or reproduction rights and patent rights are among intellectual rights, also rights such as the right of goodwill, the right of businessmen and industrialists to register trade names, trademarks and industrial marks, and trade secrets are also included in this category of rights. The owner of an invention can assign his ownership right to transfer his idea, like other rights related to intellectual property, in whole or in part to other natural or legal persons. This transfer is possible in two cases: the first case is the owner of the invention before the patent is registered and after submitting the invention statement to the patent office. decides to transfer it, in this case, the owner must first go to one of the notary offices before preparing the official document, and the office should inquire about the latest status of the desired declaration in terms of extending the change of transfer and issuing a license to use from the Patent Office. Comment (Fahimi, 1378) After preparing the written request for transfer by the patent owner and paying the registration fees and receiving the necessary inquiry, the registry office sent the regulatory document to the registration authority and the registration authority registered the desired transfer, but there is no need for an advertisement in the official newspaper. The other circumstance involves the transfer of ownership rights resulting from a registered patent. In this case, in addition to the actions mentioned for the transfer of ownership rights of the patent declaration, the applicant must submit a written request to register the transfer of the patent in the registration authority, along with the original certificate. The registration authority should also receive the patent, the legal instrument showing the transfer, the documentation of legal representation, if applicable, and the receipt for the payment of charges (contractual transfer registration rights).

10 Conclusion

The initial foundations for defending intellectual inventions in the form of creator's rights and intellectual property may be found in the 15th century. Despite legal acceptance and even the existence of international treaties, it must be acknowledged that intellectual property's development, especially in economic dimensions and more importantly, It was done slowly in the theoretical fields. In the early 17th century, intellectual property in new areas such as literary and artistic ownership entered the legal literature in a more serious manner. Additionally, there are other fundamental components of industrial property, including trademarks, trade secrets, geographical indications, and industrial designs. On the basis of confidence, it gains and may be transferred to another. This is not a problem due to rules such as trust and contracts based on trust, but in literary and artistic ownership, the question is why the creator economically, even though the physical manifestation of the work It has transferred itself like a book to another in a legal way. Today, the necessity of creating and supporting ideas and innovations resulting from human thoughts is emphasized more and more because the expansion of communication technologies, the globalization of the economy and the growing growth of commercial exchanges between Different countries have led to the fact that not only the fields of illegal use of creative works by artists and inventors are easily provided. But the fields of commercialization of these initiatives also face many complications. In this sense, the intellectual property system has become one of the basic issues of modern economic policies at the national level, and legal platforms have been

provided to support these rights at the global level. Different concepts such as justice, freedom, independence, interest and privacy All of them are among the values that the legal system tries to pass. The system of intellectual property rights is not an exception to this rule, and this system, like other legal fields, seeks to realize and protect certain values or values according to the common view in the international arena, especially during the Uruguay Round negotiations and the preparation of agreements on commercial aspects. Intellectual property rights (TRIPs) manifested in the system of intellectual property rights mainly aim to increase economic efficiency. In this way, maximizing the efficiency of the superior value and the ultimate goal of the intellectual property rights system is known. For example, in the field of literary and artistic works, patents and industrial designs, the prevailing theory is that these institutions mainly aim to achieve economic efficiency. benefits are through creating motivation for production. Intellectual property rights in the broadest sense of the word are rights arising from intellectual creations and creativity in scientific, industrial, literary and artistic fields, intellectual property rights are usually divided into two areas, which are Industrial property and literary and artistic property rights and related side rights. One of the important questions is what role does the protection of intellectual property rights play in the economic development of countries and what kind of intellectual property rights system helps the development of developing countries more. Ownership is a credit relationship that is imagined between a person and an object and gives him the right to all kinds of possession and profit. He wishes to use all its benefits according to the limits and conditions stipulated in the law. In jurisprudence, any legal dominion is called property, and ownership is an adjective that is used in this sense, and they said ownership of a house, ownership of interests, etc., and intellectual ownership can be defined as a credit relationship between a person and his works and creations. His mind and thought, which grants the right to possess and benefit from these works absolutely and exclusively to the owner of the work, except what is excluded by the law. They agree on accepting the spiritual or moral dimension of intellectual property rights as accepted in general international law. In Islamic international law and the relations of Islamic countries with other countries as in general international law, due to the consideration of the right of society in In addition to the right of the individual, the time limit of intellectual property rights has been ruled. In the Imami jurisprudence, the proponents and opponents of intellectual property rights agree on the government decree as a remedy and solution for the acceptance of intellectual property rights, especially in the international arena. In the field of international law, The Islamic world and the relations of Islamic countries with other countries regarding intellectual and foreign products is the principle of non-Muslim cultural, colonial, and spiritual domination over Muslims, and compliance with this principle is a condition for accepting intellectual property rights. In Islamic international law, like general international law, Regarding the value of intellectual property rights, the creator's material rights can be transferred through various Shari'a means of transfer, such as by way of inheritance, bequest, sale, peace lease, or gift, but the author's moral rights are not transferable. Of course, this is in addition to the author's intellectual rights, which are not transferable. This is due to the fact that the author's identity cannot be changed by the heirs or transferees, and even when the material right expires, the intellectual right endures. It is important to note that the heirs receive some of the creator's intellectual property rights since they are the guardians of the creator's honor and the continuance of the character. The power associated with Transferred is less expansive than that of the Creator and is given a different hue.

11 REFERENCES

- سید مودود اسلمزاده، حسین میری، محمد مدیبو جونئی (1399) شیوه های حل و فصل اختلافات حقوق مالکیت فکری در نظام حقوقی ایران و افغانستان، جامعه المصطفی العالمیه، جامعه المصطفی العالمیه - واحد گرگان
- مهدی نژاد نوری، محمد رمضان پور نرگسی قاسم؛ حاج حسینی، حجت الله و صدری، محمد (۱۳۹۷) الگوی نظام حقوق داراییهای فکری جان ایران با رویکرد مدل سازی ساختاری تفسیری، فصلنامه علمی پژوهشی مطالعات بین رشته ای دانش راهبردی سال، هشتم، شماره ۳۲، پاییز، ۳۱-۷
- آقائی، مهلا ملک الساداتی، سید سعید؛ سلیمی فر، مصطفی (۱۳۹۷) یک مدل پریا برای بررسی ارتباط حقوق مالکیت فکری و پیچیدگی اقتصادی مطالعه شاخص جدید نوآوری مبتنی بر دانش، دو فصلنامه دانشنامه حقوق اقتصادی دوره جدید سال بیست و پنجم، شماره ۱۳، بهار و تابستان
- شاه حسینی، سمیه؛ وصفی، اسفستانی شهرام و ناصرزاده سمیه (۱۳۹۶) ارزیابی نقش حمایت از حقوق مالکیت فکری در رشد اقتصادی مطالعه موردی TRIPS فصلنامه پژوهشنامه بازرگانی، شماره ۸۴ پاییز ۹۲-۹۵
- التجانی، ابراهیم؛ حسینی، راحله (۱۳۹۵) تأثیر حق ثبت اختراع در رشد اقتصادی دو گروه کشورهای توسعه یافته و در حال توسعه اقتصاد تطبیقی نشریه پژوهشگاه علوم انسانی و مطالعات فرهنگی، سال سوم شماره اول بهار و تابستان ۲۲-۱
- حبیبی مجنده، محمد (1394) تنوع نظریه‌های مالکیت معنوی در مباحثی از مالکیت فکری به کوشش حسینعلی بایتهران : سازمان انتشارات پژوهشگاه فرهنگ و اندیشه اسلامی.
- حکمت نیا، محمود (1394) مروری بر حقوق اخلاقی مالکیت فکری و مبانی اعتبار آن در مباحثی از مالکیت فکری، به کوشش حسینعلی بای، تهران: انتشارات پژوهشگاه فرهنگ و اندیشه اسلامی.
- شهابی، مهدی (1394) کثرتگرایی حقوقی؛ تأملی در چیستی مبانی التزام آوری قاعده حقوقی و متغیرهای تحول نظام حقوقی فصلنامه پژوهش حقوق عمومی، سال هفدهم، شماره 48.
- آرمسترانگ، والتر سینوت (1392) تنگناهای اخلاقی، در: دانش نامه فلسفه اخلاق (پل ادواردز)؛ ترجمه انشالله رحمتی؛ تهران: سوفیا.
- بیجم، تام ال اخلاق کاربرد (1392) در دانشنامه فلسفه اخلاق (پل ادواردز)؛ ترجمه انشالله رحمتی، تهران: سوفیا.
- امامی (۱۳۸۸) نورالدین حقوق مالکیت‌های فکری در فصلنامه رهنمون مدرسه عالی شهید مطهری، ش ۲ و ۳ ص. جعفری لنگرودی، محمد جعفر ترمینولوژی، حقوق، تهران: گنج دانش.
- حسینی نیک (۱۳۸۸) سید عباس حقوق مالکیت ادبی و هنری و ضوابط تشخیص آثار مورد حمایت در فصلنامه پژوهشی و تحلیلی مجد، ش ۱۱
- حکمت نیا، محمود (۱۳۸۶) مبانی مالکیت فکری، تهران پژوهشگاه فرهنگ و اندیشه اسلامی.
- باقری سید کامران و محبوبی، جواد (۱۳۸۳) سرمایه‌خطر پذیر؛ تهران، نشر پاکنویس مرکز صنایع نوین وزارت صنایع و معادن پیش نویس سند بازرنگری و بهبود نظام ملی نوآوری ایران منتشر نشده ۱۳۸۳
- امانی، تقی (1383) مجموعه قوانین و مقررات حقوق مالکیت فکری (ملی و بینالمللی)، چاپ، اول تهران، انتشارات بهنامی.
- شفیعی، شکیب مرتضی (1381) حمایت از حق مؤلف قوانین ملی و مقررات بینالمللی، چاپ، اول تهران، مؤسسه خانه کتاب و ادبیات یاران.
- نوروزی علی رضا، (1381) حقوق مالکیت فکری حق مؤلف و مالکیت صنعتی، چاپ اول، تهران، انتشارات چاپار.
- فهیمی مهدی (1378) پروانه ثبت اختراع و مراحل ثبت آن، فصلنامه تحقیقات اطلاع‌رسانی و کتابخانه‌های عمومی، شماره 32.
- موسوی خمینی، سید روح‌الله (1421) ق. کتاب البیع؛ تهران: مؤسسه تنظیم و نشر آثار الامام خمینی.
- سبزواری، سید عبدالاعلی (1416) مذهب الاحکام فی بیان الحلال و الحرام؛ چ 4، قم: مکتب آیت‌الله العظمی السید السبزواری.

MaciejZejda, , (2016) "Trademark Licensing in Keyword Advertising", 1, JIPITEC 72, para 7.

Mohamadzade,I.(2016).The effect of economic freedom on the development of entrepreneurship in selected countries. Entrepreneurship Development Journal; 9(2): 357-376

Breakey, Hugh, Property Concepts, (2015) Internet Encyclopedia of Philosophy, ISSN 2161-0002.

Heidari R. (2015). Impact of economic freedom indicators on corruption in developing countries with emphasis on Iran. Commercial Reviews; 11(61):83-96

Kapoor, Amit and Sankalp Sharma (2015) Intellectual Property Rights in India: Innovation and Competitiveness in the Indian Context. The National Bureau of Asian Research, India's

Innovation and IP Policies Working Paper. Available at: http://nbr.org/downloads/pdfs/ETA/IIP_kapoor_sharma_workingpaper_070815.pdf.

Khanna, Aman Raj and HemantKrishan Singh (2015) "India's IPR Regime: Reconciling Affordable Access with Patent Protection". Strategic Studies Programme, Indian Council for Research on International Economic Relations (ICRIER).

Ostergard, Robert L. (2014) "Economic Growth and Intellectual Property Rights Protection: A Reassessment of the Conventional Wisdom." In Daniel J Gervais, ed. Intellectual Property, Trade and Development: Strategies to Optimize Economic Development in a TRIPS-Plus Era. Oxford: Oxford University Press, p. 3-40.

Sreenivasulu, N. S; (2013) Law Relating to Intellectual Property, Partridge Publishing; p.14..

Bedi, Neena, P. M. S. Bedi and Balwinder S. Sooch (2013) "Patenting and R&D in Indian Pharmaceutical Industry: Post-TRIPS Scenario." Journal of Intellectual Property Rights, Vol. 18, March, p. 105–110.